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

SECOND SECTION

DECISION

Application no. 36839/21
D.J.
against Norway

The European Court of Human Rights (Second Section), sitting on 20 January 2026 as a Committee composed of:

Péter Paczolay*, President*,
Oddný Mjöll Arnardóttir,
Hugh Mercer*, judges*,

and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to the above application 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") on 5 July 2021 by a Norwegian national, Ms D.J. ("the applicant"), who was born in 1974 and was represented by Ms T. Holth, a lawyer practising in Oslo;

The decision not to disclose the applicant's name;

the decision to give notice of the complaints concerning Article 8 of the Convention to the Norwegian Government ("the Government"), represented by their Agent, Ms Henriette Busch, of the Attorney General's Office (Civil Matters), assisted by Ms Kristine Møse, a lawyer at the same office, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application relates to a decision regarding contact rights taken in respect of X, born in 2010, who is the youngest of the applicant's five children. The application also concerns the decision to have X live at an undisclosed address.

2. On 20 August 2018 the prosecuting authority issued an emergency care order in respect of X. The applicant and her mother had been arrested that day for several acts of fraud and theft. X had been with the applicant when she

had committed those acts and subsequently been arrested. The applicant had at that time sole parental responsibility for X. Both parents were registered at the time as living abroad, the applicant in Belgium and X's father, B, in Sweden; however, they had in fact been living in Norway. The applicant is of Roma origin and is illiterate.

3. On 21 August 2018 the emergency care order was upheld by the County Social Welfare Board ("the Board"), and the child welfare services decided that X's new address should not be disclosed and that there would for the time being be no contact between the applicant and X. The applicant's request to have the emergency care order lifted was refused by the Board on 31 August 2018.

4. On 7 November 2018 the Board issued a permanent care order in respect of X, and also upheld the decision that there would for the time being be no contact between the applicant and X and that X's address should not be disclosed.

5. In its decision, the Board noted that between 2008 and 2018 numerous child welfare investigations were initiated relating to the family, involving nine child protection services due to the family's frequent relocations. The notifications raised concerns about violence towards the children and the applicant, the children's involvement in theft and school absences, parental drug use, B's involvement in a shooting, the presence of weapons in the home, and the hostile living environment. The police had expressed concern about the lack of consistent care and safety, and that both parents had criminal backgrounds. In connection with a violent incident in 2015 committed by B, all of the children had previously been placed under an emergency care order. B had violated his restraining order shortly thereafter. X's teeth had been found to be severely decayed then. The emergency care order in respect of all of the children was subsequently discontinued as the applicant stated she would accept help, and B was admitted to psychiatric hospital. Shortly thereafter, the applicant was registered as having moved abroad, and assistance measures were discontinued. Notifications of concern had continued in respect of the family. At the time of X's emergency placement in 2018, the applicant and B had 33 and 293 police cases, respectively, registered against them. The Board found that X had lived under an untenable care situation.

6. The Board noted that the choice of the foster home had to take account of X's Roma origin as far as possible. The applicant did not contest before the Board the non-disclosure of X's address nor the supervised contact, as long as contact sessions with X were established. The Board noted the applicant's firm rejection of the care order, and B's threats towards the child welfare services. Relying on a police risk assessment advising against contact, the Board considered that there was a real risk of X's abduction by the parents or relatives, and that parental contact would compromise X's placement at an undisclosed address. The Board found that keeping X at an

undisclosed address was necessary to preserve the purpose of the foster home placement and contact with the applicant was not feasible in the light of that purpose, however, it was emphasised that child welfare services had to continue to assess the situation.

7. Following the applicant's appeal against the Board's decision, the District Court appointed a psychologist who delivered a report dated 8 October 2019. The mandate included, but was not limited to, assessing the applicant's caregiving ability, examining possible assistance measures, ensuring that X could express her views, and considering cultural factors.

8. By a judgment delivered on 28 October 2019, the District Court upheld the care order and the non-disclosure of X's address; however, it granted the applicant supervised contact for two hours, four times per year. The District Court authorised the child welfare service to determine any additional, necessary safety measures during contact sessions, including in respect of the language to be applied.

9. The District Court heard eight witnesses. The court had no doubt that when X had been in the applicant's care, she had been subjected to extensive neglect and had experienced frightening episodes in the form of witnessing violence and drug use. The court found it improbable that the applicant could provide adequate care for X or that she was able to implement necessary changes. The applicant had not succeeded in severing contact with B.

