SUPREME COURT OF NORWAY

O R D E R

issued on 9 December 2019 by the Supreme Court composed of

Justice Erik Møse
Justice Kristin Normann
Justice Arne Ringnes
Justice Wenche Elizabeth Arntzen
Justice Erik Thyness

HR-2019-2301-A, case no. 19-078205SIV-HRET
Appeal against Borgarting Court's order 12 April 2019

A.	(Counsel Knut Gunnar Brindem)
v.	
Sarpsborg municipality	(Counsel Frode Lauareid)
B.	(Counsel Olav Sylte)

Attending in accordance with section 30-13 of the Dispute Act:

The State represented by the Ministry of Children and Families	(The Office of the Attorney General represented by Marius Kjelstrup Emberland)

(1) Justice **Normann:** The case concerns the question whether a child – who has reached the age of 7 – has an unconditional right to receive information and to be heard in a case dealing with access, see section 6-3 subsection 1 of the Child Welfare Act.

(2) C, born 00.00.2011, is the son of B and A.

(3) In November 2011, X municipality, represented by the Child Welfare Service, ordered that C be placed in an emergency foster home. Access visits were stipulated to a maximum of twice a week under supervision. The decision was upheld by the County Board and the District Court.

(4) The County Board of Østfold issued a care order in March 2013, allowing two hours' access visits three times a year for each of the parents, with a right to supervision for the Child Welfare Service. This arrangement was later changed. After C's parents had a daughter and the mother moved to Sweden with her, the mother has not had contact with C, while the father has seen him sporadically.

(5) In July 2018, the County Board allowed access visits under supervision for C and his father for a minimum of two hours at least once a year. No access was allowed for the mother. During the administrative proceedings in the County Board, a trust person was appointed according to the boy's wishes. However, C did not wish to speak with the trust person about the access to his parents.

(6) Both parents requested a review of the County Board's decision before Sarpsborg District Court. During the preparatory phase, the question arose whether C should be given the opportunity to state his opinion on the access issue in accordance with section 6-3 of the Child Welfare Act. The court appointed chief physician and psychiatrist Jorunn Thue Hansen, who in the capacity of an expert witness gave her opinion as to whether there were "extraordinary circumstances relating to the child that could justify letting him state his opinion on the access issue". She concluded in a report of 13 January 2019 that it was not justifiable to let the boy state his opinion on this issue in this regard.

(7) On 1 March 2019, the District Court issued an order with the following conclusion:

> **"C, born 00.00.2011, will not receive information or be given an opportunity to state his opinion before a judgment is given in case 18-118655TVSARP/."**

(8) The father appealed the order to Borgarting Court of Appeal, which dismissed the appeal by an order of 12 April 2019.

(9) A has appealed the order to the Supreme Court. X municipality has responded.

(10) On 31 May 2019, the Supreme Court's Appeals Selection Committee decided to refer the entire appeal to a division of the Supreme Court sitting with five justices, see section 5 subsection 1 second sentence of the Courts of Justice Act.

(11) The State represented by the Ministry of Children and Families has participated to safeguard the interests of the public.

(12) The appellant – *A* – contends:

(13) The Court of Appeal's order conflicts with applicable law. The law does not allow exceptions from children's right to be informed and heard in a case affecting them. Section 6-3 of the Child Welfare Act 6-3, Article 104 of the Constitution and Article 12 of the UN Convention on the Rights of the Child all provide the child with an unconditional right to be heard.

(14) In the preparatory works to the Child Welfare Act, the legislature has assessed whether there should be exceptions, but decided against it.

(15) If exceptions are allowed with reference to the best interests of the child, the legal safeguards for both the child and its parents are threatened. Hearing the child is a prerequisite for deciding what is best for him or her.

(16) The Supreme Court judgment in Rt-2004-811 concerned the application of the Children Act, and is not directly transferable to cases dealing with the Child Welfare Act. Moreover, it was given before the amendment of section 6-3 of the Child Welfare Act describing children's right to be heard as an unconditional right in the preparatory works.

(17) Norwegian law complies with international obligations. The UN Committee on the Rights of the Child sets out in its general comments that no exceptions can be made from Article 12 of the Convention on the Rights of the Child.

