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

SECOND SECTION

DECISION

Application no. 24657/21
J.K.
against Norway

The European Court of Human Rights (Second Section), sitting on 7 April 2026 as a Committee composed of:

Péter Paczolay*, President*,
Gediminas Sagatys,
Stéphane Pisani*, judges*,

and Dorothee von Arnim, *Deputy Section Registrar*,

Having regard to:

the application (no. 24657/21) 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 12 April 2021 by a Norwegian national, Mr J.K. ("the applicant"), who was born in 1991 and was represented by Ms I. Gundersen, a lawyer practising in Oslo,

the decision not to have the applicant's name disclosed;

the decision to give notice of the application to the Norwegian Government ("the Government"), represented by their Agent, Ms Henriette Busch, of the Attorney General's Office (Civil Matters), assisted by Mr David Magnus Myr, a lawyer at the same office,

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns a set of proceedings in which foster care in respect of the applicant's child was replaced with adoption. The applicant complained that the domestic decisions had been in violation of his right to respect for family life as guaranteed by Article 8 of the Convention.

2. The applicant is the father of X, a boy born in 2012. The mother of X had previously given birth to her first child, Z (X's half-brother), in 2011. During a routine health check after Z's birth, it was discovered that he had

life-threatening injuries, and a care order was made in his regard. At the time of X's birth, his mother and maternal grandparents were under criminal charges for having failed to seek medical attention for his half-brother, Z.

3. After several meetings with the parents, the child welfare services assessed that X was at risk of violence and neglect, and an emergency care order was issued in respect of him when he was born. In respect of the applicant, the child welfare services noted that the parents together had not taken any steps to prepare for the arrival of a child, the applicant had a criminal history, an unstable life situation, no comprehension on why an earlier care decision in respect of Z had been made, and dismissed professional medical assessments in respect of Z. X was placed at birth with his emergency foster parents, who later became his foster parents.

4. On 5 April 2013 the County Social Welfare Board ("the Board") placed X into care. A specialist psychologist had testified before the Board, having assessed the parents on the basis of their conduct during 16 contact sessions which had taken place following the emergency care order. The expert had found that the sessions had not indicated an increased maturity on the part of X's mother while the applicant expressed no concerns about leaving X in the care of either his mother or her parents nor seemed to accept the accuracy of medical evidence concerning Z and his subjection to serious violence.

5. On 7 October 2013, having heard the applicant and X's mother, the District Court upheld the care order. The majority pointed to the fact that X's mother had not been able to shield Z from violence that easily could have cost him his life. The parents were granted contact sessions for two hours, four times per year.

6. In March 2014 X's mother and maternal grandparents were convicted upon appeal by the High Court for failing to seek medical attention for Z. It had not been possible to establish who of the three had injured the child. The mother received a partially suspended sentence of eight months' imprisonment. Her parents were both sentenced to five months' imprisonment.

7. Until adoption proceedings were instituted in 2017, the parents did not contest the care order or ask the Board for increased contact rights.

8. In the proceedings at issue in the present case, in August 2017 the municipality lodged an application with the Board seeking the removal of the parents' parental rights and authorisation for the adoption of X by his foster parents. In turn, the parents applied to have the care order revoked.

9. On 9 February 2018 the Board rejected the parents' application and authorised X's adoption by his foster parents. His parents were granted contact visits with him of two hours, twice per year.

10. On 22 October 2018 the District Court, having heard the family members concerned and a specialist in psychology who had also delivered a report dated 20 August 2018, delivered a judgment upholding the Board's decision to keep the care order in place but setting aside its decision regarding

the adoption and contact rights. The District Court accepted the expert assessment that X, if returned to his biological parents, would develop significant psychological problems in the short term and long-term attachment impairments. A move from the foster home would give rise to specific and heightened care needs for X. After an evaluation of the parent's caregiving, material, cognitive, social and emotional capacities, the court found that the parents would be unable to provide the extraordinary care X would require. Nonetheless, the District Court concluded that there were insufficient reasons to conclude that being adopted would clearly be better for X than continuing to live as a foster child. The amount of contact between X and his parents was set to two hours, four times per year.

11. In May 2019, before proceedings were brought in the High Court, X's foster mother died after a short illness. At the same time, X's biological parents split up, and the mother moved back home to live with her parents.

