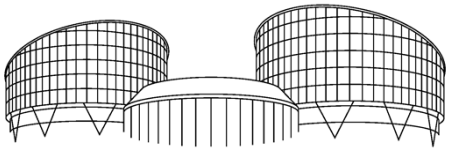

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF VAN SLOOTEN v. THE NETHERLANDS

(Application no. 45644/18)

JUDGMENT

Art 8 • Family life • Termination of applicant's parental authority over her two year and ten-month-old child • Domestic authorities' failure to conduct in-depth analysis of the nature of the child's vulnerability despite impugned decision placing considerable weight on that fact • Application for termination of parental authority made less than one and a half years after child taken into care • Domestic authorities gave up family reunification as the ultimate goal at a very early stage, without properly assessing the applicant's parenting capacity or adequately demonstrating why reunification was no longer compatible with the child's best interests • Insufficient weight attached to protecting the applicant and her child's Art 8 rights

Prepared by the Registry. Does not bind the Court.

STRASBOURG

15 April 2025

FINAL

15/07/2025

This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.

In the case of Van Slooten v. the Netherlands,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Lado Chanturia*, President*,
Jolien Schukking,
Faris Vehabović,
Tim Eicke,
Lorraine Schembri Orland,
Ana Maria Guerra Martins,
Sebastian Răduleţu*, judges*,

and Simeon Petrovski, *Deputy Section Registrar,*

Having regard to:

the application (no. 45644/18) against the Kingdom of the Netherlands lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Dutch national, Ms Nathanie Sugandhi Sumithra Van Slooten ("the applicant"), on 21 September 2018;

the decision to give notice of the application to the Government of the Kingdom of the Netherlands ("the Government");

the parties' observations;

Having deliberated in private on 25 March 2025,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns a complaint in relation to the decision to terminate the applicant's parental authority (*ouderlijk gezag*) over her child, who at the time of that decision was two years and ten months old. She relied on Articles 6 and 8 of the Convention.

THE FACTS

2. The applicant was born in 1990 and lives in Steenwijk. She was represented by Mr M. Erkens, a lawyer practising in The Hague.

3. The Government were represented by their Agent, Ms B. Koopman, of the Ministry of Foreign Affairs.

4. The facts of the case may be summarised as follows.

I. BACKGROUND

5. The applicant's child was born on 4 August 2014. The father had formally recognised the child. Both before and after the birth, reports of domestic violence (verbal and physical) between the applicant and the father of the child had been made to *Veilig Thuis*, the domestic violence advice and

reporting centre. The relationship between the applicant and the father ended in February 2015. They continued, however, to see each other.

6. From the time of the birth, the applicant had sole parental authority over the child. She and her child lived at various locations in supported housing run by a care provider, and they also received support from several other care services. To protect the child, an arrangement for contact between the parents was made with the care provider. In breach of this arrangement, the parents continued to have unsupervised contact with each other and the child which on several occasions led to incidents of domestic violence that the police subsequently reported to *Veilig Thuis*.

7. In August 2015 the Child Care and Protection Board (*Raad voor de Kinderbescherming* – hereinafter "the Board") started to investigate the parenting environment in the family, after the neighbourhood social support team had reported the child's situation to them. During the investigation, a certified youth protection institution (*Gecertificeerde Instelling* – hereinafter "the GI") was asked by the Board to provide the applicant with support. The standard procedure is that a GI only becomes involved after a decision by a judge: however, the applicant agreed to its involvement.

8. In September 2015 the applicant and her child were asked to leave the sheltered housing, as, according to the care provider, the applicant was refusing to cooperate with them. On 29 September 2015 they were placed in a short-stay crisis shelter for six weeks.

A. Supervision order

9. On 16 October 2015 the Board reported serious concerns about the child's home environment and the applicant's ability to look after her. The Board observed that the child had experienced stress and tension in a highly unstable home situation and this had resulted in a serious risk to her development. The Board reported that the applicant had a history of mental health problems and that the child had witnessed repeated incidents of domestic violence. Further, during the first year of the child's life there had been considerable instability arising from the number of times she and her mother had moved accommodation. That had resulted in a loss of contact with their social network, leading to the applicant experiencing a high level of stress and extreme mood swings, which the child also witnessed. The Board also observed that the child's physical development was good, that she looked cared for and well-nourished, and that the applicant showed affection towards her. Nevertheless, the Board considered the applicant to be insufficiently willing and able to eliminate the risks to the development of her child that it had identified, because she refused to cooperate with the care workers and would not accept the concerns they expressed.

10. As a result, the Board asked the Overijssel Regional Court to make a one-year supervision order (*ondertoezichtstelling*). According to the Board, a care order was not needed at that point. However, it considered it necessary for the applicant and the child to be admitted to a mother-and-child facility with round-the-clock supervision so that the applicant's parenting abilities could be assessed.

11. On 22 October 2015, after having heard the applicant, who was assisted by counsel; the child's father; a representative of the GI; and a representative of the Board, the children's judge made a one-year supervision order, during which the supervision would be carried out by the GI. The children's judge shared the Board's concerns about the child's development, since she had repeatedly had to endure her mother's stress and mood swings. Because of her mental condition, the mother had been unable to provide her daughter with stable parenting. The children's judge found that the Board's report showed that the applicant had refused help from the care and support services. In addition, she had regularly been verbally aggressive towards the staff of those services, in the presence of her child, who had far too often been a witness to domestic violence and rows between her parents. The children's judge commented that it was important that the applicant's capabilities and limitations, as well as what help she needed, should be investigated through observation in a mother-and-child facility.

