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

THIRD SECTION

DECISION

Application no. 44051/20
Usha KUMARI
against the Netherlands

The European Court of Human Rights (Third Section), sitting on 19 November 2024 as a Chamber composed of:

Ioannis Ktistakis*, President*,
Peeter Roosma,
Jolien Schukking,
Georgios A. Serghides,
Darian Pavli,
Andreas Zünd,
Oddný Mjöll Arnardóttir*, judges*,

and Milan Blaško, *Section Registrar,*

Having regard to the above application lodged on 23 September 2020,

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

Having deliberated on 12 September 2023, 20 February 2024 and 19 November 2024, decides as follows:

INTRODUCTION

1. The case concerns the refusal of a provisional residence visa to the applicant for the purpose of family reunification with her adult son who is a long-term resident of the Netherlands and a Dutch citizen. The applicant alleges that their relationship falls within the scope of protection of Article 8 of the Convention because "additional factors of dependence, other than normal emotional ties" have been shown to exist, and that not allowing her to reside with her son and his family in the Netherlands is contrary to her right to respect for family life.

THE FACTS

2. The applicant, Ms Usha Kumari, is an Indian national, who was born in 1964 and lives in Patna, India. She was represented before the Court by Ms J.P.W. Temminck Tuinstra, a lawyer practising in Amsterdam.

3. The Government of the Kingdom of the Netherlands ("the Government") were represented by their Agent, Ms B. Koopman, of the Ministry of Foreign Affairs.

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

I. THE CIRCUMSTANCES OF THE CASE

5. Two of the applicant's three children are adult men (born in 1981 and 1988) who have legal stay in the Netherlands. The applicant regularly visits them on a multi-entry visa and they regularly visit her in India. The applicant also has an adult daughter, who lived in India at the relevant time. The applicant's eldest son and his wife have two sons (born in 2011 and 2016).

6. On 17 December 2015 the applicant's eldest son ("R.") applied for a provisional residence visa (*machtiging tot voorlopig verblijf*) on behalf of the applicant to enable her to live with him in the Netherlands. In the application it was stated that the applicant wished to live with R. because her presence was necessary for his mental recovery and that of his spouse in connection with coping with the death, on 16 June 2015, of their prematurely born daughter. A letter from psychologist L. was submitted, according to which the applicant provided emotional and practical care and support to R. and his family during these times of grief and the resumption of activities such as work. It was further pointed out in the application that the applicant's spouse had died in 2012, and that no other family members were living in India except for her daughter who was living on the other side of the country. Relying on Article 8 of the Convention, the applicant argued that "more than the normal emotional ties" existed between her and R., constituting "family life" within the meaning of that provision.

7. On 6 April 2016 the Deputy Minister of Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) dismissed that application. While noting that the situation outlined in the application made clear that the temporary help and support from the applicant during this difficult period was very welcome, the Deputy Minister held that the psychologist's letter did not show the need for long-term stay. He further considered that the applicant's support showed willingness to help as is common in a good relationship between a parent and an adult child. A special dependency transcending normal ties, where the family members can no longer function independently, was not shown to exist. In addition, and to the extent argued, the death of the applicant's spouse in 2012 did not in itself create such a dependency. The fact

that her daughter in India was living far away did neither. The Deputy Minister concluded that "additional factors of dependence, other than the normal emotional ties", were not shown to exist. The relationship between the applicant and R. therefore did not fall within the protective scope of Article 8 of the Convention.

8. On 28 April 2016 the applicant lodged an objection against the Deputy Minister's decision of 6 April 2016. In the grounds of objection, she repeated the arguments regarding the situation of R. (see paragraph 6 above) and, in addition, she stated to be in a financial and physical dependent position herself. She indicated that she was suffering from, *inter alia,* hypertension, osteoarthritis and allergic upper respiratory tract infections which caused her pain and problems with crouching and climbing stairs. In support, she submitted a statement drawn up on 27 June 2016 by B.P.A., consultant physician in Patna, and proof of several bank transfers.

9. On 7 December 2016 the Deputy Minister rejected as manifestly ill-founded the applicant's objection. The Deputy Minister referred to the reasoning set forth in the decision of 6 April 2016 and held further that the statement by B.P.A. did not demonstrate that the applicant and R. were unable to function independently, nor that they were exclusively dependent on each other. In so far as the applicant was (or would become) dependent on care provided by family members, she could turn to her daughter in India. Moreover, it was still possible to provide mental and financial support from a distance.

