



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

## SECOND SECTION

### DECISION

Application no. 56464/21  
A.D. and Others  
against Norway

The European Court of Human Rights (Second Section), sitting on 16 April 2024 as a Committee composed of:

Jovan Ilievski, *President*,  
Lorraine Schembri Orland,  
Diana Sârcu, *judges*,

and Dorothee von Arnim, *Deputy Section Registrar*,

Having regard to:

the application (no. 56464/21) 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 22 November 2021 by three Norwegian nationals, Mr H.D. (“the first applicant”) and Ms Y.S. (“the second applicant”), who were born in 1950 and 1974 respectively, and who lodged the application on behalf of themselves and their child (“the third applicant”; together “the applicants”), who was born in 2008, and who were represented before the Court by Ms C. Schjatvet, a lawyer practising in Oslo;

the decision not to disclose the applicants’ names;

Having deliberated, decides as follows:

### SUBJECT MATTER OF THE CASE

1. The application concerns an emergency placement decision taken in respect of the first and second applicants’ child, the third applicant, and their contact rights during that placement.

2. In 2015 and 2018 the child welfare services received notifications of concern from the third applicant’s school after he had stated that his parents had subjected him to abuse. The child welfare services established contact with the family and attempted to advise and guide the parents for up to fifteen

hours per month. In 2018 the third applicant was examined by a service that helps schools assist children with special needs. This was carried out in order to assess whether he might have autism. The examination ended without any clear conclusion. In 2020 the assistance by the child welfare services was terminated as the family did not consent to the measures and as the conditions in the home appeared to have improved.

3. In 2021 the child welfare services received an additional notification of concern from the school. The teacher informed them, among other things, that the child had spoken about being pinched and occasionally hit with a shoe. Concern was also reported in respect of the third applicant's brother (who was born in 2011) and the general situation at home. Further concerns were reported by the school nurse, who described the third applicant as restless and as making little eye contact. He had also spoken to the nurse about being abused at home.

4. On 18 March 2021 the third applicant informed the child welfare services and his teacher that his parents had hit him in various places, including on the head, face, stomach, and arms. The parents, for their part, stated that they had not hit their children, but that the children had hit each other.

5. On the same day the child welfare services decided on emergency placement of the third applicant and his brother. The County Social Welfare Board upheld the decision on 19 March 2021. On the basis of the information received from the school and in conversations with the children, the child welfare services decided to report the parents to the police and to stop all contact between the parents and the children until the police had obtained information about the children through questioning.

6. The first and second applicants lodged an application to have the temporary emergency placement lifted, which the Board dismissed on 29 March 2021. At the same time the first and second applicants' contact was set at one and a half hours twice a week and the child welfare services were given the authority to supervise the contact sessions.

7. The first and second applicants brought the emergency placement decision before the District Court, which appointed an expert psychologist to represent the children. On 30 April 2021 the court decided to uphold the emergency placement in respect of the third applicant and it also maintained the contact rights set by the Board. In the same judgment the District Court decided to end the emergency placement in respect of the younger brother, noting that he did not have any particular needs and that it was unclear whether he had been subjected to violence.

8. The first and second applicants appealed against the District Court's judgment in so far as it concerned the placement of the third applicant. On 10 June 2021 the High Court refused them leave to appeal.

9. On 21 July 2021 the Supreme Court's Appeals Committee dismissed an appeal by the first and second applicants against the High Court's decision.

10. Under Article 8 of the Convention, the applicants complained about the emergency placement decision and the manner in which the contact sessions had been carried out, including the supervision of those sessions.

## THE COURT'S ASSESSMENT

11. The Court notes that the first and second applicants lodged the application on behalf of themselves and their son, the third applicant. As to the first and second applicants' standing to apply to the Court on behalf of their child, the Court does not find it necessary in the instant case to examine that issue for the following reasons.

12. The Court finds that the domestic decisions relating to the placement of the third applicant in emergency public care and the decision to grant the first and second applicants contact with him for one and a half hours twice a week entailed an interference with all three applicants' right to respect for their 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 aims of protecting the third applicant's "rights" and his "health". The remaining question is whether the interference was "necessary" within the meaning of Article 8 § 2 of the Convention.