B. Emergency care order

12. On 26 October 2015 the GI was notified that the applicant and her child had left the short-stay crisis shelter. It tried to contact the applicant, who initially did not respond. The applicant said that she had left the crisis shelter because she felt unsafe, as some of the residents there were drug addicts. The GI set up an appointment with the applicant; in the meantime, however, it held a case conference and decided to seek an emergency care order.

13. On 29 October 2015 the GI applied to the Regional Court for an emergency care order, stating that the application was based on the following: the Board's report of 16 October 2015 (see paragraph 9 above); the urgent situation that had arisen as a result of the applicant's refusal to cooperate with care workers; and the applicant's withdrawal of the child from the GI's supervision by leaving the short-stay crisis shelter.

14. On 29 October 2015 the children's judge of the Regional Court made an emergency care order placing the child with a foster care institution for a duration of two weeks and allowing the applicant supervised contact with the child once a week. On the same day, the child was taken from the applicant by the police and a GI care worker and was placed with a foster family.

15. On 9 November 2015 the children's judge decided, at the request of the GI, to extend the care order to run with the original supervision order up to 22 October 2016 (see paragraph 11 above). It concluded that this was

necessary in the interest of the child's care and upbringing. According to the children's judge, the applicant had withdrawn the child from supervision by the GI by taking her away and not keeping sufficiently in touch with the GI. The children's judge ordered that the GI should assess whether the mother would be capable of resuming responsibility for the care and upbringing of the child in the future, which would take time. The children's judge also commented that it was important for the applicant and the GI to work on establishing close cooperation and for the applicant to maintain contact with the GI herself, to avoid misunderstandings; it was also pointed out that the GI, as a professional organisation, should assume an authoritative role with the family. The applicant lodged an appeal against that decision.

16. During the subsequent months, the GI made several attempts to seek the applicant's agreement to its proposal that she be admitted to the mother-and-child facility at the De Stee Clinic, but without success. Because the applicant had failed to respond to the GI prior to a set deadline, on 18 February 2016 it sent her a "perspective decision" (*perspectief besluit*), stating that in view of the fact that she would not agree to a stay at the mother-and-child facility at the De Stee Clinic – or, at least, that she had not confirmed that she did agree – it was of the opinion that the child's future no longer lay with the applicant but with a foster family. Contact would therefore be reduced from once a week to once every two weeks.

17. The applicant applied to the Regional Court for a suspension of the restrictions on contact. She challenged the statements made by the GI and asked for supervision to be transferred to another GI. She said that she did not believe that the proposed mother-and-child facility would be helpful, and that she found the atmosphere at the De Stee Clinic alienating and feared that if she were assessed there a false impression of her abilities would be given. The applicant submitted that she could not understand why the GI, given her objections, had not explored alternative ways of assessing the future prospects for herself and her child. She was prepared to offer an alternative plan. The GI, for its part, believed that the De Stee Clinic would have been a suitable venue for such an assessment and was in fact the only one available within a reasonable distance.

18. The applicant's application was adjourned by the children's judge of the Regional Court on 24 March 2016 to give the applicant an opportunity to draw up an alternative plan for the assessment of her capabilities and the child's prospects in her care, with the help of her advisers and in consultation with the GI.

19. The applicant sent her plan to the court. The GI and the Board responded to it.

20. After a hearing during which the applicant's alternative plan was discussed, the Regional Court, this time composed of three children's judges, concluded on 28 April 2016 that the applicant's alternative plan was inadequate. It found that the plan did not focus enough on the development

of the child, that it was unconvincing, and that it was unclear what the methodology and expertise of the care providers involved would be. The Regional Court feared that the assessment that was proposed in the alternative plan would not provide clear conclusions about the parenting abilities of the mother, taking into account the child's specific needs. Furthermore, the Regional Court considered that there was no reason to revoke, in whole or in part, the decision taken by the GI to limit the contact time between the applicant and her child (see paragraph 16 above) now that, in view of the mother's attitude, the policy was no longer to work towards home placement with the mother. The applicant's request for supervision to be transferred to another GI (see paragraph 17 above) was also rejected.

21. On 28 June 2016 the Arnhem-Leeuwarden Court of Appeal dismissed the applicant's appeal against the decision to make a care order (see paragraph 14 above). Based on the information contained in the case file, the Court of Appeal set out the events leading to the supervision order (see paragraph 11 above) and the emergency care order and found the account of events submitted by the GI to be correct. The appellate court further observed that it had since become apparent that the applicant was not cooperating in any way with an assessment of her parenting skills. The applicant had been given the opportunity to show, by being assessed while she was staying at the De Stee Clinic mother-and-child accommodation, that she was capable of taking care of the child. Although she had submitted an alternative plan (see paragraph 18-19 above), the Court of Appeal agreed with the first-instance court (see paragraph 20 above) that this plan was not sufficiently focused on the developmental interests of the child, was not formulated objectively and was not convincing. The appellate court concluded that, without any insight into the applicant's parenting skills, it must find that the child's health and safety could not be guaranteed if she were then to return to live with the applicant.

C. Extension of the supervision and care orders

22. On 10 October 2016 the Regional Court, composed of three children's judges, dismissed the applicant's application to have the child returned to her care. Referring to the decision of the children's judge of 9 November 2015 (see paragraph 15 above) and 28 April 2016 (see paragraph 20 above) and the Court of Appeal's decision of 28 June 2016 (see paragraph 21 above), the court held that the applicant had still not demonstrated that she could resume responsibility for the care of the child and it saw no grounds for ordering the GI to work towards family reunification or admission to mother-and-child accommodation.

