



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

THIRD SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 75531/01  
by I. and U.  
against Norway

The European Court of Human Rights (Third Section), sitting on 21 October 2004 as a Chamber composed of:

Mr G. RESS, *President*,  
Mr I. CABRAL BARRETO,  
Mr L. CAFLISCH,  
Mr R. TÜRMEŒ,  
Mr J. HEDIGAN,  
Mrs H.S. GREVE,  
Mr K. TRAJA, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having regard to the above application lodged on 19 January 2001,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

## THE FACTS

The application has been brought by two parents, Mr and Mrs H., on behalf of their two daughters, I. and U. In the application form submitted to the Court the parents also identified themselves as applicants, but subsequently they confirmed that only the two daughters were applicants. They were born respectively on 26 July 1987 and 7 October 1988 and are Norwegian nationals. They were represented before the Court by Mr R. Lauvås, a lawyer practising in Haugesund.

Mr and Mrs H. also have a third daughter, born on 3 September 1997 (whose name has not been communicated and who will hereinafter be referred to as "X").

The facts of the case, as submitted by the parties, may be summarised as follows.

### **A. Public child care measures giving rise to the present case and related proceedings**

At the age of 20 Mrs H. was diagnosed as suffering from schizophrenia and has since been committed to a psychiatric hospital a number of times for treatment of psychosis and is on a disability pension. Her husband was considered to suffer from a personality disorder and has been on disability pension since 1986. Following the birth of the two eldest daughters, they received from the social authorities the assistance of a psychiatrist, a doctor and social workers at their home. In 1993 I. and U. were placed in a foster home, both parents being found unsuitable as care persons. There the two children have had satisfactory conditions and have developed favourably. The parents have had a right of access once a month under supervision. After Christmas 1993 their father stopped visiting them, allegedly in protest against the authorities, but the mother continued to have regular access. In recent years her access has become less frequent and regular.

When Mrs H. was compulsorily committed to a psychiatric ward in September 1997, she gave birth to X. The latter was immediately placed, on a provisional basis, in a different foster home to that of her sisters, at a secret address and without access rights for the applicants. A different foster home was chosen notably in order to ensure that each child's special needs and vulnerability be properly taken care of and to avoid an excessive burden being placed on I. and U.'s foster home, which might eventually have jeopardised the children's best interest.

On 15 October 1997 the local child care authorities asked the Rogaland County Board for Social Affairs (*Fylkesnemda for sosiale saker*) to order the taking into public care of X and to deprive the parents of parental responsibilities. The parents requested the Board to refuse the taking into care and to prescribe an arrangement of access between X and the two older sisters, including the parents and their families.

On 22 December 1997 the County Board decided to confirm the taking into care, to continue the placement of X in the same foster home, to refuse disclosure of the latter's address to the biological parents but to grant them a right of access to X for two hours per month under supervision at a location outside the foster home. On 4 May 1998 the Board decided to deprive the parents of parental responsibilities and of access with respect to X. It relied on an investigation carried out by a psychiatrist, Mrs K. Westlye, who in her report of 29 March 1998 stated:

“In my assessment, both parents are incapable of providing their children with proper care. As a result of extensive psychopathology their ability to care for their children is inadequate. The mother suffers from a chronic serious mental disturbance, schizophrenia. She has shown little willingness over the last 15 years to cooperate in treatment and has suffered a considerable general failure in psychosocial development.

The father's psyche is characterised by egocentricity of a degree that makes him remote from and unable to accept reality. He denies facts and shows minimal insight into his own overall situation and that of his family. He has shown no ability whatsoever to structure his life in ways that would be beneficial for himself and his family. His choices and priorities appear to be characterised by his own impulses and needs and whims of a religious nature. Accordingly [Mr and Mrs H.] have constantly been on the move, a fact that they explain by their 'calling' and other religious forces.

Mr H's general ability to function in society is poor. It would be difficult to treat his condition, amongst other reasons because he himself does not feel any need for help and maintains that all his problems have been caused by others.

My assessment is that both persons' potential for change is limited, both as regards their general ability to function and their ability to care for children.

More recent research into heredity indicates that a number of serious mental disorders can in part be explained on the basis of inherited factors. Children of parents with serious psychological disorders are thought to have an increased risk of developing mental problems as a consequence of hereditary factors as these may contribute to increased vulnerability.

