



A Norwegian child-care decision was well-founded but restrictions on parents' contact rights were excessive

The case [K.O. and V.M. v. Norway](#) (application no. 64808/16) concerned official decisions to take a couple's daughter into care a few weeks after her birth in 2015 and their limited contact rights. The family were ultimately reunited in 2018.

In today's **Chamber** judgment¹ in the case the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights as concerned the placement of the applicant couple's daughter in care, and

a violation of Article 8 of the European Convention as concerned their contact with their daughter, which had been restricted to four, then six times per year.

The Court found that the authorities had conducted an in-depth examination of the case with regard to the care order and that the related procedure had provided sufficient protection for the applicants' interests.

In contrast, the authorities' decisions on contact rights had, at a very early stage in the procedure, been based on the assumption that the family would not be reunited because it was considered that the foster care would be for the long-term. Moreover, the authorities had not explained why it had been contrary to the daughter's best interests to see her parents more often, even though there had been positive feedback on the family's interaction during visits.

Principal facts

The applicants, Mr K.O. and Ms V.M., are Norwegian nationals who were born in 1974 and 1986 respectively.

When the applicants' daughter was born, in January 2015, the child welfare services arranged for Ms V.M. to stay at a family centre, given concerns about her mental health, drug abuse and domestic disputes with Mr K.O.. After a few weeks, Ms V.M. apparently withdrew her consent to stay at the centre and the child welfare services decided to place the applicants' daughter in care on an emergency basis.

Those services then applied to the County Social Welfare Board requesting that the child be placed in a foster home. In May 2015 the Board, comprised of a lawyer qualified to act as a professional judge, two psychologists and two laypeople, granted the request. The Board heard 11 witnesses over two days and the parents were present and represented by counsel. The Board concluded that it would be in the child's best interests to be placed in a foster home.

The applicants unsuccessfully challenged the decisions on emergency and foster care in court.

In particular, in December 2015 the City Court, comprised of a professional judge, a lay person and a psychologist, concluded that the applicants presented a number of risks, making it inadvisable to

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

return their daughter to them. The court found that both parents had had a history of drug abuse, psychological problems and domestic disputes. Previous attempts to help them overcome their problems had been unsuccessful and they had had difficulties in cooperating with the welfare authorities. The father had also been convicted of serious crimes, including violence and threats.

Both the Board and the City Court considered that the foster care would be long-term and therefore that it would not be in the child's interests for the applicants to be given extensive contact rights. However, the City Court increased the visits fixed by the Board to two hours, six times per year in view of the positive feedback on interaction during previous contact sessions.

The child was ultimately returned to her parents following a decision by the City Court in March 2018 to lift the care order. The City Court noted two expert reports that the parents' ability to care for the child was good and stable and that they had agreed to assistance measures.

Complaints, procedure and composition of the Court

Relying on Article 8 (right to respect for private and family life) of the European Convention on Human Rights, the applicants complained about the decision to take their daughter into care and to only grant them very limited contact rights.

The application was lodged with the European Court of Human Rights on 4 November 2016.

Judgment was given by a Chamber of seven judges, composed as follows:

Robert **Spano** (Iceland), *President*,
Marko **Bošnjak** (Slovenia),
Valeriu **Grițco** (the Republic of Moldova),
Egidijus **Kūris** (Lithuania),
Ivana **Jelić** (Montenegro),
Arnfinn **Bårdsen** (Norway),
Darian **Pavli** (Albania),

and also Stanley **Naismith**, *Section Registrar*.

Decision of the Court

First, the Court found that the domestic decision-making process on foster care, both before the Board and the City Court, had been comprehensive, with the applicants being able to fully present their case. The couple had also been able to lodge an application to have the care order lifted 12 months after the courts had considered their case, which had ultimately been successful. The national procedure had therefore protected the applicants' interests to the requisite extent.

Furthermore, the Court was satisfied that the authorities had conducted an in-depth examination of the case in respect of the care order, looking at the applicants' history of problems and whether a less drastic measure than taking their daughter into care could be used. They had, however, found that that would have been impractical, bearing in mind previous attempts to help the applicants and their difficulties in co-operating with the child welfare authorities.

In sum, the Court found that the reasons for taking the applicants' daughter into care had been "relevant and sufficient" and that the interference with their right to family life had not been disproportionate. There had therefore been no violation of Article 8.

In contrast, the Board and City Court had never seriously contemplated the family's reunification in their decisions on the applicants' contact rights, implicitly giving up that possibility at a very early stage because they considered that the placement would be on a long-term basis.

The Court emphasised that if there were to be a prospect of reunifying a family in the future, there could not be intervals of weeks, or even, as in the applicants' case, months between each contact session. Indeed, the decisions on contact rights in their case had simply stated that the purpose of the visits was for the daughter to know who her parents were.

The daughter had, ultimately, been returned to her parents. Yet neither the Board nor the City Court had explained, other than in general terms that the child needed stability, why it had been contrary to her best interests to see her parents more often, especially in view of the fact that feedback on their interaction had been positive.

The Court therefore held that there had been a violation of Article 8 as concerned the restrictions on contact between the applicant couple and their daughter.

[Just satisfaction \(Article 41\)](#)

The Court held that Norway was to pay the applicants 10,000 euros (EUR) in respect of non-pecuniary damage and EUR 2,300 in respect of costs and expenses.

The judgment is available only in English.

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Press contacts

echrpess@echr.coe.int | tel.: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

Patrick Lannin (tel: + 33 3 90 21 44 18)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.