23. On 21 March 2017 the Court of Appeal dismissed an appeal by the applicant against the decision of 10 October 2016 (see paragraph 22 above). It held that an assessment in the shape of a mother-and-child facility was no

longer in the child's best interests because it would mean removing the child from the foster family, which would interrupt the child's process of building attachment to the foster family and would be detrimental to the child's development. The court also considered that the "acceptable time" (*aanvaardbare termijn*) within which the child could reasonably wait for the applicant to become able to resume responsibility for her care and upbringing had expired, because the child was still very young and had been living with the same foster family since the emergency care order had been made on 29 October 2015 (see paragraph 14 above).

II. TERMINATION OF PARENTAL AUTHORITY

24. On 20 September 2016 the GI wrote to the Board asking it to apply to the Regional Court for an order terminating the applicant's parental authority.

25. The Board started an investigation into the question of whether it was reasonable to expect that the applicant would not be able to resume responsibility for the child's care and upbringing within an "acceptable time".

26. On 9 March 2017 the Board issued a report. It found that the child was doing well in foster care. Her contact visits with the applicant alternated between going very well and going badly. According to the Board, contact with her mother was an unpredictable factor in the child's life. It noted that in the meantime contact visits had been reduced to once a month. The Board concluded that the threat to the child's development was so serious that the applicant's parental authority should be terminated. In that connection it observed that the applicant had been unwilling to cooperate with the GI and had refused to be placed in the proposed mother-and-child facility. Because of the lack of cooperation by the mother, the "acceptable time" for removing uncertainty about the child's future had expired. The report indicated that the applicant disputed those conclusions.

27. On the same day, the Board applied to the Regional Court for the termination of the applicant's parental authority and the appointment of the GI as the child's guardian.

28. In her written reply (*verweerschrift*) the applicant submitted that the Board had not carried out a careful investigation from which it could draw logical conclusions as regards her parenting abilities and that it had failed to answer the only pertinent questions it should have answered, namely whether the child when staying with her mother was growing up in an environment that seriously threatened her development and whether the applicant was capable of assuming responsibility for the child's care and upbringing within a period of time considered acceptable bearing in mind the developmental needs of the child. The applicant further argued that the Board had failed to provide proper reasoning for its conclusion that the "acceptable time" had expired because of her reluctant attitude. The applicant therefore asked the

court to order an independent investigation under Article 810a § 2 of the Code of Civil Procedure (see paragraph 39 below).

29. On 6 June 2017 the Regional Court, composed of three children's judges, having heard the parties, terminated the applicant's parental authority and appointed the GI as the child's guardian. In so far as relevant, the decision reads as follows:

> "The documents show that the child is a vulnerable girl who, during the first year of her life, has witnessed several fights between her parents and verbal aggression from her mother against others.
>
> The child has been with the foster family for a year and a half. The bonding process with her foster parents is going well. Although she remains vulnerable, she shows positive development. She is benefiting from the clear and structured parenting environment the foster parents offer her.
>
> The foster parents are able to provide the child with what she needs.
>
> The mother has been through a lot in her life and has been diagnosed in the past with persistent depressive disorder, a panic disorder without agoraphobia and post-traumatic stress disorder. Because of everything the mother has been through, she has difficulty trusting others and therefore, if stressful situations arise, is unable to connect with others. Instead, she engages in conflict, which means the mother is not open to being helped and becomes extremely angry towards the youth protection worker whenever decisions regarding the child have to be made. The mother was given the opportunity to cooperate with a 'family placement' in Beilen. The mother refused for her own reasons. At the beginning of 2016 the Regional Court gave her the opportunity to present her own plan to allow her caring capabilities to be assessed. This plan was inadequate. In the meantime, the mother held off contact with the GI or had a non-cooperative relationship with the GI.
>
> It is also clear to the court that the mother loves her child very much and is fully-committed to maintaining the bond with her child.
>
> However important and whatever the situation may be, this case is not primarily about developments for the benefit of the parent(s). In accordance with Articles 3 and 20 of the UN Convention on the Rights of the Child, the best interests of the child are of paramount importance when a decision to terminate parental authority is being taken. The child, who is now almost three years old, was placed outside the family under an emergency care order when she was fifteen months old because there was a serious threat to her safety, health and mental development. Given her fraught past and fragile development, it is essential for the child's development that she continues to build attachment to her foster parents and to experience the stability they give her. Breaking the process of building attachment could seriously harm her development. This could have major consequences with regard to the child's confidence, the development of her personality and her ability to form relationships. For this reason, it is important to terminate the mother's parental authority so as to give the child the certainty of growing up with her foster parents at least until she reaches adulthood. This clarity is also important for the parent with authority because it creates clarity in the parent-child relationship. The younger a child is, the more important this aspect is in the context of the acceptable time for uncertainty about the child's future to continue. The court therefore finds that the acceptable time for the child to live in uncertainty as to where she will grow up and within which the mother should be capable of taking on responsibility for the child's care and upbringing has already expired. It is in the best interests of the child and everyone else involved to be able to foresee her future. This is

particularly the case given that supervision and care orders are of a temporary nature and cannot be renewed year after year. The Regional Court is of the opinion that it is in the child's interests to safeguard the stability and continuity of her upbringing by terminating the mother's parental authority.

....

In the light of the above the court finds that granting the mother's application under Article 810a of the Code of Civil Procedure would not be in the interests of the child. The court will dismiss the mother's application.

The court understands that parental authority has an emotional significance for the mother, but the court is of the opinion that when answering the question of whether the mother's parental authority should be terminated or not, the child's interests should outweigh the mother's interests.