I have concluded that this child will have an increased genetic vulnerability as regards developing psychiatric symptoms. The likelihood that the symptoms of the illness will occur will be reduced if the child is given secure limits and proper psychological care.

#### CONCLUSION

- 1) Neither parent is considered to be capable of caring for their daughter in the short or long term.
- 2) The child has lived in an emergency foster home since she was three days old. She now has a secure and primary tie to these parents. They wish to adopt her. If so, she would have a permanent tie to them over the coming years, which could be compared to the tie that occurs between biological parents and their children. Moreover she would have the same legal rights. If the girl is adopted, the ties to the biological family will be severed and the girl will not have any

entitlement to information on her biological origin until she reaches the age of majority, and only if she so wishes. This might represent a disadvantage for the girl, but need not necessarily be a subject of concern until adult age.

- 3) If the child is placed in a foster home with access to her biological parents, a break with the primary care providers will occur at an age of 7 – 8 months. At this age the girl will be very vulnerable and such a break would represent a considerable strain for her. An early break of this nature with her primary care providers could make her more disposed to depressive conditions later in life. In view of the assumed biological vulnerability of the child, great care should be exercised as regards exposing her to traumatising strains. A move of this type can be justified only if the long-term gains are assumed to be considerable.

It is unlikely that the contact with the biological parents will be stable should the girl move to a foster home. In the case of the two elder sisters, their mother followed up the contact to the best of her ability. For various reasons, *inter alia* her unstable condition, this has been irregular. The father has sabotaged contact with the daughters on egocentric grounds and has indicated that the same would occur if this child too were moved to a foster home.

My assessment is that this approach would on the whole have fewer advantages than the security, stability and continuity that an adoption would probably represent.”

The parents appealed against the decision of 4 May 1998 to the Karmsund District Court (*herredsrett*), which held an oral hearing on 18 and 19 January 1999. The court heard evidence from, *inter alia*, representatives of the authorities and of the parents, who themselves opted not to attend the hearing in person and from Mrs Westlye, whom it had appointed as an expert.

The parents conceded that the taking of X into public care as from birth was justified and continued to be justified. They did not dispute that the basic conditions for depriving them of parental responsibilities were also fulfilled, as their mental health and social condition had persisted and there was unfortunately no reason for believing that their ability to assume care would improve. However, to cut off X’s ties to her biological parents and to the rest of the family would be contrary to X’s best interest. Moreover, the two elder sisters should have a right of access to X.

By a judgment of 29 January 1999, the District Court dismissed the parents’ plea on their daughters’ behalf that the latter should have an independent right of access. Not only did it lack jurisdiction to review a claim of this nature if a party had not previously submitted it before the County Board, but the matter had not even been investigated for the District Court. The elder sisters’ real need for access was an issue that ought to be clarified by the child care authorities and be considered by the County Board before the matter could be dealt with by the courts. However, the District Court did not consider that it was precluded from reviewing the issue of access from the point of view of X’s best interest.

In this regard, the District Court noted that the mother was suffering from schizophrenia, her condition had deteriorated and, due to her husband's influence, she largely avoided taking the prescribed medicine. His presumed personality disorder had led the family to be constantly on the move. The father had been boycotting access to the two eldest daughters, purportedly in order to take revenge on the social authorities, and had influenced his spouse to reduce gradually the frequency of her access to the daughters, leaving them in uncertainty in this regard. The foster father had informed the court that the daughters had received support from the child care authorities but this was due to their disappointment over not being able to meet X.

The District Court further observed that X had not had contacts that she could recall with her biological parents. Their contacts had been limited to a few hours before she reached one year old. She has not had any knowledge of the remainder of her biological family and would, if adoption were to go ahead, grow up under conditions without pressures from the parents. To avoid the negative consequences of contacts with the parents and the uncertainty of the situation in the foster home that would arise were the child to learn about the biological parents, were considerations of decisive importance for the child's best interest. The District Court found that adoption would not only be in her best interest but was the only reasonable solution. It would be pointless to accord access rights for the sisters and other family members and at the same time deny the parents access. Such a solution would inevitably lead to the child becoming aware of her biological origin and demanding access to the parents. The child care authorities had observed that X was psychologically vulnerable and that this indicates that there could be hereditary factors suggesting special needs for shielding her and providing a solid framework for her upbringing. In the light of empirical data, the court appointed expert had reached the same conclusion.

