

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

SECOND SECTION

DECISION

Application no. 19628/21
I.H.
against Norway

The European Court of Human Rights (Second Section), sitting on 17 February 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 9 April 2021 by a Norwegian national, Ms I.H. ("the applicant"), who was born in 1974 and was initially represented by Ms E. Frivold, a lawyer practising in Askim, and later by Mr M. S. Rizwani, 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 Stina Eriksson, 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 concerns a care order in respect of the applicant's child, X, and the determination of the applicant's contact rights in respect of X. The applicant submitted that the domestic proceedings and decisions had violated the right to respect for her family life as guaranteed by Article 8 of the Convention.

2. The applicant suffered a serious cerebral haemorrhage and a skull fracture, resulting in diminished gross and fine motor skills, along with impaired hearing, as a result of a serious traffic accident which occurred when she was five years old. She went on disability benefits at a young age and has never engaged in regular employment.

3. The applicant and B became a couple in 2015 and married in 2016. Their daughter X was born in 2017 with a congenital eye disease (cataracts) which causes her to be nearly blind on one eye.

4. On 25 April 2017 the child welfare services received a report of concern from the hospital where X had been born, which stated that the applicant had poor physical and mental capacity and was unable to be alone with X. As a result, a meeting was held with the parents, the child welfare services and representatives of the hospital. Until a space became vacant at the family centre, a family council was established to assist the applicant and B in the home. As a result, the parents, upon their return from the hospital, received assistance from family members 24 hours per day seven days per week. Owing to concerns raised by family members regarding the parents' caregiving abilities, including reports that X was largely left alone in a bedroom on the second floor, that the applicant prioritised her own personal care over X, and that there were frequent loud disagreements between the parents, the child welfare services concluded that placement at the family centre was necessary. The placement was scheduled to last for four months.

5. The staff at the family centre subsequently raised concerns regarding X's negative and deficient development. They observed that the parents did not use X's waking time to provide stimulation, which had resulted in X lacking neck and muscle training and in her increased withdrawal from interaction. Despite nine weeks of guidance on the same basic issues there had been no significant improvement in the parents' caregiving abilities.

6. On 11 July 2017 the County Social Welfare Board ("the Board") issued an emergency care order placing X with B's brother and his partner. It found that X's parents had received help from a highly competent specialist group but lacked basic parenting skills and were unable to derive any benefit from guidance.

7. On 25 October 2017 the Board placed X under a permanent care order with her emergency foster parents. The Board noted that the parent's difficulties in raising X had become evident during their three-week hospital stay, during home care and their stay at the family centre. X was not handled with appropriate care and gentleness. The applicant had fine motor impairments affecting her hands which posed challenges in respect of carrying and moving X. Behaviours that staff identified as clear indicators of X's hunger were frequently not recognised as signs of hunger by the parents. The majority of the Board members concluded that the parents' deficient practical and emotional care could not be remedied by assistance measures, noting that placement at the family centre was the strongest support measure

at the disposal of the child welfare services, whereas the minority believed the parents' abilities could be improved with greater self-confidence and remedied by such measures. The parents were granted contact with X of three hours, six times per year.

8. A court-appointed psychologist who had been charged with evaluating the parents' caregiving abilities in the short and long term, both jointly and individually, in relation to X's needs, provided her expert report dated 10 October 2018. The report noted, among others, the general practitioner's observations which described the impaired functioning of the applicant due to a brain injury from a head trauma when the applicant had been five years old. The specialist found that the applicant was unclear and passive in her physical handling of X and exhibited uncertainty in her actions and interactions with the child.