...

The Regional Court points out that the mother will nonetheless remain the child's mother and will retain a place in the child's life, albeit at a distance."

30. The applicant appealed against that decision. She submitted, *inter alia,* that the court's conclusion that she could not take responsibility for caring for her child had not been substantiated and that there had been no proper investigation. The only reason for terminating her parental authority was the expiration of the "acceptable time".

31. The Board, in reply, submitted that the "acceptable time" had expired, observing that the child had been staying with the foster family since October 2015 (see paragraph 23 *in fine* above) and was entitled to certainty with regard to her future. It submitted that the applicant had been given an opportunity to develop a plan which would enable her to care for the child again. Her plan was found inadequate by both the Regional Court and the Court of Appeal (see paragraphs 20 and 21 above). In addition, the Board argued that the supervision and care orders were meant to be of a temporary nature. The child had been living with the foster family for such a long time that she had made her home with them. The termination of the mother's parental authority was necessary to create certainty for the child's future.

32. On 27 March 2018, the Court of Appeal dismissed the applicant's appeal. In so far as relevant, the decision reads as follows:

"5.3 The Court of Appeal does not read in the mother's grounds of appeal or in the explanations of those grounds given by her and on her behalf any relevant arguments other than those which were put forward in the first-instance proceedings and which were rejected by the Regional Court with reasons given and on good grounds. The Court of Appeal adopts that reasoning – after its own investigation – and makes it its own.

....

5.5 [...] the Court of Appeal notes that the documents on the file describe a number of examples indicating that cooperation with the mother has been difficult. Her attitude towards counselling is ambivalent. The mother reproaches the GI for its own lack of cooperation. [...] The Court of Appeal observes that the Supervisory Board of the Youth Quality Register [on a complaint by the applicant] did rule that the family guardian in question [from the GI] had damaged the relationship of trust with the mother through

> the content of her email of 28 October 2015. This logically and unfortunately did not improve the cooperation between the GI and the mother. Nevertheless, even before she left the short-stay crisis shelter in Uddel, the mother knew what was expected of her. [...] Despite all this, after the child was placed in foster care, the mother failed to cooperate in a timely and adequate manner with the investigation into her parenting skills that was considered necessary by the Board and the GI. [...] however, the mother's alternative plan [...] was found inadequate by the GI, the Board, the children's judge [of the Regional Court] (decision of 28 April 2016) and the Court of Appeal (decision of 28 June 2016). Subsequently, the child was rightly not reunited with the mother. In the light of all that, given the overriding developmental interests of the child, home placement [with the mother] could and can be considered a dead end.
>
> ...
>
> 5.6. As the answer to the question of whether the mother is capable of caring for and bringing up the child cannot change the decision that the acceptable time has already expired, the mother's application under Article 810a paragraph 2 of the Code of Civil Procedure is dismissed. The appointment of an expert [therefore] could not help in deciding this case. The mother did not take up the opportunities offered to her when she had a chance to do so. Now the child deserves the chance to continue to grow into the foster family without external direction, obviously while maintaining as much contact with the mother (and father) as possible."

33. In order to further appeal against that decision, the applicant contacted a lawyer specialised in cassation proceedings to seek an opinion about her chances of successfully lodging an appeal on points of law with the Supreme Court. On 7 June 2018 the cassation lawyer gave his opinion. After having examined possible grounds of appeal, he concluded that there was no prospect of an appeal on points of law being successful. The applicant did not lodge an appeal on points of law with the Supreme Court.

III. SUBSEQUENT DEVELOPMENTS

34. In her response of 28 July 2021 to the Government's observations, the applicant stated that she had had a second child and that she had been caring and raising this child since birth without any help from childcare providers.

RELEVANT DOMESTIC LEGAL FRAMEWORK AND PRACTICE

I. PARENTAL AUTHORITY

35. Parental authority comprises the duty and the right of a parent to care for and bring up his or her child (Article 1:247 § 1 of the Civil Code (*Burgerlijk Wetboek* – "the CC")). The parent with parental authority is the child's statutory representative (*wettelijk vertegenwoordiger*), who also administers the child's possessions (Article 1:245 § 4 of the CC).

36. The relevant part of Article 1:266 of the CC provided as follows at the time of the events of this case:

"1. The court may terminate the parental authority of a parent if:

a. a minor is being brought up in such a way that he is seriously threatened in his development, and the parent is unable to take responsibility for the care and upbringing referred to in Article 247, paragraph 2, within a period of time found acceptable for the person and development of the minor, or

b. the parent abuses the custody."

37. The relevant part of Article 1:267 of the CC provided as follows:

"1. The termination of parental authority may be ordered on the application of the Child Care and Protection Board or the public prosecutor's office. ..."

38. The relevant part of Article 1:277 of the CC provided as follows:

"1. The court may restore the parental authority of a parent whose parental authority has been terminated at the request of that parent if:

a. restoration of parental authority is in the best interests of the minor, and

b. the parent is permanently capable of taking responsibility for the care and upbringing of the minor referred to in Article 247, paragraph 2."

39. The relevant part of Article 810a of the Code of Civil Procedure provided as follows:

"2. In cases concerning the supervision of a minor or the termination of parental authority or rights of custody, the court shall appoint an expert at the request of the parent, provided that this is likely to contribute to the decision-making process and it does not harm the best interests of the child."