In view of the above considerations, and having regard also to the Strasbourg Court's judgments in *Olsson v. Sweden (no. 1)* (judgment of 24 March 1988, Series A no. 130) and *Johansen v. Norway* (judgment of 7 August 1996, *Reports of Judgments and Decisions* 1996-III), the District Court upheld the County Board's decision.

The parents appealed against the District Court's judgment to the Gulating High Court (*lagmannsrett*). In their appeal, they somewhat altered their plea regarding access, in that they requested a right to take part in any access granted to X's sisters, plus an independent right of access for the grandparents, aunts and uncles.

The High Court, sitting with three judges and four lay judges (including two psychologists), held an oral hearing on 22 and 23 February 2000, during which it heard the lawyer for the parents (who were themselves absent), representatives for the social authorities, three witnesses and the psychiatrist who had given a report to the District Court.

By a judgment of 21 March 2000, the High Court upheld the County Board's decision of 4 May 1998. Unlike the District Court, it did not find that it could refuse considering the merits of the claim for an independent right of access for X's sisters and certain other members of the family.

The High Court observed that, while the taking into care and the foster home placement were undisputed, a central issue was whether the parents could be deprived of their parental responsibilities with respect to X with a view to adoption. Although the parents in principle conceded that the basic conditions for deprivation of parental responsibilities were fulfilled, their appeal against the District Court's judgment was to forestall an adoption that would rule out any arrangement being made for access.

The High Court found it established that the conditions for deprivation of parental responsibilities were fulfilled (section 4-20 of the Child Welfare Services Act 1992). The parents were permanently unable to assume the care for any of their children; there was nothing to indicate that their condition and abilities had improved in this respect, rather the contrary. The lack of self-insight and perception was particularly prominent with regard to the father. Despite the access rights granted in respect of I. and U., he had not exercised any access to them since 1993 and the mother's access had become more seldom and random. On several occasions the father had stated that, in order to take revenge on the child care authorities, he did not wish to have access to his children. As regards X, the parents had been granted access temporarily for a period of 3 to 4 months but they had not exercised even the modest access that had been accorded to them.

The High Court further noted that both the local child care authority and the court appointed expert had stated that it was necessary in the best interest of X to deprive the parents of their parental responsibilities with a view to adoption and that adoption should be prepared as soon as possible. It would be very unfortunate for the girl if the biological parents and other members of the family were to have access to her. X needed safe conditions for her upbringing which in this instance could only be afforded by allowing the foster parents to adopt X and thus make her and the foster family one, both from a factual and a legal point of view.

The High Court then reiterated that the court appointed expert had stressed that also the biological heredity created an uncertainty in this case. According to the expert, both parents were suffering from mental disorders, although only the mother had been under observation and had been diagnosed as such. She had several times, including on compulsory ground, been committed to psychiatric institutions. The father, on the other hand, had never been under observation as he had avoided such situations. While it would not be appropriate to attempt to determine the father's diagnosis on the material before the High Court, there was sufficient evidence in the case to conclude that, because of his lack of self-insight and of understanding of the children's needs, he was permanently unable to assume care for children. For example, even during the limited access which he had had, he

had not avoided seeking to exert an influence on the children in a particularly inappropriate manner. It would therefore, in line with the expert's statement, be in X's best interest to cut off all the bonds with the biological parents. Even though I. and U., both of whom had been informed about X's birth, might find it difficult to understand and accept that they would not be able to meet her, X's best interest weighed more heavily than her sisters' interests in having access to her.

In addition, the High Court reiterated the expert's observation that X had a "genetic vulnerability towards developing psychiatric symptoms" and that the "probability that illness/symptoms might occur would be reduced if the child were to be secured a safe environment and good psychological care". In the view of the High Court, it was necessary to prevent such influence by the biological parents and contacts with the rest of the family that might indirectly trigger or create insecure situations in the future. That could not be achieved were one "to keep the channels to the biological family open".