10. With regard to contact sessions, the District Court emphasised the relevant case-law of this Court. The municipality opposed contact sessions. The court nonetheless found that the observations of the two contact sessions between the applicant and X were not enough to conclude that contact was harmful, and therefore not enough to justify denying it when weighed against the potential long-term harm for X of being cut off from all contact.

11. On 20 May 2020 the High Court refused leave to appeal with respect to the care order, however, leave to appeal was granted in so far as the appeal concerned contact rights and the non-disclosure of X's address. An expert psychologist was appointed to provide an updated assessment with emphasis on key considerations relevant for determining the extent of contact, including the applicant's caregiving abilities, and whether contact with the applicant would subject X to hardship.

12. The expert report finalised on 22 September 2020 detailed X's own accounts of her experiences which she had been able to recount in the foster home, including her detailed knowledge of drug preparation and use, and being physically punished by both parents. It also highlighted X's strong emotional reactions before and after contact sessions, which at times made her unable to attend school. During the contact sessions X had felt comforted by the proximity of the police. After the sessions, X had experienced her body shutting down and had passed out on one occasion. X had expressed clearly that she wished not to have contact sessions with the applicant, even though she felt guilty for these feelings, and had said that she could possibly meet

the applicant when she was closer to the age of majority. The school principal reported that the sessions had negatively affected X's school attendance. The foster mother had received specialised trauma training, and the foster family supported X's Christian faith and sought to learn about her culture. However, because of her fear, X had rejected learning about her Roma heritage.

13. In a judgment delivered on 20 October 2020, the High Court did not grant the applicant contact. The High Court referred to the Supreme Court's case-law, which implemented the case-law of this Court. The High Court observed that it was unfortunate that a year had passed from the date of the care order until the first contact session with X. The court noted X's strong reactions following contact sessions. The court found that X had been traumatised because of her early childhood. It further observed that the child psychiatric services had recommended that there should be no contact as X was probably suffering from post-traumatic stress disorder (PTSD) and contact sessions were disruptive to X's trauma treatment.

14. The High Court was of the view that the extended periods of strong reactions and fear shown by X in connection with the contact sessions had to be regarded as unacceptable, detrimental to health, and something a child should not be subjected to. It was considered serious that X's PTSD treatment could not commence as long as she had to be forced to attend contact sessions, because all efforts of the practitioner went towards stabilising X following sessions. The court clarified that not establishing contact with X at the relevant point in time did not mean that the goal of reunification with the biological family had been permanently ruled out. Work towards contact and possible reunification had to continue when and if X became more robust in the future to the extent that contact sessions became appropriate. However, this was found to be uncertain at the material time.

15. The High Court concurred with the assessment of the abduction risk carried out by the District Court, which had noted the family's longstanding history of evading child welfare services, and the applicant's testimony regarding X's brothers' reactions to her placement and their expressed willingness to resort to drastic measures to bring X back to the family. The principal concern, however, arose from the applicant's statement before the court that B could attempt to abduct X. Not disclosing X's address was found to be clearly in her best interests. The court had no objections to the child welfare services' assessment, in accordance with the District Court's authorisation, that in order to protect X from abduction at her foster family's place of residence, the prohibition on the applicant on speaking the Romani language during the previous contact sessions with X had been necessary. Since the court did not allow for any further contact, there was no need for it to assess similar restrictions in the future.

16. On 7 January 2021 the Supreme Court's Appeal Committee refused the applicant leave to appeal.

17. Following the lodging of the application before the Court, police reports were made against the applicant and B in 2021 on the basis of X's further description of her experiences. This was followed by investigations into alleged beatings of X, and her claim that she had been sexually abused by her uncle and by both of her parents. The case against B was later discontinued for lack of evidence. The case against the applicant was continued only in respect of negligence relating to healthcare and education.

18. The applicant was convicted by a District Court judgment on 6 December 2023 of neglecting X's dental care and withholding X from school. At the time of the judgment, the applicant and B were registered as residing at the same address. The applicant testified that X's teeth had been "ruined" since 2015, and it was found that X had suffered persistent pain since at least that time. After the placement, X underwent extensive dental treatment, including procedures under general anaesthesia. The District Court found that the applicant had long prioritised avoiding child welfare services and her own need to avoid any stigma over ensuring that X received the necessary healthcare and education.