II. SUPERVISION AND CARE ORDERS

40. The relevant part of Article 1:255 of the CC provided as follows:

"1. The children's judge [of the Regional Court] may place a minor under the supervision of a certified youth protection institution if the minor is being brought up in such a way that he is seriously threatened in his development, and:

a. the care arrangements necessary to remove the threat to the minor or to his parents or the parent exercising parental authority are not, or are insufficiently, accepted by them, and

b. there is a reasonable expectation that the parents or the parent exercising parental authority will be able to take responsibility for the care and upbringing referred to in Article 247, paragraph 2 within a period of time considered acceptable in view of the minor's personality and development.

2. The children's judge may place a minor under supervision on the application of the Child Care and Protection Board (*Raad voor de Kinderbescherming*) or the public prosecutor. A parent or a person who is not a parent but who is caring for and bringing up the minor as part of her or his family may make the application if the Child Care and Protection Board does not make it.

...

4. In the order, the children's judge shall state the specific threats to the minor's development, as well as the duration of the supervision order."

41. Article 1:258 of the CC provided as follows:

"The duration of the supervision order, subject to the extension provided for in Article 260, shall not exceed one year. The duration of any temporary supervision shall not be deducted from this term."

42. The relevant part of Article 1:260 of the CC provided as follows:

"1. The children's judge may, provided that the condition referred to in Article 255, paragraph 1, is met, extend the duration of the supervision order by up to one year on each application."

43. The relevant part of Article 1:262 of the CC provided as follows:

"1. The certified youth protection institution (*gecertificeerde instelling*) will supervise the minor and ensure that help and support are provided to the minor and the parents or parent with parental authority so that the threats to the minor's development referred to in Article 255, paragraph 4 are removed within the duration of the supervision order. The certified youth protection institution should aim to enable the parents or parent to take responsibility for the care and upbringing of their children as much as possible.

...

3. The certified youth protection institution shall promote the family relationship between the custodial parents or parent and the minor."

44. The relevant part of Article 1:265b of the CC provided as follows:

"1. If it is necessary in the interests of the care and upbringing of the minor or is required in order to conduct an examination of her or his mental or physical condition, the children's judge may authorise the certified youth protection institution as referred to in section 1.1 of the Youth Act and which is responsible for implementation of the supervision order to accommodate the minor outside the family home both during the daytime and overnight."

45. The relevant part of Article 1:265c of the CC provided as follows:

"1. The duration of the care order, subject to an extension as referred to in the second paragraph, shall not exceed one year. If a minor has been provisionally placed under supervision and at the same time the minor's removal from the family home has been authorised, the duration of this placement will not be deducted from the term of supervision.

2. At the request of the certified youth protection institution, the children's judge may extend the term by up to one year each time. ..."

46. The relevant part of Article 1:265f of the CC provided as follows:

"1. In so far as necessary in connection with the care order for the minor, the certified youth protection institution may limit the contact between a custodial parent and the minor pending the care order"

47. The relevant part of Article 1:265g of the CC provided as follows:

"1. For the duration of the supervision order, the children's judge may, on the application of the certified youth protection institution, establish or vary any allocation of the care and upbringing tasks or an arrangement on the exercise of rights of contact in so far as necessary in the interests of the minor.

2. At the request of a custodial parent, of a person with rights of contact, of a minor aged 12 years or older or of the certified youth protection institution, the children's judge may vary the decision referred to in subsection 1 on the grounds that circumstances have subsequently changed, or that incorrect or incomplete information was used as the basis for making the decision."

III. "ACCEPTABLE TIME" IN PRACTICE

48. One of the cumulative conditions for imposing a supervision order on the basis of Article 1:255 CC (see paragraph 40 above) is to accommodate the "acceptable time" during which the parents will become able to resume the care of the child. That time must be no longer than is considered acceptable for the child's development. In other words, a supervision order is not appropriate if the period of time the parents are expected to need to be able to resume care for their child is too long, since the child's development would be harmed by the fact that he or she would not know how long he or she would remain in foster care. Once the "acceptable time" has passed, parental authority will be terminated under Article 1:266 CC (see paragraph 36 above).

49. What constitutes an acceptable period of time depends on the circumstances of the case, including the age and development of the child. The benchmark for determining the "acceptable time" is the period during which the child can cope with uncertainty without serious damage to his or her development while it remains unclear in which family he or she will continue to be brought up. The younger the child, the shorter the "acceptable time" will be. The "acceptable time" provision has been included to prevent the repeated extensions of supervision orders while the parents are manifestly unable to take responsibility for the care of their child on an ongoing basis (Parliamentary Documents, Lower House of Parliament (*Kamerstukken II*) 2008/09, 32 015, no. 3 – Explanatory Memorandum (*Memorie van Toelichting*), pp. 10 and 23).

50. According to Dutch case-law, the "acceptable time" starts running when a care order is made and the child is taken into care (see, for example, Arnhem-Leeuwarden Court of Appeal, 18 October 2016, ECLI:NL:GHARL:2016:8511; Arnhem-Leeuwarden Court of Appeal, 12 September 2017, ECLI:NL:GHARL:2017:8172; and Arnhem-Leeuwarden Court of Appeal, 29 November 2018, ECLI:NL:GHARL:2018:10426).

