



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF AUNE v. NORWAY

(Application no. 52502/07)

JUDGMENT

STRASBOURG

28 October 2010

FINAL

11/04/2011

*This judgment has become final under Article 44 § 2 (c) of the Convention.
It may be subject to editorial revision.*

In the case of Aune v. Norway,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Christos Rozakis, *President*,

Anatoly Kovler,

Elisabeth Steiner,

Dean Spielmann,

Sverre Erik Jebens,

Giorgio Malinverni,

George Nicolaou, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 7 October 2010,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 52502/07) against the Kingdom of Norway lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Norwegian national, Ms Lise Aune (“the applicant”), on 26 October 2007.

2. The applicant was represented by Ms V.K. Thiis, a lawyer practising in Trondheim. The Norwegian Government (“the Government”) were represented by Mr M. Emberland, Attorney, Attorney-General's Office (Civil Matters), as Agent.

3. The applicant alleged, in particular, that a decision upheld by the Norwegian Supreme Court depriving her of her parental responsibilities in respect of her son A placed in foster care and authorising his adoption by his foster parents amounted to an unjustified interference with her right to respect for family life under Article 8 of the Convention.

4. On 5 June 2009 the President of the First Section decided to give notice of the application to the Government and to invite them to comment on the admissibility and merits of the complaint concerning deprivation of parental responsibilities and authorisation of adoption.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1976 and lives in Stjørdal. Together with Mr G., she has a son A, who was born on 21 February 1998. From another relationship she also has a son, B (born in 1995). Both children have been in foster care since 1998. The present application relates to a decision of 25 April 2005 by the Southern and Northern Trøndelag County Social Affairs Board (hereinafter “the County Board”) to deprive the applicant and G. of parental responsibilities in respect of A and to authorise his adoption. The proceedings before the County Board had been brought by the child welfare services following an initiative by G.

A. Factual background to the disputed deprivation of parental responsibilities and authorisation of adoption

6. The taking into care of A - first as an emergency measure on 26 August 1998, then on a permanent basis on 29 December 1998 - had been decided on the grounds both of suspicion that he had been subjected to ill-treatment and of his parents' drug abuse problems (a decision by the County Board which Trondheim City Court upheld on 22 September 1999, whilst limiting the applicant's contact with A to four hours four times a year; these measures became final after the applicant had withdrawn her appeal to the Frostating High Court in part due to a worsening of her drug abuse problem). The measure had been taken in light of A's hospitalisation in July 1998, after G. had found him unconscious in his bed and had resuscitated him. A had arrived unconscious at the hospital and had been placed in intensive care. The examinations, in which large amounts of liquid had been found in his brain, had required operations on A involving the placement of a drain in his brain. Suspecting that A had repeatedly been subjected to ill-treatment, the hospital reported both parents to the police. Because of this suspicion and the parents' appearing intoxicated at the hospital, the child welfare authorities were contacted.

7. In view of the state of the evidence, the police subsequently decided to discontinue the investigation in respect of both parents.

8. Although a vulnerable child due to trauma in early life, A developed well in foster care, first with Mr and Mrs R. and then, from October 1999, when he was one year and eight months old, with Mr and Mrs O., whom he considered his psychological parents and with whom he developed particularly strong links.

9. At the same time as A, B was taken into public care and was placed with the applicant's father and his cohabitant partner, who later became his

foster parents. They protested against A being placed in a different foster home from his brother.

10. The child welfare services had had contact with the applicant because of concerns about hers and G.'s drug abuse as early as 1996. The extent of the applicant's drug abuse before A's birth was uncertain but, according to her, she had started using heroin after A was taken into care in August 1998. Since 2000 she had spent periods of varying duration in detoxification centres. In the autumn of 2005 she started methadone treatment (medically based rehabilitation). She lived with her mother and received disability benefit, then got a new cohabitant, with whom she set up a renovation business and worked in addition to receiving disability benefit.

B. The applicant's contact with A between August 1998 and October 2005

11. From the time A was compulsorily taken into care in August 1998 until the autumn of 2003, the applicant attended six of the fifteen visits that had been arranged for her to have contact with A. For approximately a year no visits took place, because of her drug abuse problem. From the autumn of 2003 contact visits resumed and the applicant, with her mother, also spent nights at the foster home. The applicant, her mother and the foster parents agreed that contact functioned very well in 2003. There was also regular access in 2004, including in December 2004 at the farm where the applicant lived. The applicant, her mother and B spent the weekend of 22 to 24 April 2005 at the foster home.

12. On 29 October 2005 the foster parents travelled with A to Trondheim for him to meet B. The applicant was prevented from taking part as she was undergoing detoxification before starting methadone treatment.

C. The County Board's decision of 25 April 2005

13. In its decision of 25 April 2005 to deprive the applicant of her parental responsibilities in respect of A and to authorise his adoption by his foster parents, the County Board gave, *inter alia*, the following reasons:

“[A.] has been described to the County Board as a boy with many good qualities. He is described as cheerful, sociable, sensitive, imaginative, thoughtful and philosophical. At the same time, he is a boy who has a background that makes him especially vulnerable and with special care needs. It should be noted that [A] was born prematurely and during the first months of his life experienced serious neglect which, *inter alia*, resulted in his sustaining brain damage. He has several times experienced close relationships being broken up, first having to move from his parents to the emergency foster home and then on to the foster home. [A]'s development in the foster home has been very positive and today his functioning is normal for a person of his age. In his assessment of [A]'s vulnerability, the appointed expert [Z] stated as follows on page 8:

'... Nevertheless, it will continue to be necessary for many years to come to take account of the fact that he is a high-risk child in every area, in other words that he may react more strongly than normal to new pressures and one must expect that his development could be more vulnerable to stress and strain from everyday life. He will therefore continue to need care providers who are more sensible, responsible and loving than would be the case for a normal child.'

Psychologist [Z] expanded on this to the County Board and reiterated his assessment. He considered that [A] had a conditional sense of security, meaning that he functioned well as long as he knew he was safe. [A]'s insecurity manifested itself in the fact that he was concerned about whether or not he would remain with his foster parents. Psychologist [Z] was of the opinion that [A] was unusually concerned with this issue and that he expended energy on keeping this subject at arm's length. His vulnerability to further negative developments meant that he would be continuously dependent on the presence of secure adults who he knew would be there for him. He was dependent on the calm and structure provided by the foster parents.

