To Strasbourg In Pink

I stared goggle-eyed at the invitation to attend oral proceedings of the European Court of Human Rights in Strasbourg. It was only the fifth such proceedings against the Czech Republic as the custom in Strasbourg is that what one does not get rejected is decided without any formal proceedings and the plaintiff (at best) has the right to supply the Court with paper evidence. But here I had it in black and white that I am to attend court room no. so-and-so (I cannot remember just now whether it was 1 or 2) of the European Court of Human Rights for the hearing concerning the plaintiff, Mr. N.P., to begin at 9 a.m., English and French simultaneous interpreting both ways provided.

Great, I thought, I had just been planning to go to Strasbourg with the Czech Bar Association and so was counting on this trip anyway… then it hit me…

„How could you do this to me!“ I lamented soon afterwards on the phone to the Law Association´s foreign section head, Jana Wurstová, so fervently that I must have (figuratively speaking) drenched her bosom with my tears, optic cables notwithstanding. „Dear Klára, to the contrary, you must admit that we couldn´t not do it to you!“ laughed Mrs. Jana and I could well imagine with what pleasure. As a long-time officer of the Law Association´s international section she, of course, had her contacts and knew before me that an oral hearing is on the cards and when. And on that basis she organised the annual Bar Association´s junket to Strasbourg, this time moreover to observe a Czech case.

With the knowledge that I´ll have a posse of twenty or thirty Czech colleagues gazing upon me with an ever-so critical an eye, I rang four of them who were in the Strasbourg sweatbox before me, and above all my esteemed colleague Hulík gave me some valuable personal advice for which, even years later, I once again thank him for.

Evidently I was expected to give an oral presentation in which I will summarize my view of the case, point out those aspects which I perhaps hadn´t emphasized enough. Questions will follow provided by the twelve judges and which I will be dutybound to answer. I may have my team assisting me by my side.

Well, that´s just it: Who will be my team? The one who is capable of uttering a few sounds in the relevant language and perhaps someone who worked on the case with me and is in the picture. So…eheheh… coming with meeeee will be Katka and I´ll also really need Iva, who unfortunately doesn´t work in my office anymore and is finishing her law Masters somewhere in Luxembourg or Treviso or Brussels, well, somewhere round the corner from Strasbourg. So, she can get the train to join us in Strasbourg, hunky-dory. With Katka I packed the car boot with files, added to all this a prepared speech in English, a few dresses and set off for the joys of the German autobahns, via Rozvadov, which are, in most cases, not blessed by speed limits. We started getting nervous before we reached Heilbronn as there is a technical museum visible with Concord on show in pride of place. We came to a mutual agreement that it might not be a bad idea to fly off somewhere else, far far away. Then we concurred though that, after all, we were a pair of valiant lasses and we are supposed to pick Iva up at the railway station and it really wouldn´t be nice to leave her there at a loose end. Iva arrived with a rucksack with her dress packed away inside, but before we could pick her up we became disorientated as in front of Strasbourg railway station they built (what I cannot call by any other name than) a prolapsed glass kidney as part of their extension programme ensuring that the entrance to the underground garages was a maze. Furthermore, I had no wish to drive into this parking lot as I get lost in them on a regular basis and this is the only city where I have created a hullaballoo on several occasions by claiming that someone stole my car or it wasn´t where it should be. Which wasn´t true as I had only incorrectly written down its location. Nonetheless, Strasbourg underground car parks clearly have a negative psychological effect on me and I took the preferable step of parking in a ´no stopping´ zone in front of that glass spectre and Katka went to find Iva. Thus, „the expert team“ was in situ and could sleep snuggled up together using a king-sized bed in a cheapie hotel because as per usual the plaintiff was skint and as was common practice lately it was all coming out of my own pocket and there just weren´t the readies available for the Ritz with the number of beds akin to the number of folk on tour.

In the morning we purchased an extra breakfast as the sum of 8 EUR corresponded to the declared outgoings ex offo as granted by the court and we discussed our tactics. Katka will take care of the files and use small slips of paper marking particular sections in case there is a need to quote something. We magnanimously set aside Czech legislation relevant to the case as it would mean an enormous extra bag and secondly (as it turned out quite correctly) assumed that nobody in the European Court will be interested in Czech laws. Iva will record the questions put to me by the judges ensuring I don´t forget anything, possibly also making a note where to find what and slide it across my good self to Katka. Even though Iva reels off French as well as English like a native we agreed that we´d only communicate in English as, lest, I only know five words of ´froglais´, and four of those are of a nature which should not pass a lady´s lips.