13. 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). For the present analysis, the Court reiterates in particular that it recognises that the authorities enjoy a wide margin of appreciation in assessing the necessity of taking a child into care. However, this margin is not unfettered. For example, the Court has in certain instances attached weight to whether the authorities, before taking a child into public care, had first attempted to take less drastic measures, such as supportive or preventive ones, and whether these had proved unsuccessful. A stricter scrutiny is called for in respect of any further limitations, such as restrictions placed by the authorities on parental rights of access (see *Strand Lobben and Others*, cited above, § 211).

14. The instant case relates to the temporary emergency placement of the third applicant due to concerns about him being subjected to domestic violence. The Court notes in that connection that the child welfare services had known and had been in contact with the family for a long time. From 2015 until the emergency placement decision was taken in 2021 the child welfare services had received several notifications of concern related to possible abuse. In this connection, the Court notes that the child welfare services had attempted various assistance measures for the family, including giving advice and guidance to the parents for up to fifteen hours per month.

The assistance measures ended in 2020, as the parents did not wish to continue and also because the child welfare services considered that the conditions in the home had improved (see paragraphs 2-3 above).

15. The emergency placement decision was taken in 2021 after additional notifications of concern about the third applicant's situation had been submitted (see paragraphs 3-4 above). Both the County Social Welfare Board and the District Court then conducted an extensive examination of the child's situation and found that keeping him in emergency care was necessary and pertained to his best interests at that time. The District Court took into account, *inter alia*, that the third applicant had special needs and that he received dedicated monitoring from the school. He had a high need for boundary setting and had developed poorly even though his parents had received guidance and help for several years. The District Court also noted that the parents had clearly stated that they needed help dealing with the third applicant. Moreover, the District Court emphasised that the third applicant had consistently maintained that he was being subjected to abuse by his parents. He had stated this to various persons, including his teacher, the child welfare services, his spokesperson before the Board and the police during questioning. On this basis, the District Court considered that temporary placement was necessary until the home situation had been examined and sufficient assistance measures had been implemented. In this connection, the District Court also emphasised that the child welfare services had to clarify within a short time which assistance measures might be appropriate in order to reunite the family as soon as possible.

16. In deciding on contact rights, the District Court stressed the third applicant's need for peace and stability. The court also considered that weekly contact would contribute to safeguarding family ties as well as the ties to the family's religious, linguistic and cultural background, which was relevant, as the parents had come from another country. The District Court also took note of the third applicant's statements to the effect that he did not think it was sad to leave his parents and that he did not miss them very much between the contact sessions. In addition, the District Court made a specific assessment of whether supervision during the contact sessions was necessary. Considering the grounds for the emergency placement and the child's special needs in this particular case, the District Court decided that supervision would be in the child's best interests. The court also noted that supervision would make it possible to provide the parents with the necessary guidance and help dealing with the third applicant.

17. The Court 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 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. In the instant case, however, the Court observes that detailed justifications were provided for the decision not to lift the emergency care order and for the amount of contact granted, as well as for the decision that the contact sessions had to be supervised in view of the concerns that had been reported. As to the applicants' arguments that there had not been any grounds for concern, the Court reiterates that where domestic proceedings have taken place, it is not its task to substitute its own assessment of the facts for that of the domestic courts and as a general rule it is for those courts to assess the evidence before them (compare *Strand Lobben and Others*, cited above, § 213). In the instant case, the Court finds in any event no indication that the facts were established by the domestic authorities in any manifestly deficient manner or that there are other reasons for the Court to depart from their findings of fact. In a case such as the present one, the Court must also bear in mind that the national authorities have the benefit of direct contact with all the persons concerned, often at the very stage when care measures are being envisaged or immediately after their implementation (see *Strand Lobben and Others*, cited above, § 210). Having examined all the material submitted to it, the Court finds that the reasons given in the applicants' case by the domestic courts (see paragraphs 15-16 above) were both relevant and sufficient to justify the decisions pertaining to the emergency care order, including the decisions on the amount of contact and the supervision of the sessions.

19. In the light of the above, the Court finds that the interference with the applicants' right to respect for their family life was proportionate to the legitimate aims pursued and thus was "necessary in a democratic society" for the purposes of Article 8 § 2. It follows that the application is manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention and must be rejected in accordance with Article 35 § 4.

A.D. AND OTHERS v. NORWAY DECISION

For these reasons, the Court, unanimously,

*Declares* the application inadmissible.

Done in English and notified in writing on 23 May 2024.

Dorothee von Arnim  
Deputy Registrar

Jovan Ilievski  
President