51. In 2015 the Netherlands Institute of Psychologists (*Nederlands Instituut van Psychologen*), the Netherlands Association of Educationalists (*Nederlandse vereniging van pedagogen en onderwijskundigen*), the Association of Social Work Professionals (*Beroepsvereniging van Professionals in Sociaal Werk*) and the Netherlands Youth Institute (*Nederlands Jeugdinstituut*) issued a "Guideline on care orders" (*Richtlijn Uithuisplaatsing voor jeugdhulp en jeugdbescherming*). This Guideline,

published on the website the above-mentioned institutions, aimed at contributing to provide childcare professionals with knowledge and 'best practices' for the situation in which out-of-home placement was being considered. The Guideline described what is meant by good professional conduct and, together with the Professional Code, it set the professional standards for childcare professionals. The Guideline specified what constituted "acceptable time": six months for children up to the age of five, and one year for children aged five or over. It was noted that it appeared that in practice sometimes professionals, including judges, treated these terms as mandatory, while they were only intended as guidelines.

IV. POST - *"STRAND LOBBEN"* DOMESTIC DEVELOPMENTS

52. On 22 January 2022 the Supreme Court gave judgment (ECLI:NL:HR:2021:108) in a case concerning the termination of parental authority. It said:

> "3.2 In the judgment in *Strand Lobben* [*and Others v. Norway* [GC], no. 37283/13, 10 September 2019], the [European Court of Human Rights] held (at paragraph 206), *inter alia*, that Article 8 of the Convention requires that the interests of the child and those of the parents be balanced. The [European Court] further held (at paragraph 208), in brief, that a child protection measure must in principle be temporary, but that after the passage of a significant period of time the interests of the child in being able to continue his *de facto* family situation with foster parents may prevail over the parents' interests in family reunification.
>
> ...
>
> 3.3.3 [...] The Court [of Appeal] did not fail to note that under Article 8 of the European Convention on Human Rights and the [European] Court's judgment in *Strand Lobben* a genuine balancing exercise must be carried out between the interests of the child and those of the parent(s). The court did not base its judgment merely on the lapse of time since the minor had gone to live with the foster family. It also considered the possibility of reuniting the minor with the mother. Moreover, the court gives sufficient reasons for its judgment. ..."

53. In 2023, a revised Guideline on care orders (*Richtlijn uithuisplaatsing en terugplaatsing*) was published. This Guideline recommend more diligence when children are taken into care. It emphasised that taking a child into care is a measure of last resort and recommend more focus on the reunification of families and how this could be achieved. When a decision is taken to take a child into care, it is recommended that a plan should already be in place of how to achieve family reunification within the "acceptable time" (see paragraph 51 above). This Guideline no longer provided an exact timeframe for the "acceptable time", noting that this should be decided on a case-by-case basis. The plan should be reviewed periodically to establish which goals have been achieved and what will be necessary before a child may return to his or her family. It is further recommended that parents, children and caregivers be involved in the process leading to a "perspective decision", which is an

internal decision taken by a GI – and which is not a legal decision and therefore cannot be reviewed by a judge – when it is no longer expected that the parents will be able to take care of their child. This decision is usually the first step towards the termination of parental authority.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

54. The applicant complained that the termination of her parental authority without an investigation into her parenting skills, and based solely on the argument that her child was doing well with her foster family, constituted a breach of Article 8 of the Convention, which reads as follows:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 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."

A. Admissibility

55. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant

56. The applicant argued that the authorities had not taken all appropriate views and interests into account in the decision-making process leading to the disputed decision, that is, the termination of her parental authority, and that no relevant and sufficient reasons for the decision had been given.

57. According to the applicant, the sole and guiding reason for the decision to terminate her parental authority had been the expiry of the "acceptable time" and the fact that the child had formed a bond with the foster parents.

58. In that context, the applicant submitted that there had been no independent and expert investigation into her parenting skills, and it had never been established that the child's interests would be harmed if she stayed with her mother. Her contact visits with the child had gone smoothly and the relations between the applicant and the foster parents were good.

59. The applicant further alleged, referring to the GI's "perspective decision" of 18 February 2016 (see paragraph 16 above), that the authorities had stopped working towards family reunification just four months after the emergency care order was issued. According to her this constituted a violation of the positive obligation of the Government under Article 8 of the Convention.

(b) The Government

60. The Government pointed out that it was not disputed that terminating the applicant's parental authority had constituted an interference with her right to family life and that the interference had been in accordance with the law. Furthermore, the Government argued that the interference had served a legitimate aim, namely to protect the health, rights and freedoms of the child. The Government submitted that the nature of the measure did not entail a complete severance of family ties *de jure* and *de facto*, and that the applicant remained the child's mother and would retain a place in the child's life, albeit at a distance. The measure had not resulted in termination of the parental relationship between the biological mother and the child. Under Dutch law, the termination of parental authority is not irreversible.

61. Before terminating the applicant's parental authority – the measure of last resort – the authorities had tried to safeguard the interests of the child by less drastic measures, offering support for the applicant through non-mandatory youth care. Serious attempts had initially been made to admit the applicant and her child to a mother-and-child facility, with a view to assessing the options for the child's return home in the future.

62. The decision to terminate the applicant's parental authority had been based on the results of the Board's investigation as reflected in its reports of 16 October 2015 and 9 March 2017 (see paragraphs 9-10 and 26 above). The reports had shown that it was in the child's best interests for the authorities to intervene, because of the serious threat to the child's development and her interest in having stability and continuity in her (new) home situation and an undisturbed attachment to her foster parents. When the interests of those involved were assessed, the interests of the child had ultimately been decisive, but this did not in itself justify the conclusion that no fair balance had been struck between the competing interests at issue. The Government asserted that the expiry of the "acceptable time" and the continuity and stability of the child's home environment had indeed been important considerations in striking a balance between the competing interests in the context of a termination of parental authority. These had been the relevant criteria according to which, under Dutch law, the authorities had to determine the interests of the child when considering the termination of parental authority.