(18) A has invited the Supreme Court to pronounce the following judgment:

> **"The Court of Appeal's order is set aside."**

(19) *B*, who initially submitted as response as a private party without a request for relief, contends:

(20) Section 6-3 of the Child Welfare Act must be restrictively interpreted. It follows from Article 104 subsection 2 of the Constitution that the best interests of the child are fundamental. Article 12 of the Convention on the Rights of the Child must be read in conjunction with Article 3, and the Convention's wording implies that the best interests of the child prevail in the event of conflict.

(21) However, hearing the child is crucial to determine what his or her best interests are. In the case at hand, the information provided is too scarce to decide whether the burden for the child is sufficiently heavy to depart from section 6-3 of the Child Welfare Act. The boy's opinion was heard nine months before the District Court's order, and 17 months have passed since he was asked if he wanted to state his opinion on the access issue.

(22) B has invited the Supreme Court to pronounce the following judgment:

> **"Borgarting Court of Appeal's order of 12 April 2019 in case 19-053890ASK-BORG/04 is set aside."**

(23) The respondent – *X municipality* – contends:

(24) The clear starting point under section 6-3 of the Child Welfare Act is that the child is to be heard if he or she wishes to, but the provision cannot be interpreted literally.

(25) In special cases where facts suggest that interviewing a child may be traumatic to him or her either in the short or long run, it should be possible to depart from section 6-3 of the Child Welfare Act.

(26) With the amendment in 2018, the preparatory works to section 1-6 of the Child Welfare Act allowed an adjustment with regard to the scope of the child's participation.

(27) The Child Welfare Act, Article 104 of the Constitution and Article 12 of the Convention on the Rights of the Child all make room for a nuanced understanding. An overall assessment is crucial to determine what best realises the ultimate goal: the best interests of the child. The UN Committee on the Rights of the Child has stated in its general comments that Article 12 must be read in conjunction with the other principles in the Convention.

(28) Whether or not the child should be heard, is a procedural issue. The procedure must also be justifiable. The objective provision in sections 1-1 and 1-4 of the Child Welfare Act 1-1 on requirements for expedience also suggests that an assessment must be made of whether it is justifiable to interview the child.

(29) The child may exercise its right to state his or her opinion both verbally and non-verbally. Symptoms of mental illness is an example of a non-verbal expression.

(30) As for the application of the law to the facts, it is relevant that the child, according to the expert's statement, has development a diagnosis. There is also a risk of function loss and subsequent development retardation if the child is to receive information and be heard.

(31) X municipality has invited the Supreme Court to pronounce the following judgment:

> **"The appeal is dismissed."**

(32) *The State represented by the Ministry of Children and Families* contends:

(33) The Supreme Court has no legal obligation under either the UN Convention on the Rights of the Child or Article 104 of the Constitution to reach a specific result in this case. A line must be drawn between obligations under international law and the Constitution, and the leeway provided within these scopes.

(34) The general comments of the UN Committee on the Rights of the Child are not binding as international law, but must be given weight after an individual assessment, see the plenary judgment in Rt-2015-1388 paragraph 150-152. The Comments offer no clear solutions to the issue at hand.

(35) The State has no opinion of which general perception of the law is correct in this case, nor any views on the application of the law. The State has not requested any relief.

(36) *My view on the case*

(37) The appeal is a second-tier appeal against an order, and the Supreme Court's jurisdiction is limited, as a starting point, to assess the Court of Appeal's procedure and general interpretation of the law, see section 30-6 (b) and (c) of the Dispute Act. In matters dealing with the application of the Constitution and the conventions incorporated into the Human

Rights Act, the Supreme Court may also hear the Court of Appeal's individual application of the law, see the Supreme Court judgment Rt-2015-155 paragraph 29.

(38) The appeal concerns the application of the law, and raises issues relating to the child's right to be heard under the Child Welfare Act, the Constitution and the UN Convention on the Rights of the Child.

(39) I will first address the question whether the child's right to receive information and to state his or her opinion is unconditional under the Child Welfare Act.

(40) *Section 6-3 of the Child Welfare Act*

(41) In section 6-3 of the Child Welfare Act on the child's rights during proceedings the following is stated in subsection 1:

> "**A child who has reached the age of 7, and a younger child who is capable of forming his or her own opinions, shall receive information and be given an opportunity to state his or her opinion before a decision is made in a case affecting him or her. Importance shall be attached to the opinion of the child in accordance with his or her age and maturity.**"

(42) The provision's subsection 2 regulates the child's right to act as a party to the case. C is not a party, nor has this been a topic in the case at hand.