19. Relying on Article 8 of the Convention, the applicant complained that the goal of family reunification had been abandoned prematurely. She emphasised that she had not been granted a single contact session with X for one year and one month following X's placement, and that the circumstances were not of such gravity as to justify such a restrictive measure. The limited contact sessions that had taken place had provided insufficient evidence to properly assess her caregiving abilities. The prohibition on speaking the Romani language, and the presence of the police, had reduced the quality of the contact sessions. It was argued that the domestic authorities had failed to strike a fair balance between X's best interests and the applicant's right to family life, particularly by disregarding the impact of the placement at an undisclosed address and the lack of weight placed on X's cultural and family background. The applicant argued that the High Court's assessment of a potential abduction risk was hypothetical and unsupported by concrete evidence.

THE COURT'S ASSESSMENT

20. The applicant complained under Article 8 that the decision to limit her contact rights and to place X at an undisclosed address had not been "necessary in a democratic society" within the meaning of Article 8 § 2.

21. As for the scope of the case, the Court observes that on 20 May 2020 the High Court refused the applicant leave to appeal with respect to the care order itself. The decision challenged before the domestic courts and subsequently brought before the Court concerns the decision not to grant the applicant contact sessions with X and for X to live at an undisclosed location.

22. The Court finds that the decision of the High Court, which became the final judgment on the merits with respect to the applicant's contact rights with X and the decision for X to live at an undisclosed address, entailed an interference with the applicant's right to respect for her family life for the purposes of Article 8 § 1 of the Convention. That interference was in accordance with the law, namely the 1992 Child Welfare Act, which was applicable at the material time. It pursued the legitimate aim of protecting the "rights" and "health" of X. The remaining question is whether the interference was "necessary" within the meaning of Article 8 § 2 of the Convention.

23. The general principles relevant to the necessity test were extensively set out in *Strand Lobben and Others v. Norway* ([GC], no. 37283/13, §§ 202-13, 10 September 2019) and have since been restated in, among other authorities, *Abdi Ibrahim v. Norway* ([GC], no. 15379/16, § 145, 10 December 2021). From those principles, it follows that the Court must determine whether, in the light of the entirety of the case, the reasons adduced to justify the measures in question were relevant and sufficient for the purposes of Article 8 § 2 of the Convention and whether the applicant was adequately involved in the decision-making process seen as a whole (see *Strand Lobben and Others*, cited above, §§ 203 and 212).

24. The Court also bears in mind that it has previously delivered judgments in several cases involving the respondent State in which it found a violation of Article 8 of the Convention relating to the justifications provided by the domestic authorities for the establishment of particularly restrictive contact regimes (see, for cases where shortcomings in relation to decisions on contact rights in themselves led to the finding of a violation, *K.O. and V.M. v. Norway*, no. 64808/16, §§ 67-71, 19 November 2019, and *A.L. and Others v. Norway*, no. 45889/18, §§ 47-51, 20 January 2022; see also, for cases where similar shortcomings formed important parts of the context in which violations had occurred, *Strand Lobben and Others*, cited above, §§ 221 and 225; *Pedersen and Others v. Norway*, no. 39710/15, §§ 67-69, 10 March 2020; *Hernehult v. Norway*, no. 14652/16, §§ 73-74, 10 March 2020; *M.L. v. Norway*, no. 64639/16, §§ 92-94, 22 December 2020; and *Abdi Ibrahim*, cited above, § 152).

25. The Court has found, in particular, that severe limitations imposed on contact between parents and children in the context of childcare measures are normally incompatible with the aim of reunification and the principle that care orders should seek as far as possible to be temporary measures. It has emphasised that it is crucial that the contact regime, without exposing the child to any undue hardship, effectively supports the goal of reunification until – after careful consideration, and taking account of the authorities' positive duty to take measures to facilitate family reunification – the authorities are justified in concluding that the ultimate aim of reunification is

no longer compatible with the best interests of the child (see *A.L. and Others v. Norway*, cited above, § 48, and the cases cited therein).