9. Following the postponement of the hearing initially scheduled on the applicant's request, on 17 December 2019 the District Court upheld the Board's decision. The District Court referred to the expert's assessment dated 10 October 2018, which stated that there were serious deficiencies in both parents' ability to care for X. These difficulties were not solely related to the situation following X's birth or the stay at the family centre. It had been observed that the specialised guidance provided to the parents had not produced the desired improvements and that the parents had not received guidance during subsequent contact sessions, as they had not felt the need for contact with the child welfare services following the care order, although a standing offer of such guidance had been communicated. The expert had concluded that assistance measures alone would be insufficient to ensure adequate care, given the parents' fundamental deficiencies, including the reduced psychomotor speed of the applicant. The District Court agreed that the assistance measures necessary to remedy the parental deficiencies would effectively transfer caregiving responsibilities to others. With regard to contact rights, the District Court believed the situation concerned a long-term placement. The court also noted that, in addition to the six contact sessions granted per year, the parents had visits during approximately ten annual family gatherings, allowing them to maintain a strong connection with X while preserving her need for stability.

10. The appointed expert subsequently provided the High Court with an updated assessment and a report dated 28 July 2020 following further meetings with the parents and several further observations of their interactions with X.

11. On 2 September 2020 the High Court delivered a judgment concurring with the District Court and rejecting the parents' claim that their current situation enabled them to provide adequate care for X with assistance measures. Having heard several witnesses on the parents' caregiving abilities, it noted that the parents lacked insight into their deficiencies. It endorsed the expert's assessment that X had vulnerabilities that arose from the treatment

she had received in her early childhood and that if X did not receive adequate care and attention, those vulnerabilities could reappear or worsen. X was furthermore vulnerable to major changes in caregiving conditions. The High Court found that the assistance measures necessary for the care order to be removed implied that the caregiving responsibilities would in practice be assumed by those delivering the assistance to the parents. Furthermore, the High Court was doubtful, on the basis of the family history, including that the parents had shown limited capacity for change, and the information available regarding the parents' capacities, that such extensive compensatory support measures could be effectively implemented in practice. The court also considered the state's extended obligation to offer support to those with reduced functional abilities but emphasised that the care order had been based on fundamental caregiving deficiencies, not on reduced functional capacity. With respect to the contact sessions, the situation was such that the goal of reunification had been abandoned. It had been the expert's opinion that an increase in contact, taking into account the additional family gatherings, was not in the best interests of X. The High Court nonetheless increased the contact sessions to three hours, eight times per year, with assistance measures during some contact sessions with the goal of increasing the length and amount of contact sessions in the future. The High Court noted that the placement of X concerned a family placement, and that family gatherings came in addition.

12. The High Court found no violation of Article 8 of the Convention, noting that while the child welfare services could have ideally been more proactive in offering the parents assistance measures after the care order in respect of contact sessions, the parents had had access to such support, a fact which had been communicated to their legal counsel. The High Court found that the lack of assistance measures in respect of contact sessions had resulted from the ongoing legal proceedings and the parents' choice and wish not to have contact with the child services following the care order.

13. On 22 October 2020 the Supreme Court denied leave to appeal.

THE COURT'S ASSESSMENT

14. The applicant complained under Article 8 of the Convention that the decision not to revoke the care order and to limit her contact rights had not been "necessary in a democratic society" within the meaning of Article 8 § 2.

15. The Court finds that the decision taken by the Board in 2017 and confirmed by the domestic courts to uphold the care order in respect of X and to grant the applicant limited contact rights with X 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 child's "rights" and her

"health". The remaining question is whether the interference was "necessary" within the meaning of Article 8 § 2 of the Convention.

16. 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 parents were adequately involved in the decision-making process seen as a whole (see *Strand Lobben and Others*, cited above, §§ 203 and 212).

17. 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).

18. 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).

A. Care order issued in respect of X

19. In determining whether the domestic courts gave relevant and sufficient reasons for their decision not to lift the care order, the Court notes that the High Court, whose judgment became the final decision on the merits, thoroughly examined the parents' caregiving skills and X's care needs. The

court found that returning the custody to the parents would result in serious deficiencies in daily care and a personal security risk for X. The court assessed whether assistance measures could remedy the situation, noting that even serious deficiencies which could be remedied by assistance measures could not justify the necessity of a care order. It noted that it had not been disputed that X had not been adequately cared for during her first three months of life by her parents and found that the situation with respect to the parents' caregiving skills had not changed since the issuance of the care order. The expert appointed in the proceedings, who observed the parents' interactions with X following the care order as part of her mandate to provide an expert assessment, and later to provide an updated assessment, had concluded that both parents' caregiving abilities were impaired and that there was limited potential for improvement. The High Court, who heard several witnesses on the matter, endorsed the expert's observations and reports.