(43) The wording in subsection 1 is absolute and formulated as a general duty to inform children covered by the provision and to give them the opportunity to express their views before decisions affecting them are made.

(44) The current wording was implemented by Act of 1 August 2003 No. 86 on amendments to the Human Rights Act etc. An addition was made to the Human Rights Act of 1999, by which the Convention on the Rights of the Child was incorporated into Norwegian law, see section 2 (4) of the Human Rights Act.

(45) To ensure better implementation in practice, it was considered expedient to make Article 12 of the Convention on the Rights of the Child on the respect for the child's views visible in other legislation, see Proposition to the Odelsting No. 45 (2002–2003) on amendments to the Human Rights Act etc., paragraph 5.1.3. Amendments were therefore made in several Acts, including section 6 of the Adoption Act, section 31 of the Children Act and – as mentioned – in the Child Welfare Act. I will revert to Article 12 of the Convention on the Rights of the Child.

(46) The question whether, under the circumstances, exceptions can be made from section 6-3 subsection 1, was raised during the legislative process. Østfold County Authority, which – like to the majority of the bodies entitled to comment – supported the Proposition, found however that there should be a legal basis for derogating from the right to be heard for children between the age of 7 and 12 when special reasons suggested it, see Proposition to the Odelsting No. 45 (2002–2003), paragraph 5.2.2.3.

(47) The Proposition quotes the following from the County Authority's statement on pages 31-32:

> **"We worry that many children subject to administrative proceedings in the County Board must cope with a relatively large number of adults who want to talk to them on strongly personal and difficult topics. A reduction of the age limit amplifies this concern.**
>
> **...**
>
> **It has been proposed to formulate the Act to preclude any limitation of the right for the child to be heard. We propose the inclusion of a provision that such a right can be limited for children between the age of 7 and 12 in special circumstances. This possibility should be laid down in Regulations and be limited to the cases where it is considered more detrimental than beneficial to the child to be asked the same questions again. This will function as a safety valve for children who have suffered large traumas and who have strong emotional reactions, often related to lasting loyalty conflicts."**

(48) The original Proposition was however maintained. The Ministry found that a fixed age limit of seven years to have an unconditional right to receive information and to be heard, combined with a discretionary right in line with the wordings in Article 12 of the Convention on the Rights of the Child for the younger children, would in aggregate secure the possibility for most children to express his or her views, see page 32.

(49) The question is whether exceptions can be made to the child's right to be heard in special circumstances.

(50) The consideration of the child's best interests is a fundamental and superior principle laid down in section 4-1 subsection 1 of the Child Welfare Act. The provision reads:

> **"When applying the provisions of this chapter, decisive importance shall be attached to finding measures which are in the child's best interests. This includes attaching importance to giving the child stable and good contact with adults and continuity in the care provided.."**

(51) The wording has remained unchanged since the Child Welfare Act was adopted in 1992.

(52) By Act of 21 June 2013 No. 63, a new subsection 2 was added under which the child was to "be given the opportunity to participate", and steps were to be taken "to facilitate interviews with the child". Although the provision was included in chapter 4 of the Child Welfare Act on special measures, the preparatory works refer to it as a superior provision stating that the child's right to participation applies in all matters affecting the child. The purpose was to strengthen this right in child welfare cases, see Proposition to the Storting 106 L (2012–2013) chapter 18 and chapter 31 with special notes to section 4-1 subsection 2. Further Regulations were adopted in June 2014 on participation and trust persons (the Participation Regulations).

(53) *Section 1-6 of the Child Welfare Act*

(54) By Act of 20 April 2018 No. 5 the participation provisions in section 4-1 subsection 2 of the Child Welfare Act 4-1 and some provisions in the Participation Regulations were joined in a new superior provision in section 1-6 of the Child Welfare Act reading as follows:

> **"All children who are capable of forming their own opinions have a right to participate in all matters concerning them under this Act. The child is entitled to adequate and adjusted information and to freely express his or her opinions. The child shall be heard, and importance shall be attached to his or her opinion in accordance with his or her age and maturity. A child under the Child Welfare Service's care may bring a person whom he or she trusts in particular. The Ministry may specify in Regulations the implications of participation and the trust person's tasks and function."**

(55) The amendment was based on Norwegian Official Report 2016: 16 New Child Welfare Act. Securing of the child's right to care and protection. The direct cause was that the child, in 2014, was given a constitutional right to be heard in matters concerning themselves, see Article 104 subsection 1 second sentence of the Constitution.