10. On 3 January 2017 the applicant lodged an appeal against the Deputy Minister's decision of 7 December 2016. In the grounds of appeal, she repeated the arguments regarding the situation of R. (see paragraph 6 above) and, in addition, she stressed that she had a poor health and no longer a partner, that she often fell which was dangerous if no one lived with her, and that it would help against her depressive symptoms if she could join her son and his family. In support of her claim she submitted statements drawn up by consultant psychiatrist M.K. in Patna on 1 February 2017 (according to which the applicant was suffering from recurrent depressive disorder, a current episode of moderate depression without psychiatric symptoms) and by skin surgeon and general physician M.K.S. in Patna on 25 February 2017 (according to which the applicant had, *inter alia*, recurrent chronic urticaria and angioedema). In addition, she submitted a statement drawn up on 13 June 2017 by R.'s psychotherapist M.M. (according to which he was being treated for post-traumatic stress disorder). She also argued that she should have been given the opportunity to explain their situation orally.

11. By judgment of 11 September 2017 the Regional Court (*rechtbank*) of The Hague, sitting in Haarlem, declared the applicant's appeal well-founded because she had wrongly been denied a hearing during the objection procedure. It quashed the Deputy Minister's decision of

7 December 2016 and ordered the Deputy Minister to decide anew on the applicant's objection.

12. On 14 December 2017 the applicant, who at that moment was visiting her sons in the Netherlands, and her sons were heard in person, assisted by their counsel, by the Immigration and Naturalisation Service in relation to the objection. In response to the question whether the reasons underlying the application for a provisional residence permit, which were originally related to the situation of R., now also included the health issues experienced by the applicant, R. answered that he was told that his personal situation may not be sufficient for the granting of the requested permit and that they therefore also relied on the applicant's health situation, which was not optimal. He stated that although her age was not very high compared to elderly people in the Netherlands, for standards in India she was getting to an age where, as a child, one starts to worry. Also for that reason, he wanted her to stay with him. In response to questions, the applicant, *inter alia*, answered that since the death of her husband she was alone and that, although she could rely on assistance of people around her in India such as a housekeeper, friends and her neighbours, her greatest wish was to be with her sons and their families.

13. At the hearing they submitted a follow-up statement drawn up by R.'s psychotherapist M.M. on 12 December 2017. The statement noted that R. had undergone therapy in the past six months, as a result of which his levels of anxiety had decreased and he was no longer suffering from flashbacks.

14. On 8 January 2018 the Deputy Minister of Justice and Security (*Staatssecretaris van Justitie en Veiligheid*, the legal successor to the Deputy Minister of Security and Justice in these matters) decided anew on the applicant's objection and dismissed it as unfounded.

15. As regards the dependence of the applicant, the Deputy Minister noted that she was receiving medical treatment and home care in India and that she had been able to function with the assistance provided by her daughter, housekeeper, neighbours and friends in India without her son's involvement. It was also noted that it was not unusual for adult children to regularly visit their aging parents and to provide financial support and other forms of support. The Deputy Minister also noted that it was possible for R. to visit her more frequently – or *vice versa* – and to continue his financial support from afar. If the need arose, it was also possible to cater for additional care by a private or philanthropic organisation in India. Finally, the Deputy Minister considered that the statement by skin surgeon and general physician M.K.S. in respect of the applicant's medical situation (see paragraph 10 above) did not demonstrate either that there existed additional factors of dependence, other than the normal emotional ties, between her and her eldest son. All in all, it had not been shown that the applicant was or had become fully or exclusively dependent on R. or that his support could be provided only if the applicant were to reside in the Netherlands.

16. Turning to the dependence of R., the Deputy Minister considered that it had not been shown that he was specifically and exclusively reliant on the applicant for care and support. He was receiving treatment for his psychological problems, and the follow-up statement by psychotherapist M.M. (see paragraph 13 above) indicated that he was now suffering less from flashbacks and anxieties. This, combined with the fact that he had been gainfully employed in the Netherlands for several years, showed that he was able to function also at times when the applicant was not visiting him in the Netherlands.

17. In view of the above, the Deputy Minister concluded that no convincing evidence had been presented for the existence of further elements of dependence involving more than the normal emotional ties between the applicant and R.