12. On 30 September 2019 the High Court, having heard testimony from eight witnesses, including three expert witnesses, gave judgment in the case concerning X. The biological parents' parental responsibilities in respect of him were withdrawn and his adoption by his foster father was authorised. The applicant and X's mother were granted post-adoption contact rights twice a year, for two hours. The court found that there were particularly strong reasons why adoption would be clearly better for X than continuing as a foster child. It relied on the expert witnesses who had concluded that adoption was in X's best interests. X was particularly vulnerable after losing his foster mother and expressed fear of losing his foster father, indicating a strong need for stability. A secure sense of belonging was crucial for X, especially given his weak connection to his biological parents.

13. The parents challenged the judgment before the Supreme Court but withdrew their application to have the care order revoked. Before the Supreme Court a third expert specialist was appointed who gave her expert report dated 30 July 2020 and testified before the Supreme Court. The expert mandate included evaluating X's development history and care needs, the biological parents' individual and combined capacity to meet X's care needs and the implications of adoption against continued foster care. The expert had conducted direct observations of parent-child interactions and the foster home environment, alongside interviews with X, all pertinent family members, child welfare services, the Norwegian Labour and Welfare Administration ("NAV"), employers, the kindergarten and school personnel.

14. On 9 October 2020 the Supreme Court found that X's adoption had been motivated by an overriding requirement pertaining to his best interests. The appointed expert noted that the applicant had exhibited a lack of cooperation, resulting in an insufficient basis for assessing him. Nonetheless, the expert observed that the applicant had been passive during contact sessions with X and found that, despite a relatively extensive contact regime for almost eight years, the parents had been unable to closely relate to X. The

expert assessed that adoption would give X peace and security with respect to where he belonged. The expert also noted the foster parents' unusual concern about X having contact with his biological parents. The expert had found that the parents had been offered concrete assistance from the child welfare services, which they over the years had mostly ignored or refused. The Supreme Court found that the authorities had fulfilled their duty when it came to work towards family reunification.

15. Furthermore, the Supreme Court noted that the District Court in 2013 had at its disposal a solid basis for its assessment also with respect to contact rights. From the care order until the District Court's judgment, less than a year, a total of 19 contact sessions had been arranged between X and his parents and 13 contact sessions between X and his grandparents. It was observed that the parents had not claimed increased contact rights following the District Court's judgment. The Supreme Court noted that both the applicant and X's mother had received extensive support from the NAV to help them become self-sufficient. Both parents had faced significant challenges in managing their adult lives without assistance, despite extensive support measures.

16. The Supreme Court found that it was entirely unrealistic to expect X to think that someone other than his foster father should make legal decisions involving him, also noting that X had started showing signs of fatigue due to all the requirements placed on a foster home. The applicant had argued before the Supreme Court that it was, in his view, too early for X to be adopted. The Supreme Court found that there were no unresolved issues with respect to the question of adoption that would be clarified simply by the passage of time. It also referred to research which indicated that adoption should be carried out before the adoptee's teenage years. There had been no indications that the foster father would not follow up X's contact with his biological parents in a good way post adoption. The amount of the parents' post-adoption contact with X was set at two hours, twice per year.

17. The applicant complained that, while accepting that X would grow up in foster care, adoption was not in X's best interests. The fact that the authorities had placed X in foster care the very same day he was born, and later had placed severe restrictions on the applicant's contact rights, meant that he was never given the opportunity to develop any real attachment with X. The applicant argued that the child welfare services, the Board and the District Court had put too much emphasis on Z's case when deciding on the care order in respect of X.

THE COURT'S ASSESSMENT

18. The applicant complained under Article 8 of the Convention that the domestic decisions in the proceedings at issue breached his right to respect for family life.

19. Before the Supreme Court X's parents withdrew their application to have the care order revoked. The scope of the case accordingly covers the decision to allow for X's adoption by his foster father.

20. The Court finds that the decision to authorise X's adoption entailed an interference with the applicant's right to respect for his 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 – and pursued the legitimate aim of protecting X's "health" and "rights". The remaining question is whether the interference was "necessary in a democratic society" within the meaning of Article 8 § 2.

21. 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, *inter alia*, *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 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). As regards replacing a foster home arrangement with a more far-reaching measure such as the authorisation of adoption, with the consequence that the biological parents' legal ties with the child are definitively severed, the Court reiterates 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 (ibid., § 209).

22. In determining whether the domestic authorities provided relevant and sufficient reasons for the decision to replace X's foster care with adoption, the Court observes, firstly, that the domestic courts had heard the family members concerned as well as several witnesses and experts, who had in turn based their findings on comprehensive studies including interviews with all pertinent family members and child welfare authorities. The Supreme Court, in particular, in reaching its judgment of 9 October 2020 – which became the final decision on the merits in the application pertaining to X – appointed an expert, who submitted a comprehensive assessment and testified before the court. Despite the relatively limited contacts between the applicant and X, the courts accordingly had a concrete and up-to-date factual basis for their decisions (compare and contrast *Strand Lobben and Others*, cited above, §§ 221-25).

