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

SECOND SECTION

DECISION

Application no. 14301/19
A.G.
against Norway

The European Court of Human Rights (Second Section), sitting on 11 July 2023 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. 14301/19) 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 1 March 2019 by a Russian national, Mr A.G. ("the applicant"), who was born in 1979 and lives in Pervomajskaja and was represented before the Court by Ms O. Halvorsen, a lawyer practising in Strømmen;

the decision not to disclose the applicant's name;

the decision to give notice of the application to the Norwegian Government ("the Government"), represented by their Agent, Mr M. Emberland, of the Attorney General's Office (Civil Matters);

the parties' observations;

the decision by the Russian Government not to exercise their right, at the time, to intervene in the proceedings (Article 36 § 1 of the Convention);

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns a complaint under Article 8 of the Convention concerning a refusal to grant the applicant contact rights in respect of his four children, who were born in 2007, 2008, 2010 and 2012, in respect of whom care orders had been issued.

2. On 20 September 2017 the County Social Welfare Board decided that the applicant should not be allowed contact with the children, including contact by telephone or via the Internet.

3. On 1 March 2018 the City Court upheld the Board's decision. The court noted that the applicant had lived with the children until May 2014. Thereafter, his expulsion from Norway to Chechnya was ordered prior to the children's placement in care in 2015 and, since then, he had only had one conversation with them via Skype in 2016. The City Court noted that all the children had lived with the applicant, the oldest for seven years, the other three for six, four and a half, and two years respectively. The children had shown signs of being neglected, a state which the court described as having been long-term and severe. It noted among other things that on three occasions the children had had to move into shelters with their mother as a consequence of violent behaviour towards her on the part of the applicant. One of the children had received a preliminary diagnosis of complex post-traumatic stress disorder and another of reactive attachment disorder. In the City Court's assessment, contact with the applicant might evoke memories of unsafe attachment to the applicant. One of the children stated that he remembered the applicant hitting their mother. The City Court considered that there was a real and present danger that contact with the applicant would disrupt the children's need for predictability and security.

4. Furthermore, in so far as was possible in the light of the children's various ages and maturity levels, their views on the issue of contact were obtained on several occasions. The oldest child had asked to speak directly to the judges of the City Court, to whom he had stated not only that he remembered the applicant hitting his mother and yelling, but also that he wanted the proceedings to stop, had bad feelings in his body and felt angry. The City Court stated that considerable importance had to be given to the children's being opposed to contact with the applicant and also that the children did not appear to be strong enough at that time to have such contact. It noted that its assessments on these matters likewise applied to contact via digital communication, which was relevant to the case given the applicant's expulsion to Chechnya.

5. On 7 June 2018 the High Court refused the applicant leave to appeal against the City Court's judgment.

6. On 30 August 2018 the Supreme Court's Appeals Committee dismissed the applicant's appeal against the High Court's decision. The decision was served on the applicant's representative on 4 September 2018.

7. Relying on Article 8 of the Convention, the applicant complained about the decision not to grant him contact rights with his children.

THE COURT'S ASSESSMENT

8. The Court notes that the applicant complained about the decision not to grant him any contact rights in respect of his children who were in public care. It finds that that decision entailed an interference with his right to respect for his family life as guaranteed by Article 8 of the Convention. That interference had a basis in national law, namely the 1992 Child Welfare Act, which applied at the time. It pursued legitimate aims within the meaning of Article 8 § 2 of the Convention, that is to say, protection of the "health" and "rights" of the children. It follows that the issue at hand is whether the interference was "necessary in a democratic society" within the meaning of that provision.

9. The Court set out the principles relevant to that issue in cases involving child welfare measures, notably in *Strand Lobben and Others v. Norway* ([GC], no. 37283/13, §§ 202-13, 10 September 2019). It has since reiterated and applied those principles in, *inter alia*, *K.O. and V.M. v. Norway* (no. 64808/16, §§ 59-60, 19 November 2019), *A.S. v. Norway* (no. 60371/15, §§ 59-61, 17 December 2019), *Pedersen and Others v. Norway* (no. 39710/15, §§ 60-62, 10 March 2020), *Hernehult v. Norway* (no. 14652/16, §§ 61-63, 10 March 2020), *M.L. v. Norway* (no. 64639/16, §§ 77-81, 22 December 2020), *Abdi Ibrahim v. Norway* ([GC], no. 15379/16, § 145, 10 December 2021), *A.L. and Others v. Norway* (no. 45889/18, §§ 43-44, 20 January 2022) and *E.M. and Others v. Norway* (no. 53471/17, §§ 52 and 54, 20 January 2022).

10. As to whether the domestic authorities gave relevant and sufficient reasons for their decision not to grant the applicant any contact rights, the Court observes that the City Court found in its judgment of 1 March 2018, which became the final decision on the merits, that contact with the applicant was not in the children's best interests. That court concluded that contact risked disrupting the children's need for predictability and security after having grown up in a context of domestic violence and having been severely neglected, resulting in two of the children being diagnosed with disorders.

11. The Court finds that the reasons advanced by the domestic authorities were, in the circumstances of the case, both relevant and sufficient to justify the decision not to grant the applicant any contact rights at the relevant time. The Court notes in particular that the City Court carried out a broad assessment of each child's interests and of the Court's assessment in cases such as the present one, giving importance to the children's own wishes in the light of their age and maturity while aligning with the Court's general case-law concerning the importance that ought to be given to children's views in matters which concern them (see, for example, *K.B. and Others v. Croatia*, no. 36216/13, § 143, 14 March 2017, with further references). The Court also observes in this context that the applicant raised no objections as to the

manner in which the proceedings had been conducted and did not submit that he had not been allowed to fully participate in the decision-making process.

12. In view of the above, the Court considers that the facts of the instant case do not bear any resemblance to the other recent cases against the respondent State in which violations have been found in connection with limitations imposed on, or refusals to grant, contact rights in respect of children placed in public care (see, in particular, *K.O. and V.M. v. Norway*; *A.S. v. Norway*; and *A.L. and Others v. Norway*, all cited above).

13. In the light of the above, the Court finds that the interference with the applicant's right to respect for his family life was proportionate to the legitimate aims pursued and thus "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.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 14 September 2023.

Dorothee von Arnim Deputy Registrar	Jovan Ilievski President