18. On 29 January 2018 the applicant appealed against this decision. She submitted that the Deputy Minister had incorrectly interpretated "more than the normal emotional ties" as requiring exclusive dependence between an adult child and his or her parent(s). In her supplementary grounds of appeal, she submitted, *inter alia*, a follow-up statement drawn up by physician B.P.A. on 15 June 2018 which, in addition to the ailments identified in his statement of 27 June 2016 (see paragraph 8 above), noted that she was suffering from impaired vision.

19. By judgment of 22 October 2018 the Regional Court of The Hague, sitting in Haarlem, declared the applicant's appeal well-founded. It held that the Deputy Minister had applied too strict a test to assess whether there was "family life" within the meaning of Article 8 of the Convention, considering that too much emphasis had been put on the question whether the applicant was exclusively dependent on R. It quashed the Deputy Minister's decision of 8 January 2018 and ordered the Deputy Minister to decide anew on the applicant's objection.

20. On 13 November 2018 the Deputy Minister appealed further to the Administrative Jurisdiction Division (*Afdeling bestuursrechtspraak*) of the Council of State (*Raad van State*) against the Regional Court's judgment of 22 October 2018. The Deputy Minister submitted that based on the information provided by the applicant it had been assessed whether additional elements of dependence more than the normal emotional ties existed between the applicant and R., and that the question of whether he was the only person available to provide care to her had rightly been taken into account as one of these elements.

21. Pending the further appeal, the Deputy Minister, acting on the order of the Regional Court, made a fresh assessment of the arguments raised in the applicant's objection against his first decision and dismissed it as unfounded by decision of 3 December 2018. Referring to the reasoning set forth in the decision of 6 April 2016 (see paragraph 6 above), and noting that the close bond between the applicant and R. living in the Netherlands did not as such

make her more than usually dependent on him, the Deputy Minister considered in particular that it followed from the information provided by the applicant that her health situation was not of a severity that she needed constant care, and that she was able to care for herself with the assistance of others in her immediate surroundings. In that connection, the Deputy Minister further noted, amongst other things, that the necessary medical care was available and accessible in India, that it was not unusual for an adult child to provide financial support to an elderly parent or make regular visits and phone calls, and that it was not sufficiently substantiated why the applicant could not also rely on assistance of her daughter who was living in India.

22. On 20 December 2018 the applicant notified the Administrative Jurisdiction Division that her appeal would also be directed against the Deputy Minister's decision of 3 December 2018.

23. By final judgment of 24 December 2019, the Administrative Jurisdiction Division upheld the Deputy Minister's further appeal. It held that the Deputy Minister had assessed in accordance with the relevant criterion set in the case-law of the Court whether there existed additional factors of dependence other than the normal emotional ties. Referring to the specific facts and circumstances taken into consideration by the Deputy Minister, it concluded that the Regional Court had failed to recognise that the Deputy Minister had properly reasoned that the applicant's relationship with her eldest son did not amount to "family life" within the meaning of Article 8 of the Convention.

24. In view of the above, the Administrative Jurisdiction Division quashed the Regional Court's judgment of 22 October 2018 and dismissed the applicant's appeal against the Deputy Minister's decision of 8 January 2018. The quashing of the Regional Court's judgment of 22 October 2018 also entailed quashing the Deputy Minister's decision of 3 December 2018, since the latter had been taken in implementation of the former. With this judgment, the rejection of the applicant's application for a provisional residence visa for the purpose of family reunification became final.

II. DEVELOPMENTS SUBSEQUENT TO THE LODGING OF THE APPLICATION TO THE COURT

25. In her observations of 1 November 2022, submitted in reply to the Government's observations, the applicant informed the Court that her daughter got married in 2021, that her daughter's spouse had moved to Mexico in August 2022, and that the daughter would soon follow him.

26. By letter of 12 November 2023, the applicant informed the Court that her daughter was residing with her husband in Mexico, and that this new situation had prompted her to file a new application for a provisional residence visa on 19 October 2023 to enable family reunion with her son R.

in the Netherlands. The domestic proceedings regarding this new application are currently pending.

COMPLAINT

27. The applicant complained under Article 8 of the Convention that the authorities had failed to recognise "family life" within the meaning of that provision between her and her adult sons.

THE LAW

28. The applicant alleged a breach of Article 8, which, in so far as relevant, provides as follows:

> "1. Everyone has the right to respect for his ... family life ...
>
> 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."