The expert's assessment has been emphasised by the statements given by the case officer of the Child Welfare Services, the foster parents, the supervisor and a teacher. The descriptions of [A] received by the County Board show that he needs a great deal of calm and predictability and that he is particularly vulnerable to stress. He needs a great deal of time to do things at his own pace. He is a thoughtful and philosophical boy who is absent-minded, remote and dreamy. It is precisely because his character is not superficial that the County Board is concerned about the strain caused by uncertainty about the future. Generally, foster children need reassurance. However, the County Board finds that this is a very prominent feature in [A] and that it takes a form that is harmful to him. The supervisor told the County Board about a contact visit in [X] with his maternal grandfather and [B] at which the foster parents had not been present. [B] had then told [A] that [the applicant] was his mother. Although [A] already knew this, he crept behind a chair and hid. When they returned to T, the foster parents were waiting for them. The supervisor's description of [A]'s reunions with the foster parents was an intense description of the way in which [A] clung to his foster father and how he sought assurances that he would be staying with them. The foster parents had stated that both before and after contact visits, [A] needed constant reassurance that they would always love him and that he would always live with them.

...

In the County Board's assessment, [A]'s need to know that he would always remain in the foster home has not been met to a satisfactory degree. There has been continuous conflict in relation to [A]'s placement. It is understandable that the mother's family should react to the placement. However, the approach used towards [A]'s foster parents have not been in [A]'s best interest. Letters and cards have been written and cooperation between the maternal grandfather and his cohabitant and the foster parents has been strained; it is the County Board's understanding that this conflict is still ongoing, although it is no longer as pronounced. The maternal grandfather and his cohabitant openly express a negative attitude towards the foster parents and have difficulty in appreciating that they are contributing to the conflict. The mother and maternal grandmother have gradually come to work well with the foster parents on the question of contact visits, but express a sceptical attitude towards the foster parents on the subject of contact even when adoption is only a possibility. The County Board also finds that the mother and her family envision the return of [A] in the longer term. The County Board was told that this question had been put on hold.

It was impossible for the County Board to elicit an acknowledgment that [A] would remain in the foster home until he reached the age of eighteen.

The County Board's opinion, having heard the evidence, is also supported by [the applicant's lawyer] Mrs Thiis' response of 1 March 2005, from which it is apparent that it is not possible to establish with certainty that the applicant will never be in a position to care for the child. It would be most unsatisfactory for [A] and his foster parents to have this question hanging over them at all times. The County Board finds that the foster parents too must be safeguarded in relation to the unpredictability of what might happen, because A picks up on their uncertainty. He expressed to psychologist [Z] that it was his wish that the foster parents should take all decisions in his life. ...

The County Board considers that [A]'s need for security and secure ties to the foster family are more important than maintaining contact with a father and a mother whose lives are very unstable. There has been no improvement in the circumstances of the lives of the father and the mother over the last seven years. In the assessment of the County Board the foster parents are undoubtedly best placed to make the choices that are right for [A] today and in the future. An adoption would also provide [A.] with the necessary assurance that there would be no future proceedings in relation to returning him to the parents. [A] is a very vulnerable boy who needs the security that the foster home and the environment around it represent for him. This, combined with an open question about future proceedings to return [A], the level of conflict between the mother's family, in particular the maternal grandfather and his cohabitant, and the foster parents and the conflict between [A]'s mother and father, induce the County Board to draw the conclusion that there are strong grounds for granting consent to adoption.”

D. Judicial appeals

1. The City Court

14. The applicant lodged an appeal against the County Board's decision of 25 April 2005 at Trondheim City Court, which by a judgment of 14 December 2005 upheld the decision.

2. The High Court

15. On a further appeal by the applicant the Frostating High Court, sitting with three judges and four lay members, including two psychologists, and after hearing the applicant, G., a representative of the Municipality, expert Z, a guardian representing A and fourteen witnesses, unanimously overturned the City Court's judgment on 3 October 2006.

16. The High Court observed that the removal of parental responsibilities and adoption would entail severing A's ties to his biological origins. These were particularly far-reaching measures that would have irreversible consequences and ought to be supported with strong reasons.

17. The High Court found no reason to doubt that the condition in section 4-20(3)(a) of the Child Welfare Act, that it was probable that the parents would permanently be unable to provide proper care for A, had been fulfilled. The applicant had also conceded that this was the case.

18. Nor did the High Court doubt that the condition in section 4-20(3)(c) had been met, namely that the foster parents were fit to bring up A as their own child.

19. The central issue was whether adoption would be in A's best interest as required by section 4-20(3)(b). Under any circumstance, in order for adoption to be authorised it ought to be in the child's best interest. Moreover, the measure should not be incompatible with Article 8 of the Convention.

20. In this regard, the High Court noted the various factors pertaining to A's attachment to his foster parents and the foster home environment, notably that he had been with his foster parents since he was approximately one year and eight months old, that he considered them as his psychological parents, called them "mama" and "papa", and that he did not consider himself different because he was a foster child. In the same way as a child would benefit from favourable conditions of upbringing, it would be in A's best interest too to grow up in a well-functioning home such as his foster home. He was also a very vulnerable child with a particular need for foreseeability, framework and structure. These considerations alone suggested that he would benefit from adoption, in that he would be ensured an upbringing under particularly favourable conditions.

21. The High Court observed that A had had contact with his biological family, namely his paternal grandmother and great-grandmother, his mother ("mama Lise"), his brother and his maternal grandmother and grandfather. He knew them well and knew that they were his biological family. In the same way as he had expressed a definite wish to live in the foster home he had stated that he wished to have contact with the applicant and his brother B.

22. The High Court noted that since last year, when the applicant had started methadone treatment, there had been several positive contacts between the applicant, B and A. Previously there had been long interruptions of contact, partly because of the applicant's drug abuse, but also because of a lack of coordination and facilitation on the part of the child welfare services. The fact that, despite this, there had been so many instances of contact, not least in 2004 when five contact visits had been arranged, ought to a large extent be ascribed to the foster parents, who had actively contributed to the facilitation of contact. In 2005 only one meeting with the applicant had taken place. However, while awaiting methadone treatment she had been prescribed the drug Dolcontin. In October 2005 she had been unable to take part in contact visits while undergoing

detoxification before starting the methadone treatment. Since last year, the contact visits had been drug free.