26. In determining whether the domestic courts gave relevant and sufficient reasons for the limitations that were imposed on the applicant's right to contact with X, it is incumbent on the Court to carry out a "stricter scrutiny" of those measures (see *Strand Lobben and Others*, cited above, § 211; see also *E.M. and Others v. Norway*, no. 53471/17, § 58, 20 January 2022, where the applicant was not granted contact rights with either of the children). The Court observes that the High Court concluded, in line with the expert's recommendation, that X's health had to take priority over maintaining contact with the applicant at the material time. The Court is satisfied that the High Court carefully reasoned why it found it proven, on the basis of the findings of the court-appointed expert and the recommendation of the child psychiatric services, that X, if forced to continue contact with the applicant, would be exposed to undue hardship, noting also that X's treatment for trauma could not begin while such forced contact continued with the applicant. The Court notes that, at the same time, the goal of reunification was not abandoned, as the High Court did not rule out future reunification but emphasised that efforts towards contact should resume only if and when it became safe for X to do so, something which was uncertain at the material time. Moreover, the Court also attaches particular weight to X's own opinion on not having contact with the applicant, and to the extent and character of her adverse reactions to contact, which were manifested through physical symptoms, including fainting, anxiety, suicidal thoughts, sleep difficulties, and deterioration of school attendance and performance. Against that background, the Court does not find that it has any basis in the specific circumstances of the case for considering that the High Court did not sufficiently justify its decision to refuse to grant the applicant contact rights in respect of X at the time of its judgment. A parent cannot be entitled under Article 8 to have such measures taken as would harm the child's health and development (see also *E.M. and Others v. Norway*, cited above, § 59).

27. The Court further observes that the High Court found it highly unfortunate, even bearing in mind the risk of abduction, the necessity of the comprehensive security regime and police involvement, and the considerable travel distance for X, that more than one year had passed before the first contact session between X and the applicant was arranged. The High Court found that it should clearly have been possible to carry out contact sessions under conditions that sufficiently reduced or eliminated the risk of abduction. The Court notes that earlier decisions by the child welfare services and the Board prior to the District Court's decision had not granted the applicant contact with X. Although the authorities remained obliged to continually assess the situation, they were not simultaneously required to facilitate such contact until a new decision on contact rights was made, superseding any prior decision that did not grant contact. The Court finds that, in the light of

the above circumstances, the time that passed before the first contact session between the applicant and X cannot in and of itself lead to the conclusion that the decision to limit contact rights and for X to live at an undisclosed address did not stand up to the "stricter scrutiny" that is required by the Court in cases where a limitation on contact rights has been imposed.

28. Furthermore, the applicant argued that the limited contact sessions that did take place provided insufficient evidence to properly assess her caregiving abilities and that the High Court had failed to take into account that the prohibition on speaking the Romani language and the presence of the police reduced the quality of the contact sessions. The Court notes that the assessment of the applicant's caregiving abilities did not solely rest on the assessment of her conduct during the initial contact sessions with X, and that the domestic courts had examined extensive evidence and heard several witness testimonies in that regard, including the expert reports dated 8 October 2019 and 22 September 2020. Furthermore, the applicant was heard directly by the courts and was able to present evidence in this connection. Regarding the prohibition on speaking Romani and police presence at the contact sessions, while acknowledging the importance of creating conditions for meaningful communication between parent and child, in the particular circumstances of the present case, the Court sees no reason to question the child welfare services' assessment, in accordance with the District Court's authorisation, that this was necessary in light of the established abduction risk associated with the placement of X and the need to keep her at an undisclosed location for the purpose of upholding the foster home arrangement. The Court is accordingly satisfied that the domestic courts' assessments were supported by sufficient grounds.

29. Regarding the decision to have X residing at an undisclosed address, the Court finds no reason to disregard the domestic courts' conclusions in respect of the evidence of an abduction risk and their assessment in that regard. The Court observes that the applicant did not contest the non-disclosure of the address itself before the Board and that subsequently the domestic courts had sufficient evidence to make an assessment of the matter.

30. In the light of the considerations above, the Court finds that, in so far as domestic remedies were exhausted, the interference with the applicant's right to respect for her family life was proportionate to the legitimate aims pursued and was thus "necessary in a democratic society" for the purposes of Article 8 § 2. Accordingly, the application is manifestly ill-founded within the meaning of Article 35 § 3 (a) and must be rejected pursuant to Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 12 February 2026.

Dorothee von Arnim Deputy Registrar	Péter Paczolay President