Thus armed we set off for the court where even before we came we had decided to use the tactic of being brazen rather than meek and take advantage of the situation of me being the leading star of the morning session. So you´re in the picture: the lauded ECHR is an enormous building whose architects at the design stage forgot two small details. The first is air-conditioning in the offices, so the wretched lawyers and admin staff are gasping for air like sardines in tomato sauce. The other small omission was not building a car park. Well, there actually was a car park, albeit just with enough space for the judges and perhaps an important VIP visitor or two. Even the employees of the court started (and are still starting) their working day engaged in strategic manoeuvres with the aim of parking their cars and a subsequent dash for the office, the later the arrival resulting from later attempts to park. So, to arrive at nine on the dot would have meant a run across half the town with all those horrible files in one´s hands to boot. To get inside the official car park is a mere figment of the imagination even if one had arrived at 6 a.m., being given a car space by the ECHR means you have managed to reach one of life´s zeniths. Something like the French Legion of Honour. I became convinced of this on the Czech Bar Association´s ´outing´ the year before when one miserable colleague, unaware of the rituals of chiefs of inland Borneo and copied in Strasbourg, left his car in the afore-mentioned car park. Soon afterwards, having eagerly sat down to listen to the first lecture of the day, the head of the Czech section of ECHR, Eva Hubálková, stormed into the room and bellowed with a voice which she had probably used to command Russian tanks on her assignment during the war in Chechnya: WHO is it! WHO has parked in the spot of the court´s Deputy Chairman? Find a new space IMMEDIATELY!, and she marched the poor wretch of a colleague to ensure he removed his stain of a car disfiguring the exalted spot (a Mercedes worth about 50 000 GBP). Thus, she condemned him to drive around in circles through the surrounding little streets until he got so far that he rather parked back at his hotel on the other side of town and fuming arrived back in court in a taxi. Which I had absolutely no intention in copying.

So, cheeky as an imp I stopped the car right in front of the court´s steps and started to unload its contents. Security appeared with the speed of lightning, but I had already reached a mood which is well-know and described as „flow“, fully focused on the coming performance. With a sparkle in my eye, worthy of Gina Lollobrigida twinned with Liz Taylor, I handed the car keys of my extremely unrepresentative vehicle to the gesticulating man as if it was a Ferrari in front of the Monaco casino requesting that he park my car. If it wasn´t for the situation in hand I´d probably laugh at his dismayed expression, but here with aplomb I just nodded to his colleague to take our suitcase full of documents. The persona appropriately fitted out in his security uniform did so without any resistance and our trio, with me in the vanguard, nodded to the observing public, strolled around the security screening device (and not through it) as I, with a smile, commented succinctly: „We are expected in court…“ By the way, for the entire proceedings the car stayed put and the keys were pressed into the hands of my retinue.

But then jokes came to a swift end as the Government Commissioner representing the Czech Republic at the ECHRP and my particular favourite, lawyer Vít Schorm, brought with him as his team roughly half of the entire staff employed by three ministries: Justice, Foreign Affairs and Social Affairs. We judged that if they all speak we´ll miss the opening times of the in-house cafe which is renowned for fine cooking and ´dumping´prices, and that would be a fatal error as eating in town would be financially stressful. I looked around the chamber in desperation searching for a reliable spot in the universe and when I realised that Jana Wurstová is in her allotted space only a few rows behind me smiling pleasantly and showing a thums up sign, I calmed down assuaged that the spot had been discovered and I scurried behind the attendant for a chat with the court´s Chairman.

Which wasn´t part of the plan. I plunged with the estimable guide into the court´s inner sanctum, there I was seated along with the government´s representative as the judge informed us of the proceedings´ routine. Everything he told us I of course knew, but I really had this strange feeling as it seemed to me that something was expected of me I was unaware of. Like to throw myself on to the anti-skid carpet of the judge´s office floor and plead for forgiveness for having, in the name of my client, dared to raise a voice against my motherland – my land of honey.

Well, I didn´t throw myself anywhere even though I did have a great desire to throw myself at the government representative because if the Czech Republic had abided by the Convention we needn´t have come here and I wouldn´t have to mull over whether I´ll make a total fool of myself or just a minor one.