In the light of the above considerations, the High Court found that the conditions for depriving the parents of parental responsibilities with a view to adoption of X were fulfilled and that neither they nor other members of the family should be granted a right of access to her (sections 4-19 and 4-20 of the Child Welfare Services Act 1992). It upheld the County Board's decision of 4 May 1998.

The Appeals Selection Committee of the Supreme Court refused leave to appeal on 19 September 2000, finding it obvious that the appeal would not succeed.

### **B. Subsequent investigation and authorisation of X's foster parents to adopt her**

On 22 April 2004 the local child care authorities drew up a report on X.'s current situation in her foster home and on the prospects of future contact with the biological family, containing the following information. X was about to complete her first year in school. Her physical and psychological development were normal. She appeared well-adjusted and healthy, but was perceived by her foster parents as being sensitive and vulnerable and insecure in new situations:

"It does not take much for her world 'to fall apart'. She becomes sad and gloomy easily and has a strong need for recognition in all situations. She requires a lot of preparation before managing to enter new situations."

The foster parents had informed X that her foster mother was not her real mother and that her biological mother could not be able to function as her mother, as that was a difficult and taxing task for some. X had also been told that her foster father was not her real father. X had asked whether her real mother had given birth to other children, which question was answered in the affirmative. Apart from that, X had not inquired about these issues.

As to the prospects of voluntary contact between X and her biological family, the report concluded:

“The case officer is of the clear opinion that the foster parents have provided and will continue to provide information about the biological family. They will assess the girl’s age and maturity and take this into account when giving information. It is the case officer’s clear impression that the foster parents will support and help the girl to establish contact with her siblings and, if applicable, with other family members when time is ripe.”

On 15 May 2004 Mrs Westlye updated her above-mentioned psychiatrist opinion of 29 March 1998, after making observations on whether the child’s situation in the foster home had changed since the case was heard by the High Court. The expert perceived X as secure, albeit somewhat reserved, and described her as calm, pensive and easy to deal with. The expert found that X’s foster home was secure, stable and predictable, and that X was well integrated in the foster parents’ family and social network. From February 2003 onwards a new foster child had been included in the family, a girl who was approximately five years younger than X.

The expert concluded that in relation to the situation of the child and her foster parents, there were no changes that warranted altering her previous assessment and conclusion regarding adoption.

On 9 September 2004 the Directorate of Child, Youth and Family Affairs decided to authorise X’s adoption by her foster parents, finding that the grounds for such authorisation set out in the Act on Adoption 1986, notably the requirement in section 2 that adoption must be in the best interests of the child, were fulfilled. The Directorate had regard to the fact that the child, who was 7 years of age, had since only a few days after birth been living with and fostered by her foster parents. Except for a few instances during the child’s first months, there had been no contacts with the biological family. The situation of the child and the foster parents had not materially changed since the case was before the courts. The care in the foster home was regarded as secure, stable and foreseeable. The County Board, the courts and the experts had all held that contacts with the biological family could adversely affect the child. The fact that the child in addition was described as vulnerable reinforced the need to break off the legal ties with the biological family.

The above decision may form the subject of an appeal to the Ministry of Children and Family Affairs, and subsequently to the courts. It is not known to the Court whether any such appeal has been lodged.

## COMPLAINT

The applicants complain under Article 8 of the Convention essentially about the refusal of access between them and their younger sister.

## THE LAW

The applicants alleged a violation of Article 8 of the Convention, which 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.”

### A. The parties' submissions

#### *1. The applicants*

Mr and Mrs H. submitted that, while they had accepted that X be taken into public care and be placed in a separate foster home from that of the applicant sisters, I. and U., they disputed the deprivation of their parental responsibilities with a view to adoption as it would prevent X from having contacts with her sisters. Being too young to have standing as parties under Norwegian law, the older sisters had been unable to pursue their claim for access to X. On the other hand, during the entire proceedings in Norway, their parents had submitted that such access should be granted and that they should not therefore be deprived of their parental rights.

In the applicants' view, the refusal to grant them access to X was not justified for the purposes of Article 8 § 2 of the Convention. Such contact would not have detrimental effects on X and there was no basis for the thesis advanced by the child care authorities that the parents would attempt to spoil the stability in X's foster home environment. Although it was understandable that contacts with the parents might be said to be detrimental to X, this could not justifiably be maintained with regard to contacts between the sisters. For that reason, the case pursued by the parents before the national courts had been centred on the sisters' right of access.