23. As regards the Municipality's concern that the applicant and her family, especially her father, had conducted a major battle against the child welfare services and against A's placement in the foster home, the High Court observed the following. The pressure did not subside until the adoption case was opened. According to the Municipality there had been reason to believe that there would be new pressures aimed at the foster parents unless adoption was authorised. The High Court agreed that in so far as the family had acted directly against the foster parents and children, this was blameworthy and an undesirable situation. The High Court had nonetheless based itself on the applicant's statement that, despite her preference that the boys be brought up together, she agreed that A was doing very well in the foster home. She had no wish to change this situation. The High Court found that such an attitude on her part contributed to the creation of a secure environment for A in his care situation. The High Court further found reason to rely on the applicant's statement in court that she to a greater extent than before would be able to confront her father in respect of his initiatives regarding A's placement.

24. The High Court further observed that both the child welfare services and the foster parents regarded it as desirable and positive for A's development that his contact with the applicant and the remainder of his biological family be maintained after any adoption. Before the High Court the foster parents had expressed that they were prepared to allow as much contact as would be natural. The High Court found no reason to doubt this and emphasised that it was largely thanks to them that A had had contact with the biological family at a level which went beyond the minimum.

25. The High Court reiterated that the Supreme Court had on several occasions emphasised that the relationship between the child and its biological parents ought to carry great weight in the wider discretionary assessment. In both of the judgments reported in *Norsk Retstidende*, 1997-534 and *Norsk Retstidende*, 2001-14, the Supreme Court had concluded, each time by a majority, that adoption should not be authorised. In both cases it had been deemed desirable that contacts between mother and child be maintained.

26. The last-mentioned judgment had contained reasoning which could be transposed to the present case. A had an established attachment to his mother and brother which ought to be continued. The applicant had previously been a heavy drug abuser and had currently started rehabilitation, which according to experience would be long and difficult and involved a risk of relapse. That risk would increase if adoption were to be authorised, especially in the period after such an authorisation. During the year in which the applicant had been drug-free she had developed positively. She currently lived with a cohabitant in their own house; the couple had registered their

own company and were working legally in addition to receiving a disability pension.

27. In the first-mentioned judgment it had also been the case that the children had a need for contact with their mother. The Supreme Court majority had held that authorising adoption was questionable in that it would leave it to the adoptive parents to decide on contact. This ruling, the High Court pointed out, had been a clear invitation to consider whether the law should be amended so as to confer a right to contact between children and biological parents after an adoption had been effected without the parents' consent. On this point the High Court quoted the conclusion of Report No. 40 to the *Storting* [Parliament] in 200 1-2002, point 9.9.3:

“The Ministry of Children and Family Affairs monitors thoroughly any developments regarding these issues and assesses continuously whether there are reasons for amending the Act. In the view of the Ministry, there is nonetheless insufficient basis for making such amendments at present. An adoption under section 4-20 of the Child Care Act is a particularly far-reaching measure and one should be cautious about making amendments that could lead to an increase in the number of such adoptions. In the report referred to it is maintained that authorisation of adoption under the Child Welfare Act should not be granted in cases in which it is considered to be beneficial for the child to maintain contact with his or her biological parents. The Ministry of Children and Family Affairs shares this view and is concerned as to how best to ensure that consent to adoption not be granted where contact with the biological parents is desirable. The Ministry is considering whether guidelines for such situations should be introduced.”

28. In light of the above, the High Court held that as a main rule adoption should not be authorised when continued contact between a child and its biological parents was desirable. The reasons adduced for A's adoption were insufficient to justify a departure being made from this main rule in the instant case.

3. *The Supreme Court*

29. The Municipality, joined by G., appealed to the Supreme Court against the High Court's assessment of the evidence and application of the law.

30. The Supreme Court appointed two experts. Mrs H., a specialist in clinical psychology, submitted a report whilst the other expert withdrew.

31. On 20 April 2007 the Supreme Court unanimously upheld the City Court's judgment, disagreeing with the High Court's interpretation and application of the law.

32. Mrs Justice Coward's reasoning, which the other four Justices on the panel endorsed in the main, could be summarised as follows.

33. It was undisputed that the foster parents fulfilled the condition in section 4-20(3)(c) of the Child Welfare Act that they had been shown to be suited to raise the child as their own.

34. However, unlike before the lower courts, before the Supreme Court the applicant argued that it was not probable that she was permanently unable to provide proper care for A for the purposes of section 4-20(3)(a); she only conceded that the alternative ground for authorising adoption under that provision, namely A's attachment to the foster home, had been fulfilled.

35. In this regard Mrs Justice Coward observed that both parents had a long history of drug abuse problems. The applicant had been on a rehabilitation scheme since October 2005 and had been drug-free during the entire treatment. She had established an individual enterprise with her current cohabitant, had obtained a driving licence and had plans to pursue studies. Despite this positive development, the court-appointed expert had stated a clear opinion to the effect that the applicant was unable to provide A with proper care. Mrs Justice Coward, like the High Court, found no reason to doubt either that the condition of inability to provide care was fulfilled. And G. had at no time alleged that he was capable of providing care for his son. Over the years he had spent several periods in prison for drug offences and violent assault.

36. Mrs Justice Coward found no doubt that the further condition in section 4-20(3)(c), that the foster parents be able to raise A as their own child, had been fulfilled. Only positive remarks had been made about them by the experts and by the lower courts. Nothing had emerged before the Supreme Court which weakened these observations made by the High Court:

“[Mr and Mrs] O. had been described as caring, resourceful, generous and warm people who had a solid network. They had contributed to A's maintaining contact with his biological family. Over the years they had also contributed to contact being arranged beyond the minimum level and ... in connection with [the applicant's] own home at [X]. They had both appeared and given statements before the High Court which bore out the way they had been described by other courts. The High Court relies on their assurances that they love A as their own child, that they only wish the best for him and that as far as they are concerned A should stay with them.”

37. The central issue was whether authorising adoption would be justified in A's best interest (section 4-20(3)(b)). Mrs Justice Coward observed:

“(47) As regards the general meaning of this condition, it has been stated in several Supreme Court judgments that, in order for an authorisation of adoption to be granted against the will of the biological parents, there must be pressing reasons. Moreover, it is clear that the decision must be based on a concrete assessment of the individual case. However, the assessment must also be based on general experience, including experience from research into child psychology or child psychiatry.