In an extremely irate mood I returned to the chamber and the attendant was already announcing that the court was about to go into session. Twelve people turned up in judge´s attire, they all sat down and a quite a few of them fell asleep right away. There followed a short dissection of the case from the standpoint of the court. Then I was to provide my oratory, which I dutifully did. The case in question concerned the long-term obstruction of a father-child contact, so I started with basic fundamentals, that is, Freud and the notion „and now I will educate you all, whether you wish it or not“ and with some zeal I began with my presentation. It was demanding as I had no intention of sparing the court with my eloquence and my speech lasted more than forty-five minutes. Now and then I veered off from the text wee little bit, now and then I added to the text a small excuse, but, by and large, I became more and more heated. With pleasure I noticed how the male section of the court woke up and watched me with some intensity. After twenty minutes they were all concentrating wonderfully well. „Excellent, excellent,“ I exclaimed to myself „I´ve really got them interested!“ Just then Iva leant over and in Czech she whispered: „Klára, bra!“ I lost the thread a little. „What? What´s up?“ „Button up your jacket!“ ordered Katka on my right and I did so and finished the last bit of my speech during which, it must be said, atttention levels declined. To be certain I was in the picture my colleagues explained things after the proceedings came to an end. In my nervous state I overlooked that I wasn´t putting on a black bra but a black bra with a pink lace and the lace quite obviously showed through the black net T-shirt I was wearing under my jacket. Just when my jacket unbuttoned itself affected by torrent of heartfelt words I looked like a pornstar. The reason interest shown by the male court participants was quite obvious and the only person who in my eyes passed the test was the lady judge from San Marino, Antonella Mularoni, who, as her subsequent questions indicated, was possibly the only one interested in the issue at hand. And so I lost my last illusions about the ECHR and also about myself, and I began to consider whether after all I wouldn´t make a more lasting impression in another area of expertise, particularly when partial achievements are already showing themselves.

Then spoke the government representative and others from his team, which to my shame I must admit I wasn´t listening to intently as I heard these excuses many-a-time and I´d only appreciate it if they had come with something new. Like that a strong head-wind was blowing and hindered the mother in handing the child over to the father or that in the place where the mother was residing an evil dragon had set up shop and the mother begged the father in vain to rescue them, kill the three-headed dragon and save them. Such scenarios could be considered as realistic in comparison to the Government which protrayed the father as someone who brought all ills upon himself. Oh well, those very years saw the rigorous deformation of Czech justice concerning juveniles whose Czech speciality is the requalification of fathers into two sacks: one full of sperm and the other full of money. They have no right to anything else.

A break was ordered for the preparation of answers for the already presented questions provided by the Court, so not much time for refreshments. We answered the questions and my team´s co-operation was exemplary. Here too I was convinced that in just a slightly more complicated case the need exists for having two defence lawyers on the bench and this need is not just there in ECHR cases but in other courts too. Unfortunately, the Czech civil court legislation isn´t too much in favour of this arrangement, and if I wish to bring with me an assistant, even though she is actually a qualified lawyer, as part of the defence I am always forced to negotiate with the court whether it´s on or not. It must be said that the courts mostly oblige as even judges are human beings and understand that keeping an eye on the official protocol, monitoring the adverse party, preparing questions for a witness and presenting written documentation, all at once, is rather difficult for one person, particularly when there is more than one witness and, likewise, more than one piece of paper.

Before I expected it the end of the proceedings arrived and the Court announced that it will send us the verdict. Hurrah! Subsequently I enjoyed my five minutes of fame in a discussion with Czech (and other) legal beagles who had been following the case, but the biggest ´star´ was Katka. One of the French lawyers watching the case congratulated her and asked her how long had she been working as a lawyer, that this must indeed be the pinnacle of her career so far as a defence lawyer. Katka with a guilessness very much her own answered that she is a student, that she is working for me as a legal assistant, she hasn´t finished her legal studies yet and it is the first court case she has participated in. I will not forget for many-a-day the sour face of my estimable colleague…

And how did it all end up?

They did not tow my car away.

We managed to get to the cafe on time, a super lunch including a starter and a drink which squeezed itself into ten euros. Supposedly we won the court case as the Court found delays in the proceedings. In reality it wasn´t worth a dime as the Court did not find that Clause 8 had been violated – the right to a private and family life and, above all, the father hadn´t seen his son from thereon and this is still the case ten years after it all began. Apart from which, exactly the same fathering cases, a large number since mine, have been dealt with by the ECHR with the difference that Clause 8 has successfully been pushed through into the EHRC´s verdicts. Nothing though has changed in the Czech justice´s modus operandi and the government´s representative for human rights, Vít Alexander Schorm, carries on in defending the rationale as to why Czech justice keeps on stealing children from their fathers. I´d be extremely interested if he´d change his mind if his own wife stopped him seeing his beloved daughter and he´d take the place of my clients.