I. WHETHER THE APPLICATION HAS BEEN LODGED IN TIME

29. In their observations on the admissibility and merits of the application, filed with the Court on 15 September 2022, the Government submitted that the application had been lodged more than six months after the final domestic decision of 24 December 2019 (see paragraph 23 above). Relying on *Saakashvili v. Georgia* ((dec.), nos. 6232/20 and 22394/20, §§ 49-59, 1 March 2022), the Government submitted further that the application could not benefit from the extension of the six-month time-limit due to the COVID-19 pandemic, since that time-limit neither started to run, nor was due to expire, between 16 March and 15 June 2020. The Government thus asserted that the application had been lodged out of time.

30. The applicant submitted that due to the then ongoing global COVID-19 pandemic and the severe disruption of international transport and postal services (referring to *Saakashvili*, cited above, § 52), it had been impossible for her to submit the signed application form within six months. The applicant argued that it would be disproportionate, also in the light of the interests involved, to reject the application as out of time.

31. The Court notes that the parties disagreed as to whether the application had been submitted within six months, that being the time-limit for lodging applications which applied under Article 35 § 1 of the Convention prior to the entry into force of Article 4 of Protocol No. 15 to the Convention. However, the Court decides to dispense with ruling on this issue because, in any event, the application is inadmissible for the reasons set out below.

II. WHETHER ARTICLE 8 IS APPLICABLE TO THE APPLICANT'S CASE

A. The parties' observations

32. The Government took the position that the applicant had not satisfactorily demonstrated that there existed additional elements of dependence, involving more than normal emotional ties, between her and her adult sons. Although they accepted that the applicant was hampered in her day-to-day life by certain physical limitations, they noted that these were not of a severity that she needed constant care and supervision and did not necessarily make her dependent on support being provided in the Netherlands by her sons. In that connection the Government relied on the Court's judgment in *Senchishak v. Finland* (no. 5049/12, 18 November 2014). Noting further that the applicant's sons supported her financially and, in particular, that no sufficient explanation had been given why her daughter living in India could not take care of her, if needed with the assistance of third parties, the Government submitted that, based on the information provided by the applicant, the ties between her and her sons did not amount to "family life" within the protective scope of Article 8 of the Convention.

33. With respect to the existence of "family life" within the meaning of Article 8 of the Convention, the applicant submitted that further elements of dependence, involving more than the normal emotional ties, existed between her and her sons. The applicant was in poor health, suffered from symptoms of depression and she was regularly visited by her two sons (or she visited them) as a result thereof. Her sons also provided financial support to her. Further, she had a close connection with her grandsons living in the Netherlands. The applicant also submitted that her eldest son was suffering from post-traumatic stress disorder which made him, in turn, dependent on her.

B. The Court's assessment

1. General principles

34. As regards the question of the existence or non-existence of "family life", the Court has held that this is essentially a question of fact depending upon the existence of close personal ties. The notion of "family" in Article 8 may also encompass *de facto* "family ties" (see *Marckx v. Belgium*, 13 June 1979, § 31, Series A no. 31; *K. and T. v. Finland* [GC], no. 25702/94, § 150, ECHR 2001-VII; *Emonet and Others v. Switzerland*, no. 39051/03, § 37, 13 December 2007; and *Paradiso and Campanelli v. Italy* [GC], no. 25358/12, § 140, 24 January 2017).

35. The Court has held that family life for the purpose of Article 8 of the Convention is normally limited to the core family (see *Slivenko v. Latvia*

[GC], no. 48321/99, §§ 94 and 97, ECHR 2003-X) and that there will be no family life between parents and adult children or adult siblings unless they can demonstrate "additional elements of dependence, involving more than the normal emotional ties" (see, among other authorities, *Kwakye-Nti and Dufie v. the Netherlands* (dec.), no. 31519/96, 7 November 2000; *Senchishak*, cited above, § 55; and *Emonet and Others*, cited above, § 35).

36. This interpretation originates from the context of family reunification (see *S. and S. v. the United Kingdom*, no. 10375/83, Commission decision of 10 December 1984, Decisions and Reports 40, p. 196) and has been followed in other contexts. In the context of the expulsion of settled migrants, the Court has made an exception for young adults who are still living with their parents and have not yet started a family of their own (see *Advisory opinion on the procedural status and rights of a biological parent in proceedings for the adoption of an adult* [GC], request no. P16-2022-001, Supreme Court of Finland, § 50, 13 April 2023). In that particular situation, "dependency" is assumed (see *Maslov v. Austria* [GC], no. 1638/03, § 62, ECHR 2008, and *Savran v. Denmark* [GC], no. 57467/15, § 174, 7 December 2021).