63. The Government further submitted that the fact that the termination of the applicant's parental authority had not been based on an independent

assessment of the applicant's parenting skills had been due largely to her refusal to cooperate in such an assessment. The applicant's application to the Court of Appeal for the appointment of an independent expert under Article 810a § 2 of the Code of Civil Procedure (see paragraph 28 *in fine* above) had been dismissed because the appellate court had held that there was no longer a need for an expert's assessment of the applicant's parental capabilities since the "acceptable time" had expired.

64. Lastly, the Government submitted the applicant had been sufficiently involved in the decision-making process as a whole, as she had participated fully at all stages of the proceedings and had always been given the opportunity to put forward her views and explain her standpoint.

2. The Court's assessment

(a) Scope of the case

65. The Court observes that the case before it concerns proceedings regarding the termination of the applicant's parental authority. That decision was preceded by proceedings about the supervision and care orders. In order for the Court to examine the termination of parental authority proceedings properly, it must of necessity put those proceedings in context, which inevitably means that it must to some degree have regard to any prior care proceedings about the child.

(b) Whether there has been an interference "in accordance with the law" and pursuing a "legitimate aim"

66. It is common ground between the parties (see paragraph 60 above), and the Court finds it unequivocally established, that the decision of the Regional Court of 6 June 2017 (see paragraph 29 above), upheld by the Court of Appeal on 27 March 2018 (see paragraph 32 above), by which her parental authority was terminated, entailed an interference with the applicant's right to respect for her family life under the first paragraph of Article 8. It is further undisputed that this decision was taken in accordance with the law, namely Article 1:266 of the CC (see paragraph 36 above), and pursued legitimate aims, namely the "protection of [the] health" and of the "rights and freedoms" of the applicant's child. The Court sees no reason to hold otherwise.

(c) Whether the interference was "necessary in a democratic society"

(i) General principles

67. The general principles applicable to cases involving child welfare measures are set out in *Strand Lobben and Others v. Norway* ([GC], no. 37283/13, §§ 202-13, 10 September 2019). The principles have since been reiterated and applied in subsequent cases, such as, for instance, *E.M. and Others v. Norway* (no. 53471/17, § 52, 20 January 2022) and *Kilic v. Austria* (no. 27700/15, §§ 119-23, 12 April 2023).

68. For the purposes of the present analysis, the Court particularly emphasises that family unity and family reunification in the event of separation are inherent considerations in the right to respect for family life. Accordingly, if care proceedings are taken which restrict family life, a positive duty lies on the authorities to take measures to facilitate family reunification as soon as reasonably feasible (see *Strand Lobben and Others* cited above, *K. and T. v. Finland* [GC], no. 25702/94, § 178, ECHR 2001-VII). In instances where the respective interests of a child and a parent come into conflict, Article 8 requires the domestic authorities to strike a fair balance and that in that balancing process particular importance should be attached to the best interests of the child which, depending on their nature and seriousness, may override those of the parent. Generally, however, the best interests of the child dictate that the child's ties with its family must be maintained, except in cases where the family has proved particularly unfit, since severing those ties means cutting a child off from its roots. It follows that family ties may only be severed in very exceptional circumstances and that everything must be done to preserve personal relations and, if and when appropriate, to "rebuild" the family (see *Strand Lobben and Others,* cited above, §§ 206-07).

69. Any measure implementing temporary care should be consistent with the ultimate aim of reuniting the natural parents and the child (see *K.O. and V.M. v. Norway*, no. 64808/16, § 60, 19 November 2019). The positive duty to take measures to facilitate family reunification as soon as reasonably feasible will begin to weigh on the competent authorities with progressively increasing force as from the commencement of the period of care, subject always to its being balanced against the duty to consider the best interests of the child. Furthermore, the ties between members of a family and the prospects of their successful reunification will inevitably be weakened if impediments are placed in the way of their having easy and regular access to each other (*Strand Lobben and Others*, cited above, § 208). However, when a considerable period of time has passed since the child was originally taken into State care, the interest of a child in not having his or her *de facto* family situation changed again may outweigh the interest of the parents in having their family reunited (see *K. and T. v. Finland*, cited above, § 155). Whether the decision-making process has sufficiently protected a parent's interests depends on the particular circumstances of each case (see, for example, *Sommerfeld v. Germany* [GC], no. 31871/96, § 68, ECHR 2003-VIII (extracts)).

70. In determining whether the reasons for disputed measures were relevant and sufficient for the purpose of paragraph 2 of Article 8 of the Convention, the Court will have regard to the fact that perceptions as to the appropriateness of intervention by public authorities in the care of children vary from one Contracting State to another, depending on such factors as traditions relating to the role of the family and State intervention in family

affairs and the availability of resources for public measures in this particular area. However, consideration of what is in the best interests of the child is in every case of crucial importance. Moreover, it must be borne 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. It follows from these considerations that the Court's task is not to substitute itself for the domestic authorities in the exercise of their responsibilities for the regulation of the care of children and the rights of parents whose children have been taken into public care, but rather to review under the Convention the decisions taken by those authorities in the exercise of their power of appreciation (see *Strand Lobben and Others*, cited above, § 210, and the authorities cited therein).

(ii) Application of those principles to the present case

71. The Court observes at the outset that the present case essentially concerns the manner in which the domestic authorities, including the courts, balanced the interests at stake.

72. The decision of the Regional Court of 6 June 2017 to terminate the applicant's parental authority (see paragraph 29 above), as well as the assessment by the Court of Appeal in its judgment of 27 March 2018 upholding that decision (see paragraph 32 above), were largely based on the report of the Board of 9 March 2017 (see paragraph 26 above) and its previous report of 16 October 2015 (see paragraphs 9-10 above) and on the findings the courts had made in the supervision and care proceedings (see paragraphs 11, 14, 15, 21, 22 and 23 above).