(48) The relationship between general experience and special considerations has been discussed in a number of Supreme Court judgments. In its judgment reported in *Norsk Retstidende*, 1991-557 it held at page 562 that the decision on the deprivation of parental responsibilities

'... must depend on an overall and concrete assessment of the competing interests. Some of these considerations are of a general nature, namely considerations that normally — but to varying degrees — apply in cases of this type, whereas other considerations are particular to the case. In my view, there is only limited scope for drawing up general principles on how these considerations should be balanced against one another.'

(49) In *Norsk Retstidende*, 2001-14 (23), the Supreme Court held that:

'Thus, it is mainly the general empirical doctrine, that long-term foster relationships are best served by a transition to adoption, that militates in favour of adoption in this case. As a starting point, general assumptions — based on comparative investigations into how foster children who have been adopted have fared in comparison with children who have not been adopted or who have been returned to their biological parents — cannot be entirely decisive in a specific instance. Such general considerations will, to varying degrees, need to be supplemented by specific and individual circumstances. In the present case, such circumstances appear to be present only to a limited extent.'

(50) In my view, no clear distinction can be drawn between general experience and individual considerations: general experience may be formed with greater or lesser degrees of nuance, for example, on the basis of the child's age when placed in the foster home and the duration to date and future duration of the placement. In this case, the expert had stated that according to general experience a foster home was not to be preferred for long-term placement of a child who had come to the foster home before it had established ties to a biological parent; in such instances adoption would offer the best solution for the child's development. In my view, a general but nuanced experience of this nature must carry considerable weight. In any event, individual factors — for or against adoption — must be assessed against general experience.

(51) Moreover, in *Norsk Retstidende*, 2001-14 (22)— on the basis of the case-law of the European Court of Human Rights — there appears to be a requirement that authorisation of adoption against the will of the parents should be granted only 'in exceptional circumstances'. Reference has in particular been made to the first case of *Adele Johansen v. Norway* [*Johansen v. Norway*, 7 August 1996, *Reports of Judgments and Decisions* 1996 III]. Of course, doubt can be raised about whether such a requirement in fact follows from the case-law of the European Court of Human Rights, *inter alia* in view of the admissibility decision on 10 October 2002 in the second case of *Adele Johansen v. Norway* [*Johansen v. Norway* (dec.) 12750/02, 10.10.2002]. I, at least, find it unclear what such a requirement should entail; a long-term foster home placement would normally occur precisely when the child would be in a situation that would otherwise be characterised as exceptional. In my view, from the case-law of the European Court of Human Rights hardly anything more could be deduced than that an adoption requires particularly weighty reasons.

(52) After adoption, the biological parents would no longer have a legal right to contact. Against this background, the High Court held that as a main rule authorisation for adoption should not be granted if contact with the biological parents is desirable. Particular reference is made to Report No. 40 to the *Storting* [Parliament] in 2001-2002, page 145, where a discussion concluded as follows:

'In the report referred to it is maintained that authorisation of adoption under the Child Welfare Act should not be granted in cases in which it is considered to be

beneficial for the child to maintain contact with his or her biological parents. The Ministry of Children and Family Affairs shares this view and is concerned as to how best to ensure that consent to adoption not be granted where contact with the biological parents is desirable. The Ministry is considering whether guidelines for such situations should be introduced.'

(53) I attach little weight to this statement. It was not made in connection with the legislative procedure and accordingly has little value as a source of law. Moreover, the statement is lacking in nuance so that it is by no means clear that it is intended to apply to situations in which it is assumed that contact will continue after an adoption. Neither the wording of the Act nor the Supreme Court case-law suggests that adoption should be ruled out if contact with the biological parents is desirable. It is true that in two judgments dealing with issues under the 1992 Child Welfare Act — reported in *Norsk Retstidende*, 1997- 534 and *Norsk Retstidende*, 2001-14 — the Supreme Court refused to authorise adoption in two such cases. However, neither of these judgments, which were both rendered with dissenting opinions (3-2), concluded that adoption was precluded in law in such cases. In the 1997 judgment, the majority raised strong doubts as to whether contact would in fact take place after an adoption. The issue of contact was viewed as an element in the overall assessment of the best interests of the child.

(54) As regards the points of departure in law, I am otherwise in agreement with the Municipality that it follows from section 6-3 of the Child Welfare Act and Article 12 of the Convention on the Rights of the Child that the child's own wishes are of importance.

(55) Moreover, it is not clear to me that the case-law under the European Convention on Human Rights makes any contribution to the resolution of a case such as the present one beyond what follows from the case-law of the Norwegian Supreme Court. Decisions in which the European Court has found adoption to be incompatible with the Convention have concerned cases with very little in common with this case. Moreover, the aforementioned admissibility decision in the second Johansen case indicates that the European Court too attaches weight to the child's own wishes and the child's special need for secure and calm conditions to prevail in the foster family.

(56) Having conducted a review of the situation in law, I will now move on to the assessment of the present case.

(57) This case concerns a foster home placement that has already been of considerable duration and is intended to continue for many years, and has no 'connection' in a narrow sense to his biological parents. I refer to the passages quoted from the expert witness's report on the subject of the discussion of [the applicant's] ability to care for the child. The general experience outlined by the court-appointed expert is that in such cases adoption would be better for the child than a continuing foster home arrangement.

(58) That the general experience is also pertinent to our case is in my view apparent from a number of intertwined elements. As a result of what [A] underwent during the first year of his life, he is a vulnerable child. He was born seven weeks prematurely, experienced serious neglect and was severely ill-treated on several occasions to the degree that he sustained cerebral haemorrhage. In addition, he underwent the strains of being moved several times during the early months of his life. He has a need for security, including certainty that he belongs to his foster parents. One problem in this

context is that [the applicant's] wish has been that [A] should live with her father and his cohabitant, and there has been considerable unrest around the placement with the foster parents. It is hard to ignore the possibility that the biological family, particularly [A]'s father and his cohabitant, will play a part in creating further unrest around [A] if he is not adopted.