20. With respect to assistance measures, the court agreed with the expert that to effectively compensate for the deficiencies in the caring abilities of the parents, a person or institution would have to assume the core parental role through daily, tailored care for X. Given the parents' history and capacities, the court found it unlikely that such measures could successfully be implemented.

21. The Court observes that the applicant's arguments largely related to the evidentiary findings of the domestic courts, particularly regarding the seriousness of the deficiencies in the parents' caregiving skills at the time of the domestic courts' decisions and whether, and to what extent, assistance measures could have remedied the deficiencies in their caregiving. However, the Court does not find that it has any basis to set aside the domestic courts' conclusions on those evidentiary matters. Furthermore, the Court observes that the parents were heard directly by the courts, they had been represented by counsel throughout the domestic proceedings and had been able to present evidence with respect to their caregiving and functional abilities. Also bearing in mind the wide margin of appreciation that is afforded to domestic authorities in respect of care orders (see *Strand Lobben and Others*, cited above, § 211), the Court considers that the domestic courts advanced relevant and sufficient reasons as to why they upheld the care order.

22. Accordingly, the interference with the applicant's right to respect for her family life by the care order was proportionate to the legitimate aims pursued and was thus "necessary in a democratic society" for the purposes of Article 8 § 2.

23. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

B. The applicant's contact rights

24. In determining whether the domestic courts gave relevant and sufficient reasons for their decision to grant the applicant limited 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). The Court notes that the majority of the Board concluded that X's placement in foster care would most likely be long-term on account of the parents' difficulties, which were expected to be of a long-lasting or permanent nature. The Board granted the parents contact with X of three hours, six times per year. The domestic courts likewise considered that the deficiencies present in the parents' caregiving abilities were related to fundamental personality traits and parenting skills which had been seriously and consistently deficient, and they found it likely that X's placement would not cease for the foreseeable future. The Court further observes that the domestic courts emphasised that the parents and foster parents had practiced visits in a flexible manner, as the parents had met X both during the scheduled contact sessions and during the approximately ten family gatherings held every year.

25. The High Court considered that, on the basis of the expert's testimony, it had not been in X's best interests to significantly increase the number of visits beyond what had been the current amount, also taking into account the family gatherings. The Court considers that domestic courts must exercise some caution when placing weight on non-binding family contact in the establishment of formal contact rights, given that informal family contact may be altered or discontinued without procedural safeguards. However, in the present case, the Court notes that the domestic courts carefully assessed the previous family contact that had in fact taken place and had permitted to increase the frequency of the applicant's contacts with X.

26. The Court further observes that the High Court increased the contact to three hours, eight times per year. That court noted that some contact sessions should be with assistance measures provided by a third party with the aim of increasing the parents' caregiving skills during future contact sessions with X and thereby increase the possibility of longer sessions and the number of sessions in the long term. The Court is satisfied that, at the material time, the restriction on contact was based on the concrete assessment of what was found to be in the best interest of X. In the light of the fact that the applicant was found to be unable to care for X in the foreseeable future and X's placement was thus to be long-term, the Court is satisfied that the domestic courts gave relevant and sufficient reasons for the limited contact rights granted to the applicant, who was, as set out above (see paragraph 21), sufficiently involved in the courts' decision-making process.

27. In the light of the considerations above, the Court finds that the interference with the applicant's right to respect for her family life by the limitation on her contact rights was proportionate to the legitimate aims

pursued and was thus "necessary in a democratic society" for the purposes of Article 8 § 2.

28. Accordingly, the Court concludes that this part of the application is also manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 19 March 2026.

Dorothee von Arnim Deputy Registrar	Péter Paczolay President