#### *2. The Government*

The Government argued that no personal ties had been established between X and her elder sisters, as they had never met. Mere knowledge of the existence of any sibling was not sufficient to constitute “family life”. In the instant case, beyond the formal sibling relationship, no special circumstances existed that could establish “family life” for the purposes of Article 8 § 1 of the Convention.

The Government maintained that in the present case X's permanent placement in her foster home with a view to adoption by the foster parents was justified by exceptional circumstances and was motivated by an overriding requirement pertaining to the child's best interests. Both of the biological parents were at the material time, and still, regarded as permanently incapable of providing their children with proper care. The placement of X was therefore intended – and indeed still was – to create a permanent situation. All the competent authorities, experts and courts involved in the case had been unequivocal and quite firm on this point.

X was seven months old when it was decided to deprive the parents of their parental rights with a view to adoption and, as a consequence, to refuse access for both of them and the elder sisters to X. At the time the County Board had three possible alternatives: 1) either to remove X from her foster parents and to place her with the foster parents of I. and U.; 2) or to leave X permanently with her current foster parents and to grant the biological family access to her; or 3) to pave the way for an adoption by the foster parents, with the implication that all legal rights and obligations of X's biological family would be terminated.

The reasons for the Board's decision, taken on the basis of expert opinion, and the national courts' upholding that decision, had been well documented and were essentially that it would entail a serious risk for X if she were to relate to the biological parents. Adoption was the only way of avoiding that risk.

It could be argued that alternative 2) could have been opted for with the proviso that access be granted to the elder sisters only, not to the parents. This, however, was not realistic. The establishment of contact between X and her sisters would create a great risk that X's location or details of access arrangements be revealed to the biological parents. Through the contact with her sisters, X could in practice not avoid being exposed to her biological parents' turbulent and in many ways unfortunate history and unpredictable behaviour. Accordingly, there was reason to fear that X could come under considerable psychological pressure, which in turn could be detrimental given her fragile nature.

All the experts involved unequivocally voiced the view that X's best interests would be served by cutting off all ties to her biological parents. Establishing contact should be left to the discretion of X's foster parents, until such time when she was sufficiently mature to bear the strain of such exposure. This was the expressed opinion of the County Board, by the District Court, and the High Court. The Appellate Committee of the Supreme Court did not see any reasons to set aside this assessment.

Even though the primary goal of the measures taken was to shield X from her biological parents, not from her sisters, it was impossible to achieve that goal without refusing access also for the sisters.

Regard should also be had to the fact that, having been in the custody and care of her foster parents all her life, a family relationship had developed

naturally between X and her foster parents, which relationship enjoyed protection under Article 8.

In the Government's opinion, the national authorities, who were better placed than the European Court to assess the matter, had struck a proper balance between the competing interests and, acting within their margin of appreciation, were entitled to consider that the impugned measures were necessary for the purposes of Article 8 § 2 of the Convention.

### **B. The Court's assessment**

The Court reiterates that the notion of "family life" under Article 8 of the Convention encompasses marriage-based relationships, albeit not being confined to such relationships, and that a child born out of a marriage is *ipso iure* part of that "family" unit from the moment and by the very fact of its birth (see *Keegan v. Ireland*, judgment of 26 May 1994, Series A no. 290, p. 17, § 44, *Elsholz v. Germany* [GC], no. 25735/94, ECHR 2000-VIII, § 43, and *Yousef v. the Netherlands*, no. 33711/96, § 51, ECHR 2002-VIII). However, mere biological kinship, without any further legal or factual elements indicating the existence of a close personal relationship, is not sufficient to attract the protection of Article 8 (see also *L. v. the Netherlands* judgment, no. 45582/99, §§ 35-37, 1 June 2004 ).

In the instant case, X had been taken into public care immediately after birth in September 1997. At that time, her elder sisters I. and U. had been placed in a foster home since 1993. Despite the access rights granted to the parents in respect of I. and U., the father had boycotted access to them since 1993 and the mother's access had become seldom and random. On several occasions the father had stated that, in order to take revenge on the child care authorities, he did not wish to have access to his children. Thus, when X was born in 1997 the original family had long since been separated and the bonds between the parents and the elder sisters were weak.