(59) A sense of belonging is important to [A] today and could become even more important to him during his teenage years, when he will have to deal, *inter alia*, with the fact that his biological parents have been involved in drug abuse and that his father has also been involved in crime. I refer to the court-appointed expert's comments on this point:

'[A] is generally described as a confident child, although I also found him to be rather small and careful. It is worth noting the supervisor's statement that she as a nurse continued to view him as a vulnerable child about whom she was concerned, but that her worries did not materialise for as long as he remained with his foster parents. I share this view: his, in part, dramatic start in life as a premature baby and the subsequent neglect in the care and life-threatening ill-treatment he suffered made him vulnerable, but it is only when he is under pressure that this vulnerability manifests itself. In this context, the identity of the person(s) responsible for the ill-treatment is not of significance. What matters is his experience.

Notwithstanding his current sense of security within the foster family, adoption would offer an extra element of protection. He may well need this in the coming years since, in psychological terms, the teenage years are a period in which early problems and experiences more readily come to the surface and need to be tackled. With time, he would also need to tackle issues of drug abuse and crime. I would also strongly emphasise the importance of absolute emotional security when he is told/becomes aware that his mother and his father were both heavy drug users, that they are on methadone, that he has been exposed to gross ill-treatment and that his parents are suspected of this ill-treatment, and that his father has served a total of over six years in prison. This will need to be integrated in his self- perception/identity.'

(60) The parties disagree about the extent to which [A] himself wishes to be adopted. As has already been noted, the wishes of the child must be an element in the overall assessment of the best interests of the child. It is, of course, not easy for a nine-year-old to grasp the difference between being adopted and being in a foster home. However, [A] had at least said to the court-appointed expert that he wanted his foster parents to decide everything, including when he should see his mother and half-brother, and accordingly that the Child Welfare Services should not have anything to do with the question of contact. And I agree with the expert that in [A]'s situation it might be natural to view this as an expression of a wish to be adopted.

(61) This leads on to the question of contact with the biological family. There is no disagreement that contact is desirable, particularly with [A]'s mother and half-brother. In the event of adoption, the biological parents would no longer have any legal right of contact, and this could militate against adoption, as can be seen above in the discussion of the legal points of departure. However, in the present case the foster parents have granted the biological family contact far beyond their legal entitlement, both in terms of the persons involved and the extent of the contact. In earlier periods, [the applicant] was unable to take part in contact visits. However, the foster parents can of course not be blamed for this. G, who had also been granted contact rights, has not wished to exercise this right as long as his life was burdened by drugs and crime.

His mother and grandparents, however, have established a good relationship with the foster parents and keep in contact with them and with [A].

(62) [The applicant] has raised doubts as to whether the foster parents would continue to be open to contact in the event of an adoption. The County Board, the City Court, the High Court and the experts who interviewed the foster parents have been in no doubt that this openness to permitting contact will continue; the City Court found this to be the case 'with great certainty, bordering on absolute certainty'. I agree that this must be accepted and, accordingly, that the fact the legal right to contact will cease to apply in the event of an adoption will not constitute a major factor in the assessment of [A]'s best interests.

(63) Despite this, [the applicant] might feel concern about the question of contact, and [A.]'s adoption would at the very least be emotionally difficult for her. She submitted that this might adversely affect [A]. I consider that this argument against adoption does not outweigh the factors suggesting that adoption would be in [A.]'s best interest. I also refer to [the applicant's] contact person in the methadone project, who stated that she now 'has mature strategies for handling adversity'.

(64) Finally, I would point to the fact that it is apparent that G. is now in favour of [A.]'s being adopted by the foster parents. Both the County Board and the City Court found that this view had been reached after a full assessment of the best interests of the boy, and I see no reason to doubt this.

(65) As will be apparent from the comments above, my view is that the County Board's decision to deprive the parents of parental responsibilities and to authorise adoption ought to be upheld. I will quote the expert's closing remarks on what message society would convey to [A] through the Supreme Court judgment: authorisation to adopt entails 'acknowledging his full right to be the child of his parents':

'A decision that he should remain a foster child would tell him that the people with whom he has always lived and who are his parents and with whom he established his earliest ties and sense of belonging should remain under the control of the Child Welfare Service — the public authorities — and that they are not viewed by society as his true parents but rather as foster parents under an agreement that can be terminated. His biological parents, who abused drugs and may have exposed him to serious ill-treatment and with whom he has established no ties, continue to be regarded by society as his true parents whose rights must be protected. If the outcome is that authorisation is granted for adoption to proceed, the message communicated to him would be that the injustice he suffered as an infant would be remedied in the only way that remains possible, that is to say by acknowledging his full right to be the child of his parents.'"

E. The applicant's contact with A after October 2005

38. After the meeting arranged on 29 October 2005 described under sub-heading 2 above, several visits were arranged for the applicant and A to have contact.

39. From 10 to 11 March 2006 the applicant and her mother visited A at Mr and Mrs O's home. On 6 May and 5 August 2006 A visited the applicant, his brother B and members of the applicant's family. From 3 to 4 November 2006 the applicant and B visited A.

40. On 23 March 2007 (which was the correct date according to the applicant) there was a contact visit to celebrate her mother's birthday. From 21 to 22 July 2007 the applicant, her mother and B visited A.

41. From 1 to 2 February 2008 the applicant and B visited A. From 11 to 12 October 2008 A visited the applicant. B and the applicant's mother were also present.

42. Between 3 and 5 April 2009 A went to watch B competing in a cross-country race. Hospitalised due to pregnancy, the applicant was unable to attend. On 2 August 2009 A attended the baptism of his new brother ("C.", born on 9 May 2009).

43. A has in addition maintained contact with the applicant through telephone calls and SMS messages.

II. RELEVANT DOMESTIC LAW

44. Section 4-20 of the Child Welfare Act 1992 (*lov om barneverntjenester*) provided in relevant parts:

"If the County Board has made a care order, the Board may also decide that the parents shall be deprived of their parental responsibilities. [...]"

When an order has been made depriving the parents of parental responsibilities, the County Board may give its consent for a child to be adopted by persons other than the parents.

Such consent may be given if

(a) it must be regarded as probable that the parents will be permanently unable to provide the child with proper care or the child has become so attached to persons and the environment where he or she is living that, on the basis of an overall assessment, it is determined that removing the child may lead to serious problems for him or her and

(b) adoption would be in the child's best interests and

(c) the applicant adoptive parents have been the child's foster parents and have shown themselves fit to bring up the child as their own and

(d) the conditions for adoption under the Adoption Act have been fulfilled."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

45. Article 8 of the Convention reads:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

46. It was undisputed before the Court that the decision to deprive the applicant of parental responsibilities with respect to A and to consent to his being adopted by his foster parents constituted an interference with her right to respect for family life under paragraph 1 of Article 8. However, the applicant disputed that the interference fulfilled the conditions in paragraph 2.