37. It follows from the Court's case-law that the question whether "additional elements of dependency" exist is to be decided on a case-by-case basis. The finding of the existence of "family life" based on "additional elements of dependency other than normal, emotional ties" will often be the result of a combination of elements. Several case-law examples are provided below by way of further clarification.

38. In cases where adults had a physical or mental disability or illness of sufficient seriousness and were in need of constant care and support from other family members, the Court has accepted such dependency (see, for instance, *Emonet and Others*, cited above, § 37, in which an adult child became paraplegic after a serious illness; *Bierski v. Poland*, no. 46342/19, § 47, 20 October 2022, in which an adult child suffered from Down syndrome and was fully incapacitated; *Belli and Arquier-Martinez v. Switzerland*, no. 65550/13, § 65, 11 December 2018, in which an adult child had been deaf since birth, had difficulty speaking her mother tongue and had no capacity of discernment on account of a severe disability which had required comprehensive therapeutic provision throughout her life; and *I.M. v. Switzerland*, no. 23887/16, §§ 30-31, 9 April 2019, in which an elderly father was completely dependent on his sons because he suffered from serious depression and autism).

39. Conversely, in cases concerning the following medical conditions the Court refused to accept that the state of health of the applicants or their relatives was serious enough or, even if sufficiently serious, was sufficient in itself to warrant a finding of the existence of dependency and thus of "family life" within the meaning of Article 8 of the Convention: diabetes, an (undefined) heart condition and chronic obstructive pulmonary disease, and ulcerative colitis requiring treatment, none of which conditions were entirely

incapacitating (see *A.W. Khan v. the United Kingdom*, no. 47486/06, 12 January 2010); asthma (see *Konstatinov v. the Netherlands*, no. 16351/03, 26 April 2007); and paranoid schizophrenia which, while very serious, did not incapacitate the applicant to the extent that he was compelled to rely on his family's care and support in his daily life (see *Savran*, cited above, §§ 177-78).

40. Financial dependency also played a role in the Court's analysis of "additional elements of dependency" (see, for instance, *Kwakye-Nti and Dufie*, cited above, in which the Court observed that it had not been established that the adult children of the applicants, who had sought their admission, were financially or for any other material reason dependent on them; and *Savran*, cited above, § 178, in which the Court noted that it had not been argued that the applicant was dependent on any of his relatives financially).

41. Depending on the circumstances of the case, the Court has found that financial support could be provided from a distance (see, for instance, *Berisha v. Switzerland*, no. 948/12, § 60, 30 July 2013, and *Senchishak*, cited above, § 57). However, in *I.M. v. Switzerland* (cited above, § 62), in which case it had already been established that the applicant was dependent on his adult sons in his daily life for health reasons (see paragraph 38 above), the Court held that the fact that family members could contribute financially to him upon his removal, did not call into question the existence of a relationship of dependency between him and his sons. Financial dependency on its own has never been considered sufficient to constitute additional ties of dependency, and accordingly family life between adult family members.

42. Other elements that played a role in the Court's analysis of "additional elements of dependency" in a migration context include, for example, the fact that the person with whom ties were claimed was the only surviving relation (see *F.N. v. the United Kingdom* (dec.), no. 3202/09, § 36, 17 September 2013), or the fact that substantial links with the country of origin continued to exist (see *S. and S. v. the United Kingdom*, cited above, p. 199, and *Nessa and Others v Finland* (dec.), no. 31862/02, § 2, 6 May 2003). The presence of family members who can provide care – or other viable alternatives – in the country of origin or where the person requiring care and support lives, may also be such an element (see *A.W. Khan*, § 32, and *Senchishak*, § 57, both cited above).

43. It thus follows from the Court's case-law that the assessment of whether additional elements of dependency, other than normal emotional ties, have been shown to exist, requires an individualised review of the relationship at issue, and other relevant circumstances of the case.

44. In the context of family reunification, the Court will assess the question whether a relationship between adult family members constituted "family life" within the meaning of Article 8 on the basis of all the facts occurring prior to the date that the decision regarding the request for family

reunification became final (see, for instance, *T.C.E. v. Germany*, no. 58681/12, § 55, 1 March 2018, and *Rodrigues da Silva and Hoogkamer v. the Netherlands,* no. 50435/99, § 41, ECHR 2006-I). However, when one of the family members was a minor at the time the request for family reunification was lodged, the Court will assess the question on the existence of "family life" based on the situation as it obtained on that date in order to avoid that a child 'ages out' pending the proceedings (see, for instance, *El Ghatet v. Switzerland*, no. 56971/10, § 51, 8 November 2016, and *Tanda-Muzinga v. France*, no. 2260/10, § 74 *in fine*, 10 July 2014).