23. The Supreme Court confirmed that X's adoption had been motivated by an overriding requirement pertaining to his best interests, in line with the requirements of this Court's case-law. The Supreme Court accepted the appointed expert's finding that the applicant, despite a contact regime which the expert considered relatively extensive for almost eight years, had been unable to closely relate to X. Furthermore, the Supreme Court had found that

the efforts of the child welfare service in offering concrete assistance to improve contact sessions with X had mostly been ignored or refused by the parents. The Supreme Court noted that it was entirely unrealistic to expect X to think that someone other than his foster father should make legal decisions involving him. Adoption would therefore give X peace and security as to where he belonged.

24. The Supreme Court had further taken note of the fact that, as part of the authorities' broader efforts to help the parents become self-sufficient and increase their overall caregiving abilities, both the applicant and X's biological mother had received extensive support from the NAV. In addition, the Supreme Court emphasised that X had started showing signs of fatigue on account of all the requirements placed on his foster home. The Court finds that although domestic courts must exercise caution when placing emphasis on the receipt of social welfare measures, in the present case, the Supreme Court carefully assessed the parent's past situation and took account of the assistance received as a reflection of broader factual circumstances which supported the finding that the parents had faced significant challenges already in managing their own adult lives. The Court further notes that the reference to X's signs of fatigue due to foster home requirements appear not to have been a decisive argument but was weighed against other considerations when determining what was in his best interest. The Supreme Court found in that context that it was clear that reunification was not an option, that X had never lived with his parents, that the parents had not shown adequate caregiving capacities during contact sessions, there were no unresolved issues with respect to the question of adoption that would be clarified simply by the passage of time and that expert assessments had supported the fact that it was in X's best interest that adoption should be carried out before he became a teenager. The Court further observes that the applicant was heard in the proceedings before the domestic courts and thus adequately involved in the decision-making process.

25. The Court's task is not limited to scrutinising solely the reasons advanced by the domestic authorities to justify the decisions to replace X's foster care with adoption. Whilst, in the absence of any complaint by the applicants regarding the initial placement orders, the Court cannot examine and rule on those issues separately, it must nevertheless assess the case and the proceedings as a whole (see *Strand Lobben and Others*, cited above, §§ 203 and 212). Where the authorities are responsible for a situation of family breakdown because they have failed in their obligation to take measures to facilitate family reunification, in particular by imposing a very strict visiting regime, they may not base a decision to authorise adoption on the grounds of the absence of bonds between the parents and the child (compare ibid., §§ 208 and 221; see also, for example, *Abdi Ibrahim*, cited above, § 152; *Pedersen and Others v. Norway*, no. 39710/15, §§ 68,

10 March 2020; and *M.L. v. Norway*, no. 64639/16, §§ 92 and 97, 22 December 2020).

26. In the present case, the Court understands that there was limited contact between the applicant and X after X had been placed in foster care at birth as he was considered to be at risk of violence and neglect. The Supreme Court found that the parents had been offered concrete assistance from the child welfare services with a view to increasing their caregiving skills, but that they had mostly ignored or declined those offers. The domestic courts thoroughly assessed the case and found that the limited amount of contact was based on the particular circumstances and situation of X and of his parents. The Court does not find that it has any basis to question the domestic courts' conclusions in respect of the above matter. The aim of reunification had not, therefore, been abandoned by the domestic authorities from the outset (compare and contrast *M.L. v. Norway*, cited above, §§ 91-97). The Court also notes the absence of any legal action by X's parents seeking increased contact rights until 2017.

27. In sum, the Court considers that the domestic authorities advanced reasons that were relevant and sufficient to demonstrate that, in the exceptional circumstances of X's case, the decision to replace his foster care with adoption was necessary. There is no indication that the domestic authorities were responsible for a situation of family breakdown because they had failed to fulfil their obligation to facilitate family reunification (compare and contrast *Strand Lobben and Others*, cited above, §§ 208 and 221). The interference with the applicant's right to respect for his family life was therefore proportionate to the legitimate aims pursued and, accordingly, "necessary in a democratic society" for the purposes of Article 8 § 2 of the Convention.

28. The application is accordingly manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention and must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 13 May 2026.

Dorothee von Arnim
Deputy Registrar

Péter Paczolay
President