A. Admissibility

47. The Court finds that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. “In accordance with the law”

48. The applicant argued that the decision to authorise adoption had not been “in accordance with the law”. In her view the interference lacked a legal basis. In any event the law in question had not been sufficiently precise to be accessible and foreseeable. She submitted that prior to the present case and after the entry into force of the Child Welfare Act the Supreme Court had delivered two judgments (reported in *Norsk Retstidende*, 1997-534(540) and *Norsk Retstidende*, 2001-14(23)) in which it had refused adoption. In both judgments reference had been made to the fact that in the event of adoption the question of contact would be left to be decided by the adoptive parents and that this would not be entirely unproblematic. In the former judgment the Supreme Court had invited the legislator to consider whether to empower the courts to authorise adoption

and at the same time to grant contact rights to the biological parents. Subsequently, from a White Paper (*St.meld.* 40 (2001-2001)) it appeared that the Ministry of Children and Family Affairs had been of the view that there was insufficient basis for amending the legislation and that authorisation for adoption should not be given where it was desirable for the child to maintain contact with his or her biological parents.

49. The Government disagreed.

50. The Court reiterates that it is in the first place for the domestic authorities, notably the courts, to interpret and apply the domestic law (see *Jahn and Others v. Germany* [GC], nos. 46720/99, 72203/01 and 72552/01, § 86, ECHR 2005 VI; *Wittek v. Germany*, no. 37290/97, § 49, ECHR 2002-X; *Forrer-Niedenthal v. Germany*, no. 47316/99, § 39, 20 February 2003; and *Former King of Greece and Others v. Greece* [GC], no. 25701/94, § 82, ECHR 2000-XII). It finds no reason to call into doubt the correctness of the interpretation made by the Norwegian Supreme Court (see paragraphs 52 and 53 of the Supreme Court's judgment quoted above) and is satisfied that the impugned interference had a legal basis in section 4-20 of the Child Welfare Act 1992. Moreover, the law in question was not only accessible but also sufficiently clear to be foreseeable for its users.

2. *Legitimate aim*

51. The applicant argued that the impugned measures had not been designed to pursue a legitimate aim.

52. The Government submitted that the measures in question did pursue the legitimate aim of “protection of the rights ... of others”.

53. The Court sees no reason to question that the measures pursued the legitimate aim of protecting the best interests of A.

3. *“Necessary in a democratic society”*

(a) **The Government's submissions**

54. The Government stressed that the impugned measures had been justified by such exceptional circumstances and by an overriding requirement pertaining to the child's best interests as envisaged in the Court's case-law. The Government invited the Court to take into account the nature of the relationship between the applicant and A and that it must be regarded as an established fact that both of the biological parents were at the relevant time regarded as permanently incapable of providing A with proper care. All the competent authorities, experts and courts involved in the case had been unequivocal and firm on this point.

55. The Government emphasised that A had no psychological child-parent bonds to the applicant. The expert appointed by the Supreme Court

had stated that A had never lived with his mother for long enough to establish any form of bond with her; in other words there had never been any ties that should be safeguarded or developed.

56. Referring extensively to the reasoning of the County Board and the Supreme Court, supported by the views of the experts, the Government maintained that adoption was clearly in A's best interests and was sufficiently justified. There was also a reasonable relationship of proportionality between the interest in protecting A's well-being and the applicant's interest in maintaining a legal right of contact as the latter clearly did not outweigh the former.

(b) The applicant's submissions

57. The applicant argued that the foster parents' minor advantage in being able to adopt A could not in her view outweigh the risk of the ties between him and her and B being severed. It had not been the lawmakers' intention to authorise adoption in cases where continued contact between a biological parent and a child was deemed to be in the child's best interests. Nor were there any such "exceptional circumstances" in the sense of the Convention case-law as could justify the disputed measures.

58. The applicant stressed that the Government's arguments to the effect that adoption was in the child's best interest was based on rather general considerations and assumptions made with reference to the reports of the psychologist experts, both of whom had been appointed on the recommendation of the Municipality. Neither of the experts had supported their conclusions with professional arguments pertaining to A's specific situation. Instead they had been guided by ethical considerations. Thus the expert appointed by the Supreme Court had sided with the Municipality in maintaining that the threshold for forced adoption was too high. No investigation had been made into the case by an expert appointed by the applicant, the expert appointed at her suggestion having withdrawn from the assignment.

59. At the core of the matter was the question whether the irreversible cutting of ties between the boy and his mother, his brother and the rest of his biological family was made "necessary" by exceptional circumstances constituting an overriding requirement pertaining to the child's best interest. At the initial stage of the case the boy's situation was protected by law. There were no factors regarding A's care that had not already been taken into account by the law and decisions taken in accordance with the law. There were no decisive factors based on the best interests of the child and justified in law that could give grounds for initiating a process of forced adoption. The reasons that militated against authorising adoption became stronger during the proceedings. The increased contact between parent and child, the mother's positive progress in getting out of drug addiction and the end to the conflict about A's foster home placement were all strong reasons

to uphold the situation as it was. The natural consequence of these developments would have been to increase contact, not to impose forced adoption.

60. The reduced contact and the poor atmosphere which had developed after the Supreme Court delivered its judgment showed that the measures had been damaging to rather than protective of the child's best interest. The applicant submitted that after the institution of the adoption proceedings the foster parents became less keen to arrange for contact. After the close of the proceedings, it became more difficult to obtain contact, as the foster parents became evasive and passive. If it was true that Mrs O. proposed dates for visit in the autumn of 2007, these proposals had not reached the applicant. Several times Mrs O. cancelled, with the excuse that she was unable to attend, although her attendance was not necessary. At the cross-country race in April 2009, Mrs O. had acted in such a way as to ensure that A did not spend long periods on his own with the applicant and B. It was also difficult for the applicant to relate to the fact that A had a new name. Previously Mrs O. had had telephone contact with the applicant, to show interest in her and her life, and had informed her about A. After the Supreme Court judgment there had been no contact or initiative from the O.s.