(56) The Law Commission found there was a need for a further specification of the right to participate to strengthen the child's position in child welfare cases. Against this background, the Commission proposed to establish by law that the child has a right to participate in all matters concerning him or her, not only during the proceedings. The provision is meant to be an operational provision specifying the child's right to participate. This implies a right for the child to be heard and an obligation for the Child Welfare Service to ensure that this right is safeguarded. The Commission did not consider it necessary to establish by law the right not to participate, see Norwegian Official Report 2016: 16 paragraph 5.4.2.

(57) It appears from the consultation round prior to the amendment in 2018 that the Judges' Association's Public Law Committee questioned the Law Commission's conclusion that it was not necessary to establish by law that participation is a right and not an obligation. In Proposition to the Storting 169 L (2016–2017), the Public Law Committee's comment is quoted on page 42, expressing among other things:

> **"We need an assessment of whether there are situations where it is not in the best interests of the child to be informed of an ongoing case. This may for instance be relocation cases where it could be detrimental to particularly vulnerable children to learn that they might be forced to move from a foster home where they have been settled and feel safe.**
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> **In the report, the child's right to participate is presented as something exclusively positive for the child. We miss a broader discussion of this topic. Some children under the Child Welfare Service's care may experience a difficult conflict of loyalty where the considerations of the biological parents, the foster parents and own needs head in different directions. They may therefore be exposed to pressure, or feel obliged to state their opinion and to do so in someone else's interest. It is not unusual in child welfare cases that the child has assumed a care role towards his or her biological parents and that he or she will feel responsibility towards his or her parents."**

(58) The Public Law Committee thus expressed a view that it is not always in the best interest of the child to be heard.

(59) However, the Ministry found that there is no conflict between the right to participate and the best interest of the child, and mentioned that the best interest of the child is the goal and that the tool to reach it is to interview the child. There is – the Ministry stated – a close connection between the principle of the child's best interests and the child's right to participate. In this respect, the Ministry also referred to the general comments of the UN Committee on the Rights of the Child, to which I will revert.

(60) Nonetheless, the Ministry recognised the Judges' Association's scepticism and held that, for the sake of the child's best interests, an adjustment should be made to the child's right to participate in emergency situations. In my view, this statement implies that the Ministry has concluded that the child's right to participate is not absolute.

(61) However, the right not to participate was again not proposed established by law in connection with this amendment.

(62) For the sake of context, I mention that the special provision on participation in section 6-3 of the Child Welfare Act has been maintained after the inclusion of the superior provision in section 1-6.

(63) *Article 104 of the Constitution*

(64) As mentioned, Article 104 of the Constitution is the direct cause of the new provision in section 1-6 of the Child Welfare Act. Article 104, subsections 1 and 2, of the Constitution reads:

> **"Children have the right to respect for their human dignity. They have the right to be heard in questions that concern them, and due weight shall be attached to their views in accordance with their age and development.**
>
> **For actions and decisions that affect children, the best interests of the child shall be a fundamental consideration."**

(65) Subsection 1 is inspired by Article 12 of the UN Convention on the Rights of the Child, while subsection 2 has its equivalent in Article 3. The constitutionalisation of children's rights did not entail any changes to the substantive content of applicable law, see Doc. No. 16 (2011–2012) page 48 and 189, Recommendation to the Storting 186 S (2013–2014) page 30 and the plenary judgment in Rt-2015-1388 paragraph 162.

(66) *Summary*

(67) My discussion thus far shows that the Child Welfare Act has been amended several times since 1992. The central provisions are section 4-1 on the best interests of the child, section 1-6 on the child's right to participation and section 6-3 on the child's rights during proceedings.

(68) The amendments have emerged partially from the incorporation the Convention on the Rights of the Child, partially from the adoption of Article 104 of the Constitution, and partially from the legislature's expressed wish to strengthen children's right to participate in matters affecting them.

(69) According to its wording and the special motives, the provision in section 6-3 subsection 1 appears to be absolute. However, already during the process leading up to the amendment in 2003, problems were identified relating in particular to an unconditional right for the child to participate. And with the adoption in 2018 of the general provision on participation in section 1-6, some adjustment was considered justified in light of the Convention on the Rights of the Child, among others.

