



Failure to protect family life of mother and child when ending parental authority

In today's **Chamber judgment**¹ in the case of **Van Slooten v. the Netherlands** (application no. 45644/18) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 8 (right to respect for family life) of the European Convention on Human Rights.

The case concerned the termination of Ms van Slooten's parental authority over her daughter, who had been placed in foster care.

The Court found in particular that the Dutch authorities had given up on reuniting the mother and her daughter at too early a stage without adequately demonstrating why reuniting them would not have been in the child's best interests. It had therefore failed to adequately protect the family life of Ms van Slooten with her child.

Principal facts

The applicant, Nathanie Sugandhi Sumithra van Slooten, is a Dutch national who was born in 1990 and lives in Steenwijk (the Netherlands).

Ms van Slooten had sole parental authority over her daughter since the child's birth in August 2014. The applicant and her daughter lived at several locations in supported housing run by a care provider. Since verbal and physical violence between Ms van Slooten and the father of the child had been reported before and after the birth, the care provider had arranged with the parents to have only supervised contact with each other, in the presence of the child. However, the parents breached this arrangement, which on occasion led to further incidents of domestic violence. As a result, in August 2015 the Child Care and Protection Board (*Raad voor de Kinderbescherming*) began an investigation. In September 2015, Ms van Slooten and her child were placed in emergency accommodation.

The Board reported serious concerns about the child's unstable home environment and her mother's ability to look after her. Even though the Board observed that the child looked well cared for and that there was an affectionate relationship between the child and Ms van Slooten, it expressed concerns about Ms. van Slooten's mental health, failure to cooperate with care providers and the resulting numerous changes of addresses that she and her child had gone through. It applied to the Overijssel Regional Court for a one-year supervision order (*ondertoezichtstelling*).

Following Ms van Slooten's departure from emergency accommodation, the authorities sought an emergency care order, which was allowed by the Overijssel Regional Court in October 2015. It placed the child with a foster family for two weeks, with Ms van Slooten having supervised contact.

The care order and the supervision order were later extended by a children's judge, who found that Ms van Slooten had refused to cooperate with the care and support services, in particular by not

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.

accepting their proposal to be admitted to a specific mother-and-child clinic for an assessment of her parenting abilities. Four months after the emergency-care order had been imposed, the childcare services informed Ms van Slooten that they considered the child's future to no longer be with her because of her failure to cooperate (*perspectiefbesluit*). Ms van Slooten's challenges to the care order and to have her child returned to her, including her proposal for an alternative assessment of her parenting abilities, were unsuccessful.

In March 2017, the Child Care and Protection Board applied for Ms van Slooten's parental authority to be terminated. In June 2017 the Regional Court put an end to her parental authority. It found that the acceptable time (*aanvaardbare termijn*) to work towards reunification of child and mother had expired. The court considered that termination of Ms van Slooten's parental authority was in the child's interests to safeguard the stability and continuity of her upbringing by the foster family. Ms van Slooten would "retain a place in the child's life, albeit at a distance."

An appeal by Ms van Slooten was dismissed by the Arnhem-Leeuwarden Court of Appeal. She did not challenge this before the Supreme Court of the Netherlands.

Complaints, procedure and composition of the Court

Relying on Articles 6 (right to a fair trial) and 8 (right to respect for private and family life), Ms van Slooten complained, in particular, that the termination of her parental authority had been ordered without an investigation into her parenting skills and had been based solely on her child's doing well with her foster family, and that there had been no fair hearing by an impartial tribunal.

The application was lodged with the European Court of Human Rights on 21 September 2018.

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

Lado **Chanturia** (Georgia), *President*,
Jolien **Schukking** (the Netherlands),
Faris **Vehabović** (Bosnia and Herzegovina),
Tim **Eicke** (the United Kingdom),
Lorraine **Schembri Orland** (Malta),
Ana Maria **Guerra Martins** (Portugal),
Sebastian **Rădulețu** (Romania),

and also Simeon **Petrovski**, *Deputy Section Registrar*.

Decision of the Court

Article 8

The parties agreed that the decision to terminate Ms van Slooten's parental authority had interfered with her family life. That decision had had a basis in law (Article 1:266 of the Civil Code) and had had the legitimate aim of protecting her daughter's health, and her rights and freedoms.

As regards the measure's "necessity in a democratic society", the Court reiterated that Article 8 requires that the authorities strike a fair balance between the interests at stake and that particular importance should be attached to the best interests of the child which may, depending on the circumstances, override those of the parent(s). 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. When temporary care measures were taken, there was a duty on the authorities generally to facilitate family reunification as soon as reasonably feasible.

In this specific case, the Court, firstly, noted that the domestic authorities had not carried out an in-depth analysis of the nature of the vulnerability of the child, despite basing its decision to terminate parental authority of Ms van Slooten on the child's consequent need for stability.

Secondly, the Court noted that the childcare measures preceding the decision to terminate parental authority had been based mainly on the finding that Ms van Slooten had been "uncooperative" and that all practical attempts to reunite mother and child had already been put to an end by February 2016, a mere four months after the 18-month-old child had been taken into care, when the care providers had informed Ms van Slooten that they no longer considered the child's future to be with her. While Ms van Slooten had indeed hampered the progress of the assessment of her parenting abilities by failing on several occasions to cooperate with the authorities, for example by refusing to move to a specific clinic, there were no indications in the file that she was not open to other ways of assessing her parenting ability. The Court observed in that connection that Ms van Slooten herself was a vulnerable person who had clearly lost confidence in the care providers. The Dutch authorities should not have given up on reuniting them at such an early stage without adequately demonstrating why that would not have been in the child's best interests.

As insufficient weight had been attached by the Dutch authorities to protecting Ms van Slooten's family life with her child, there had been a violation of Article 8.

Article 6

The Court held that it had already examined the principal legal question with its findings under Article 8, and so there was no need to examine the complaints under Article 6.

Just satisfaction (Article 41)

The Court held that the Netherlands was to pay Ms van Slooten 20,000 euros (EUR) in respect of non-pecuniary damage.

The judgment is available only in English.

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Press contacts

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

We are happy to receive journalists' enquiries via either email or telephone.

Neil Connolly (tel.: + 33 3 90 21 48 05)

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)

Jane Swift (tel.: + 33 3 88 41 29 04)

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.