61. The purpose of an adoption was to cut ties. Since the relationship between A and his biological family was to be conducted at the home of the adoptive parents the ties between A and his biological family had been damaged.

62. The applicant disagreed with the psychologist's opinion, which the Supreme Court endorsed, that a child not living for a certain period with his or her parents would have no ties that should be safeguarded or developed. In this case there were ties between A and the applicant, and also his brother and grandmother, which should be safeguarded. Whilst these ties were significant for the child's identity and would be of great importance for him in future, the expert had omitted to examine this aspect specifically. It should be for the child to decide whether those ties should be developed, not the adoptive parents, who had demonstrated a wish to reduce contact and to sever ties in a manner which conflicted with the child's wishes and interest.

63. One of the arguments put forward by the expert was that A was a vulnerable child because of his experiences early in life. The applicant had never abused her child. She must, however, take full responsibility for having failed to support him in the acute situation that arose when he was taken to hospital, and for her drug addiction afterwards, which had the consequence that both her children had to be taken into public care. The applicant believed that the only way to try repairing the damage she had caused was the way she had chosen, namely to get out of drug abuse, play part in A's life, accept and respect his connection with his foster parents and let him stay with them.

64. At the same time the applicant had done all she could to give A the opportunity to develop ties with his biological family. The applicant considered that A's vulnerability lay in his history and that his problems in future might be connected to his identity. His background might be hard to accept or understand as he got older. The best way to face this would be openness and contact with his mother, who was now a well-functioning woman and who had always loved him and was now able to care for him.

(c) Assessment by the Court

65. From the outset the Court notes that the disputed deprivation of the applicant's parental responsibilities with respect to A and the authorisation granted to his foster parents to adopt him, decided by the County Board on 25 April 2005 and upheld by the Supreme Court on 20 April 2007, had its background in a long history of compulsory public care measures. At the age of six months A had been taken into public care, as an emergency measure in August 1998, then as a permanent measure in December 1998, on the ground of suspicion that he had been subjected several times to severe ill-treatment causing brain haemorrhage and of his parents' drug abuse problem. That suspicion had given rise to a police investigation that was later discontinued in view of the state of the evidence. Whereas the extent of the applicant's drug abuse before A's birth had been uncertain, she had used heroin after A had been taken into care in August 1998, had spent periods in detoxification centres since 2000 and had started methadone treatment in the autumn of 2005. The compulsory care order was upheld by Trondheim City Court on 22 September 1999, which limited the applicant's contact with A to four visits of four hours in a year. For formal reasons, the Court has no jurisdiction under the Convention to examine the justification of these measures, which became final after the applicant had withdrawn her appeal to Frostating High Court. Indeed, it was undisputed that A's foster home placement continued to be permanent.

66. The only question that the Court may entertain in the present case is whether it was "necessary" to replace the foster home arrangement with a more far-reaching type of measure, namely deprivation of parental responsibilities and authorisation of adoption, with the consequence that the applicant's legal ties with A would be broken. In examining this question the Court will have regard to its case-law, namely that "such measures should only be applied in exceptional circumstances and could only be justified if they were motivated by an overriding requirement pertaining to the child's best interests" (see *Johansen v. Norway*, 7 August 1996, § 78, *Reports of Judgments and Decisions* 1996 III). It should also be reiterated that in *Gnahoré v. France*, no. 40031/98, § 59, ECHR 2000 IX; see also *Görgülü v. Germany*, no. 74969/01, § 48, 26 February 2004), the Court held:

"it is clear that it is equally in the child's interest for its ties with its family to be maintained, except in cases where the family has proved particularly unfit, since

severing those ties means cutting a child off from its roots. It follows that the interest of the child dictates that family ties may only be severed in very exceptional circumstances and that everything must be done to preserve personal relations and, if and when appropriate, to 'rebuild' the family."

67. In this regard the Court first notes that the applicant did not dispute the finding made by the County Board and the national courts that the foster parents had been shown to be suited to raise A as their own child (section 4 20(3)(c) of the Child welfare Act) and that the condition of A's attachment to the foster home (one of the alternative grounds in section 4-2-(3)(a) of the Act) had been fulfilled. The Court sees no reason to question this finding.

68. On the other hand, she maintained that it was not probable that she was permanently unable to provide care for A. On this point, the Supreme Court observed that both parents had a long history of drug abuse problems. The applicant had been on a rehabilitation scheme since October 2005 and had been drug-free during the entire treatment. She had established an individual enterprise with her current cohabitant, had obtained a driving licence and had plans to pursue studies. Despite this positive development the court appointed expert had stated the clear opinion that the applicant was unable to provide A with proper care. The Supreme Court, like the High Court, found no reason to doubt either that the condition as to inability to provide care had been fulfilled. Nothing has come to light in the proceedings before the Court that would enable it to arrive at a different conclusion, albeit that this aspect of the case would not appear decisive (see *Johansen v. Norway* (dec.) 12750/02, 10 October 2002).

69. The Court observes in particular that A, who is now aged twelve, has been in foster care practically all his life. He has never lived with the applicant except for the first six months of his life, during which he was neglected. During the next five years she saw him on six of the fifteen opportunities offered, and for approximately a year she did not see him because of her drug abuse problem. In the autumn of 2003 contact resumed and in 2004 it became regular. She met A once in 2005, twice in 2006 and likewise thereafter. Thus the social ties between the applicant and A have been very limited. This must have implications for the degree of protection that ought to be afforded to her right to respect for family life under paragraph 1 of Article 8 when assessing the necessity of the interference under paragraph 2 (see *Chepelev v. Russia*, no. 58077/00, § 28, 26 July 2007; *Johansen* (dec.), cited above; and *Söderbäck v. Sweden*, 28 October 1998, § 32, *Reports of Judgments and Decisions* 1998-VII).

70. Furthermore, as observed by Mrs Justice Coward and as has already been mentioned above, A's foster home placement had been of a long term character and was intended to last for a long period. According to the court-appointed expert, A had no real attachment to his biological parents. On the basis of expert assessments, the County Board and the national

courts found that A had been a vulnerable child since his first year, born seven weeks prematurely, exposed to aggravated ill-treatment several times and to the burden of being moved several times during the first months of his life. Because of this he had a significant need for security, notably to be certain about his belonging to his foster parents, which was likely to increase as he grew up. His need for absolute emotional security would become crucial as he became aware of the fact that both his mother and father had been heavy drug abusers, that they were undergoing methadone treatment, that he had been exposed to serious ill-treatment and that the parents had been suspected of this, as well as the fact that the father had spent more than six years in prison. All these elements had to be integrated into his identity.