73. The Court notes that the Regional Court in its decision to terminate the applicant's parental authority put considerable weight on the fact that the child was vulnerable and needed stability. However, neither the court's judgment nor the reports of the Board contained an in-depth analysis of the nature of this vulnerability although, given the seriousness of the issues, the authorities should have assessed the child's vulnerability in more detail in the proceedings that were under review (see, *mutatis mutandis, Strand Lobben and Others*, cited above, § 224).

74. In addition, and even more importantly, the Court notes that the Board's application for the termination of the applicant's parental authority was lodged on 9 March 2017 (see paragraphs 26 and 27 above), thus less than one and a half years after the date on which the child had been taken into care (see paragraph 11 above). It further follows from the Court of Appeal's judgment of 27 March 2018 (see paragraph 32 above), in which it referred to its decision of 28 June 2016 (under point 5.5), that by the date of that decision – that is, less than a year after the child had been taken into care – it had already been confirmed that the goal was no longer family reunification, because the "acceptable time" had expired. Justification for the expiry of the "acceptable time" was in the present case based mainly on the mother's being

uncooperative (see paragraphs 16, 29 and 32 above). Notwithstanding the fact that during the care proceedings the applicant had been given an opportunity to submit an alternative plan for an investigation of her parental capabilities (see paragraph 19 above), it appears that all practical attempts to work towards the child being reunited with the applicant had already been stopped by February 2016 – thus only four months after the child had been taken into care – following the GI's "perspective decision" in which it stated that the child's future no longer lay with the applicant but lay with a foster family (see paragraph 16 above). The Court further observes that the Court of Appeal held that since the "acceptable time" had expired, the question of whether the applicant would be capable of taking care of the child no longer required an answer, and that the court remarked that the mother had not used the opportunities she was given in due time. For that reason, her application for an order for an independent expert assessment under section 810a of the Code of Civil Procedure (see paragraph 32 above) was dismissed.

75. The Court also observes that the applicant had failed several times to cooperate properly with the GI and that she had not agreed to be admitted to the De Stee clinic (see paragraphs 16, 17 and 21 above). This indeed hampered the progress of the investigation into her parenting abilities and did not benefit her case or the situation of her daughter. However, there are no indications in the case file that the applicant, who was a vulnerable person herself and had clearly lost confidence in the family guardian at the GI (see paragraph 32 above, point 5.5), was not open to other options for such an investigation. Moreover, the reports of the Board indicated that there was a bond between the applicant and her child, that she cared for her and showed affection towards her (see paragraphs 9 and 29 above).

76. In the light of the foregoing it would appear to the Court that, instead of seriously contemplating the possibility of reuniting the child with the applicant (see, in particular, and *mutatis mutandis*, *Strand Lobben and Others*, cited above, § 220), the GI and the Board, and the courts examining their applications, gave up family reunification as the ultimate goal at a very early stage, without a proper assessment of the applicant's parenting capacity and without adequately demonstrating why the ultimate aim of reunification was no longer compatible with the child's best interests.

77. The foregoing considerations are sufficient to enable the Court to conclude that in the course of the proceedings leading to the decision to terminate the applicant's parental authority, insufficient weight was attached to protecting the family life of the applicant and her child.

78. There has accordingly been a violation of Article 8 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

79. The applicant complained that Article 6 § 1 had been breached as there had not been a fair hearing by an independent and impartial court,

because the domestic courts had simply endorsed the position of the GI and the Board regardless of the applicant's arguments and evidence, and because no independent and expert investigation had been conducted into her parenting skills or the feasibility of family reunification.

80. The Government noted that they had confined their observations to answering the questions put by the Court which only related to Article 8 of the Convention. In their further observations they submitted, as regards the substance, that there had been no violation of Article 6 § 1 of the Convention and referred to their submissions under Article 8.

81. Having regard to the violation which it has found in respect of Article 8 of the Convention (see paragraph 78 above), the Court finds that it has already examined the principal legal question arising in the present case. Taking into account the facts of the case and the parties' arguments, it considers that a separate examination of the admissibility and/or merits of applicant's complaints under Article 6 § 1 is not warranted (see, mutatis mutandis *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014 *Kamil Uzun v. Turkey*, no. 37410/97, § 64, 10 May 2007: and *Edina Tóth v. Hungary*, no. 51323/14, § 65, 30 January 2018).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

82. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

83. The applicant claimed 100,000 euros (EUR) in respect of non-pecuniary damage.

84. The Government asked the Court, in the event of a finding of a violation, to afford just satisfaction following the approach in *Strand Lobben and Others* (cited above), while taking into account the differences between the two cases, namely that in the present case the measure imposed did not entail a complete severance of family ties.

85. The Court considers that awarding just satisfaction is appropriate in this case, having regard to the anguish and distress that the applicant must have experienced as a result of the violation found in the context of the proceedings in which her parental authority was terminated. It awards the applicant EUR 20,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

86. The applicant did not submit any claim in respect of costs and expenses. The Court is therefore not called upon to make an award under this head.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 8 of the Convention admissible;

2. *Holds* that there has been a violation of Article 8 of the Convention;

3. *Holds* that there is no need to examine the admissibility and/or merits of the complaint under Article 6 § 1 of the Convention;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 20,000 (twenty thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 15 April 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Simeon Petrovski	Lado Chanturia
Deputy Registrar	President