X was immediately placed in a different foster home than that of I. and U., in order to ensure that the child's special needs and vulnerability be properly taken care of and to avoid that I. and U.'s foster home be brought to bear an excessive burden.

Thereafter nothing happened in the direction of close personal relationships emerging between X and her biological family. The Court notes that the applicants do not dispute either the compulsory public care of X or the permanent nature of her foster home placement, the justification for which does not seem open to question. Nor did the parents exercise even the modest access that had been accorded to them; they saw her only for a few hours between late December 1997 and early May 1998. X had no recollection of these meetings. I. and U., for their part, have never met X, not having had an opportunity to do so. At the time of the contested decisions, X was unaware of the existence of her biological family

In these circumstances, the Court has doubts as to the extent to which there still existed a “family life” in the sense of Article 8 between X and the biological family when it was decided to refuse the parents’ request on I. and U.’s behalf for access to X. Nevertheless, bearing in mind I. and U.’s declared aspirations to meet their younger sister, the Court will proceed on the assumption that to a degree the impugned measures amounted to an interference with their “family life” (see *Olsson v. Sweden* (no. 1), judgment of 24 March 1988, Series A no. 130, pp. 36-37, §§ 8, 18 and 81; and *Söderbäck v. Sweden*, judgment of 28 October 1998, *Reports of Judgments and Decisions* 1998-VII, §§ 24-25) and will consider the matter under Article 8 § 2.

Turning to the issue of whether the interference was justified under Article 8 § 2, the Court finds no reason to call into doubt that the contested measures were in accordance with the law – namely sections 4-19 and 4-20 of the 1992 Child Welfare Services Act – and pursued the legitimate aim of protecting the best interests of the child. The only issue in dispute is whether the interference was “necessary”.

In this regard the Court notes from the outset the weak and tenuous nature of the family bonds between I. and U. on the one hand, and X, on the other hand, consisting as they did at the time of little or no more than biological ties and a desire by I. and U. to meet X. Moreover, X’s young age at the time - she was 8 months old when the County Board first denied I. and U. access (4 May 1998) and 3 when (19 September 2000) the Appeals Selection Committee of the Supreme Court refused leave to appeal – made her vulnerable to change. In the view of the Court, these considerations carry great weight in the review of the necessity of the interference.

The Court is unable to accept the applicants’ submission that the issue of access between the older sisters and X could be considered in isolation from that concerning the parents’ access to X. In the national proceedings, any claim for access made on the children’s behalf had been tied to an access claim made by the parents on their own behalf, whereas it does not appear that the former could not have been pursued independently of the latter. In any event, access between the children could hardly be envisaged without there being a risk that X be exposed to her biological parents in one way or the other, which was likely to disturb her stable and secure conditions in the foster home.

It is significant for the above that the parents, in particular the father, had proved entirely inadequate in the way they had exercised access vis-à-vis I. and U. in the past.

Furthermore, the national child welfare authorities and courts had found that X was psychologically vulnerable and that there could be heredity factors suggesting special needs for shielding her and providing a solid framework for her upbringing. Whereas the heredity argument rested more on scientific probability than established facts and could not, in the Court’s view, of its own constitute a sufficient reason for the disputed refusal of

contacts, it is satisfied that there was an adequate basis for considering X psychologically vulnerable and that exposing her to the parents – via or following contacts between X and her elder sisters – was potentially damaging for her mental health and well-being. This is confirmed by the more recent observations about X’s sensitive and vulnerable character, hence insecurity when facing new situations.

Moreover, when later told about her biological family, X expressed no wish to meet her elder sisters (or her parents for that matter). The foster parents, for their part, have affirmed that they are prepared to arrange for such contacts in due course when X is ready for this. The Court notes that this proposal is in accordance with the notion of respect for family life in Article 8 of the Convention.

Against this background the Court finds that the interest of protecting X’s situation in the foster home carried greater weight than I. and U.’s interest in being granted a right of access to her and that the national authorities, acting within their margin of appreciation, were entitled to consider the contested measures to be “necessary” in the light of the interests of the children.

It follows that the application is manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and must be rejected in accordance with Article 34 § 4.

For these reasons, the Court by a majority

*Declares* the application inadmissible.

Vincent BERGER  
Registrar

Georg RESS  
President