71. The Court also notes that A's particular need for security had been significantly challenged by the applicant's wishing A to live with her father and his cohabitant and by the great disturbance around his placement with his foster parents. The Court has taken note of the applicant's submissions that she had accepted that A's foster home placement was long term. According to her, there had been no disturbance around the foster home placement since 2003, except for the disturbance created by the adoption proceedings. She had stated clearly that she would not seek to have A returned to live with her and that she considered it was in his best interest to grow up in the foster home. There was no risk that the earlier conflicts would resume. However, from the material submitted and her lawyer's pleadings to the Court, it appears that there is still a latent conflict which could erupt into challenges to A's particular vulnerability and need for security. Adoption would seem to counter such an eventuality.

72. Moreover, for the reasons set out in paragraph 60 of the Supreme Court's judgment (quoted in paragraph 38 above), the Court sees no reason to doubt that the impugned measures corresponded to A's wishes.

73. In view of the above, the Court is satisfied that there were such exceptional circumstances in the present case as could justify the measures in question (see *Johansen*, cited above).

74. A particular issue arose with regard to contact: whilst it was undisputed that contact between A and the applicant (and his brother) was desirable, in the event of adoption the applicant would no longer have a legal right of contact with A.

75. On this point Mrs Justice Coward emphasised that the foster parents had facilitated contact with the biological family far beyond their entitlements, both as regards the circle of persons and the extent of the contact. The applicant had at earlier periods not been fit to have contact, which could not be attributed to the foster parents. G. had not wished to have contact as long as his situation was characterised by drug abuse and crime. His mother and grandparents were on good terms with the foster parents and had kept in contact with them and with A.

76. As to the doubt raised by the applicant about whether the foster parents would continue to be open to contact, Mrs Justice Coward pointed out that the County Board, the City Court, the High Court and the court-appointed experts who had heard the foster parents had found with great, almost absolute, certainty that this openness would continue. Agreeing with this finding, Mrs Justice Coward considered that the fact that contact rights as such would disappear as a result of adoption could not carry great weight in the assessment of A's best interest.

77. The applicant laid great stress in her pleadings to the Court on her argument that the above assumption had been erroneous. However, the Court is unable to agree with this argument. Contact did take place twice in 2007 (before and after the Supreme Court's judgment of 20 April 2007), in 2008 and in 2009, and included overnight visits to A's home and the applicant's home, several times in the presence of B and the applicant's mother. In the Court's view, the fact that the level of contact after the Supreme Court judgment corresponded to that which had existed before, clearly confirms the correctness of the national assessment as to A's foster parents' openness to continued contact. This is not undermined by the applicant's various submissions to the effect that the contact arrangements proposed did not always meet her expectations and demands.

78. Against this background, it appears that the disputed measures did not in fact prevent the applicant from continuing to have a personal relationship with A and did not result in "cutting him off from his roots" with respect to contact with his biological mother. In the Court's view, the relevant national authorities could reasonably consider that the applicant's interest in maintaining a legal right of contact was outweighed by the interest in authorising adoption.

79. Having regard to the circumstances of the case as a whole, the Court is satisfied that the decision to deprive the applicant of parental responsibilities and to authorise the adoption was supported by relevant and sufficient reasons and, bearing in mind the national margin of appreciation, was proportionate to the legitimate aim of protecting A's best interests.

80. Accordingly, there has been no violation of Article 8 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

81. The applicant further alleged breaches of Article 6 § 1, which in so far as relevant provides:

"In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

82. The applicant maintained that she had not been heard in person by the Supreme Court and that the latter had refused to admit to the file a record of a statement by A.

83. The Court notes that the first complaint is unsubstantiated.

84. As to the second complaint, it finds that it discloses no appearance of transgression by the Supreme Court in respect of the normal discretion enjoyed by national courts in assessing the admissibility and relevance of evidence in cases before them and making findings of facts (see, for example, *Sara Lind Eggertsdóttir v. Iceland*, no. 31930/04, § 44, ECHR 2007-VIII, and *Eskelinen and Others v. Finland*, no. 43803/98, § 31, 8 August 2006). There is no indication therefore of a breach of Article 6 fairness requirements.

85. It follows that these parts of the application are manifestly ill-founded and must be declared inadmissible under Article 35 §§ 3 and 4 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 6 § 2 OF THE CONVENTION

86. The applicant finally alleged a breach of Article 6 § 2, which reads:

“Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.”

87. The applicant submitted that the Supreme Court's judgment had contained statements suggesting that she was responsible for the ill-treatment of A (i.e. that “He was born seven weeks prematurely, suffered from serious neglect and was severely ill-treated on several occasions to the extent that he sustained cerebral haemorrhage”, see paragraphs 58 and 59 of the Supreme Court's judgment quoted in paragraph 38 above). The applicant stressed that she had only formally been a suspect in the criminal investigation. This had in reality been aimed at G., who had been alone with A when the incident had occurred, and had been dropped in view of the state of the evidence.

88. However, the Court observes that the impugned statements formed part of the Supreme Court's reasoning leading to its conclusion in the adoption case (compare *Sanchez Cardenas v. Norway*, no. 12148/03, § 37, 4 October 2007); they reflected the objective fact that the parents had been suspected of the ill-treatment in question but did not amount to an affirmation of criminal guilt falling within Article 6 § 2 of the Convention (see *Lutz v. Germany*, 25 August 1987, § 62, Series A no. 123; *Englert v. Germany*, 25 August 1987, § 38, Series A no. 123; *Nölkenbockhoff v. Germany*, 25 August 1987, § 39, Series A no. 123; and compare *Minelli v. Switzerland*, 25 March 1983, § 38, Series A no. 62).

89. This part of the application too is therefore manifestly ill-founded and must be declared inadmissible under Article 35 §§ 1 and 4 of the Convention.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint under Article 8 of the Convention admissible and the remainder of the application inadmissible;
2. *Holds* that there has been no violation of Article 8 of the Convention.

Done in English, and notified in writing on 28 October 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Christos Rozakis
President