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

SECOND SECTION

DECISION

Application no. 32874/22
T.L.
against Norway

The European Court of Human Rights (Second Section), sitting on 21 May 2024 as a Committee composed of:

Jovan Ilievski*, President*,
Diana Sârcu,
Gediminas Sagatys*, judges*,

and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to:

the application (no. 32874/22) 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 24 June 2022 by a Norwegian national, Ms T.L. ("the applicant"), who was born in 1995 and lives in O., and was represented before the Court by Mr Ø. Hagen, a lawyer practising in Oslo;

the decision not to disclose the applicant's name;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns proceedings in which it was decided to continue public care of the applicant's daughter and in which the applicant's contact rights during the public care were decided.

2. The applicant is the mother of X, who was born in 2013. During the pregnancy various public authorities became concerned about the applicant's situation and her functioning. A stay at a family centre was offered after the child's birth, but the applicant and X's father did not consent. In the following years a number of assistance measures were offered and attempted. In 2015 there were increasing concerns about the applicant's mental health and the family stayed at a family centre for seven months during that year. After they moved back home, X's care situation became worse, particularly when the

assistance measures were scaled down. In December 2015 the applicant consented to the placement of X in public care.

3. On 10 May 2016 the County Social Welfare Board examined whether a care order was needed and concluded that it was not. It considered that assistance measures should be extended and in the following period, a number of further such measures were implemented. In 2017 they were again scaled down and X's development regressed. The applicant consented to X being placed again in public care and a care order was issued. The applicant instituted review proceedings in which the care order was upheld.

4. In October 2020 the applicant applied to have the care order lifted. The application was dismissed by the Board on 16 December 2020 and on 5 May 2021 the District Court upheld the Board's decision on review. The High Court did not grant the applicant leave to appeal against the District Court's judgment in so far as it concerned the question whether the care order could be lifted, but granted leave to appeal as regards her contact rights during the child's placement in care, which the District Court had set at three hours eight times per year.

5. The applicant appealed against the High Court's decision; her appeal was dismissed by the Supreme Court on 13 October 2021.

6. On 24 November 2021 the High Court gave judgment on the merits in respect of the decision to grant the applicant leave to appeal. It set the applicant's contact at two hours five times per year.

7. On 18 January 2022 the Supreme Court refused the applicant leave to appeal against the High Court's judgment.

8. In her application to the Court the applicant relied on Article 8 of the Convention and submitted that her right to respect for her family life had been violated because the domestic authorities had wrongfully abandoned the aim of reuniting the family.

THE COURT'S ASSESSMENT

9. In so far as the applicant must be considered as complaining about the decision not to lift the care order, the Court observes that the applicant failed to demonstrate that she lodged her application against the final decision of 13 October 2021 (see paragraph 5 above) within the six-month time-limit (Article 35 § 1 of the Convention).

10. The application thus principally concerns the decision in respect of the applicant's contact rights, that decision becoming final with the Supreme Court's decision of 18 January 2022 (see paragraph 7 above).

11. The Court finds that the decision to limit the applicant's contact with X to two hours five times per year entailed an interference with her right to respect for her family life with X for the purposes of Article 8 § 1 of the Convention. That interference was in accordance with the law, that is to say the 1992 Child Welfare Act, which was applicable at the material time, and

it pursued the legitimate aims of protecting X's "health" and her "rights". The remaining question is whether the interference was "necessary" within the meaning of Article 8 § 2.

12. 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 a number of cases, including *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 applicant has been adequately involved in the decision-making process seen as a whole (see *Strand Lobben and Others*, cited above, §§ 203 and 212).

13. The Court also bears in mind that it has recently given 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, 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).

14. As to the reasons provided by the domestic authorities in the applicant's case, the Court notes that the High Court, in the judgment in which it decided on the applicant's contact rights from the end of 2021 onwards, took as its starting point that a care order was a temporary measure and that reunification was to take place as soon as circumstances so permitted. Regard was had to the Court's judgments, in particular in *Strand Lobben and Others* (cited above) and *K.O. and V.M. v. Norway* (cited above). In the proceedings before the High Court, it was established that X's father had essentially been absent from X's life and had not been involved for a long time and that the aim of reunification thus solely concerned the applicant. There was however, in view of the evidence, no realistic prospect of returning her to her mother's care. It transpires that the applicant had struggled with her mental health for a long time, that she did not appear to understand X's care needs, that she did not function autonomously as an adult and lacked the capacity to provide X with appropriate emotional and supportive care for her development. The various experts who were involved confirmed that the applicant had fundamental shortcomings as a caregiver and extensive assistance measures

had been attempted starting in 2013. It also emerges that the applicant's depressive periods while X lived with her had led X to develop strategies for caring for the applicant. X, who was assessed by the experts to be vulnerable to changes in her care situation, had also had a number of negative reactions to contact with the applicant and X herself had indicated that she wanted less frequent contact sessions.

15. Having examined the High Court's reasons, the Court finds that they were both relevant and sufficient to justify the decision taken. In particular, it notes that, while the contact regime put in place was restrictive, it was established in respect of a child who had already spent many years in foster care and there was already considerable experience as to the outcome of the visits. It was also in keeping with X's own wishes. In view of the High Court's assessment, including its review of the many attempts that had been made to help the family throughout the years, the Court does not, furthermore, find that the applicant has demonstrated that the domestic authorities failed in their obligation to facilitate family reunification. The Court notes that numerous assistance measures were attempted throughout the years and that X was returned to the applicant's care once, but regressed in terms of her development (see paragraphs 2 and 3 above). In the Court's assessment, the instant case thus differs from other cases in which it has called into question whether domestic authorities in the respondent State paid sufficient regard to the aim of reunification following placements in care (see, for example, *Pedersen and Others*, cited above, § 71, and *M.L. v. Norway*, cited above, § 99).

16. In the light of the foregoing, the Court finds that 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. It follows that this part of the application is manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention and accordingly rejects it pursuant to Article 35 § 4.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 13 June 2024.

Dorothee von Arnim
Deputy Registrar

Jovan Ilievski
President