2. Application of these principles to the present case

45. In the light of its case-law (see paragraphs 34-44 above), it is necessary for the Court to establish whether it has been demonstrated that the relationship between the applicant and her eldest son amounted to "family life" within the autonomous meaning Article 8 of the Convention, thus falling within the scope of that provision. The Court will make this assessment based on the facts and circumstances up to 24 December 2019, that being the date on which the decision regarding the request for family reunification became final (see paragraphs 23-24 and 44 above).

46. The Court notes that applicant applied for a provisional residence visa enabling her to provide mental support and practical care to her adult son R. and his family when they were going through a grieving process (see paragraph 6 above). At that time the applicant was fifty-one years old; she was fifty-five when the decision on her request became final.

47. As regards the applicant's son R., the Court notes that his dependence on the care and support provided by the applicant was claimed to stem from his post-traumatic stress disorder (see paragraph 10 above) that related to the death of his prematurely born daughter in 2015 (see paragraph 6 above). The Court notes further that on 12 December 2017, R's psychotherapist M.M., by whom he was being treated for his post-traumatic stress disorder, wrote that his level of anxiety had decreased, and that he was no longer suffering from flashbacks (see paragraph 12 above).

48. While the Court accepts that the death of his daughter has caused a great impact on his mental well-being, there is no evidence before it which would suggest that his condition was so severe as to entirely incapacitate him. In that connection the Court considers, based on the material before it, that R. has been steadily employed in the Netherlands and he has been able to function in his everyday life – together with his spouse and sons – also at times when the applicant was not temporarily visiting him in the Netherlands (see also *Savran*, cited above, § 178, with further references). Moreover, the Court does not consider it unusual for parents to provide support to their adult children when they are going through a grieving process.

49. As regards the applicant's dependence on R., to which the focus increasingly shifted in the domestic proceedings, the Court observes that this

is mainly alleged to be based on her state of health. It follows from the domestic proceedings (see paragraphs 8, 10 and 18 above) and the materials submitted to this Court that the applicant suffered from – and was being treated for – various health issues that are commonly associated with old age, although she was in her early fifties at the relevant time.

50. The Court considers that there are no indications in the case file that the applicant was unable to get by with the medical care in India and other forms of care, support and assistance as provided by her housekeeper neighbours and friends (see also *A.W. Khan*, cited above, § 32). Further, it has not been convincingly explained that her daughter, who lived in India at the relevant time, could not support her, if needed.

51. In view of the above, the Court concludes that the applicant has not demonstrated that she was suffering from a physical or mental disability or illness of sufficient seriousness or that she was in need of constant care and support from R. in order to cope with her everyday life. This conclusion applies also to the relationship between the applicant and her younger son living in the Netherlands.

52. Finally, the Court takes into account that the financial assistance which R. provided to the applicant could be continued from afar. Apart from the fact that the case file does not contain enough information to establish whether the applicant was financially dependent on R., such dependency on its own has never been considered sufficient to constitute additional ties of dependency (see the cases cited in paragraphs 40-41 above).

53. As regards the subsequent change in the applicant's personal situation as a result of her daughter's move from India to Mexico (see paragraphs 25-26 above), the Court merely wishes to observe that this change in circumstances, which occurred after the decision on her request for family reunification had become final, will have to be assessed in the new procedure that is currently pending before the domestic authorities (see paragraph 26 above; see also, for example, *S. and S. v. the United Kingdom*, cited above, p. 199).

54. Based on the foregoing specific facts and circumstances of the case, the Court concludes that "additional elements of dependency, involving more than the normal emotional ties" between the applicant and her eldest son, have not been shown to exist. In view of this, the Court finds that their relationship did not constitute "family life" within the meaning of Article 8 of the Convention.

55. Accordingly, the application must be rejected as being incompatible *ratione materiae* with the provisions of the Convention, in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, by a majority,

Declares the application inadmissible.

Done in English and notified in writing on 10 December 2024.

Milan Blaško Registrar	Ioannis Ktistakis President