(70) In my view, section 4-1 of the Child Welfare Act on the best interests of the child entails that exceptions or adjustments to the obligation under section 6-3 are expedient in certain situations. An absolute obligation to hear the child would contravene this principle if it were to apply completely without regard to possible harmful effects. My perception is that the requirement in section 1-4 of the Child Welfare Act that services and measures under the Act must be justifiable, see also the objective stated in section 1-1, entails restrictions for when the child needs to be heard.

(71) The perception that the child's right to state his or her opinion is not absolute, is to some extent also supported by case law. In its judgment Rt-2004-811 regarding access, the Supreme

Court stated that even if the starting point under section 31 of the Children Act and Article 12 of the Convention on the Rights of the Child is that the child has a right to express his or her views, the rule is not absolute. It must be assessed in light of the paramount principle of the best interests of the child, see paragraphs 37, 47 and 49. It follows from paragraph 34 that this principle also applies to the proceedings:

> **"In section 44a of the Children Act on the scope of the right to access, it is stated in subsection 3 fourth sentence that the decision 'shall primarily be aimed at what is best for the child'. Although this is directly concerned with the scope of the right to access, it has been a basic principle in the Children Act, which in my view also had to apply to the proceedings relating to the scope of the right to access. The inclusion of the proceedings is also firmly expressed in the new section 48 of the Children Act, as it reads since 1 April 2004."**

(72) Similarly, the basic principle of justifiability in section 1-4 of the Child Welfare Act may be relevant in the interpretation of section 6-3.

(73) Finally, I refer to the comment by the Supreme Court's Appeals Selection Committee in HR-2016-2314-U, paragraphs 15–17, that there has been a development of the law, raising questions as to whether exceptions should be made from the child's right to be heard.

(74) In my view, this implies that the absolute wording in section 6-3 subsection 1 of the Child Welfare Act cannot be read completely literally.

(75) I emphasise at the same time that the obligation to hear the child – during both the administrative and legal proceedings – is in principle absolute, allowing exceptions and adjustments in extraordinary situations only. I also mention that this assessment may be different in first-time decisions from the one in reversal cases where the child has already been heard at an earlier stage.

(76) *The Convention on the Rights of the Child*

(77) I will now turn to Article 12 of the UN Convention on the Rights of the Child on the child's right to be heard. The provision reads:

> **"1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.**
>
> **2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law."**

(78) The UN Committee on the Rights of the Child has issued general comments to this provision. As for the weight of such comments as a source of law, I refer to the plenary judgment in Rt-2015-1388 paragraph 150–152 with further references.

(79) I first refer to General Comment No. 12 (2009) on Article 12. Here, the following is stated in paragraph 19 on the wording "shall assure":

> **"Article 12, paragraph 1, provides that State parties 'shall assure' the right of the child to freely express hers or his views. 'Shall assure' is a legal term of special strength, which leaves no leeway for State parties' discretion. Accordingly, State parties are under strict obligation to undertake appropriate measures to fully implement this right for all children. This obligation contains two elements in order to ensure that mechanisms are in place to solicit the views of the child in all matters affecting her or him and to give due weight to those views."**

(80) I paragraph 21 on "capable of forming his or her own views" the following is stated in the fourth bullet point:

> **"Lastly, State parties must be aware of potential negative consequences of an inconsiderate practice of this right, particularly in cases involving very young children, or in instances where the child has been victim of a criminal offence, sexual abuse, violence, or other forms of mistreatment. State parties must undertake all necessary measures to ensure that the right to be heard is exercised ensuring full protection of the child."**

(81) I also refer to paragraph 24:

> **"The Committee emphasizes that a child should not be interviewed more often than necessary, in particular when harmful events are explored. The 'hearing' of a child is a difficult process that can have a traumatic impact on the child."**

(82) These statements show that the obligation to hear the child is in principle absolute, but that possible harmful effects to the child must be assessed before the child is interviewed.

(83) In paragraph 68 it is also stated that Article 12 must be seen in context with the other general principles laid down in the Convention, including Article 3 on the child's best interests:

> **"Article 12, as a general principle, is linked to the other general principles of the Convention, such as article 2 (the right to non-discrimination), article 6 (the right to life, survival and development) and, in particular, is interdependent with article 3 (primary consideration of the best interests of the child). The article is also closely linked with the articles related to civil rights and freedoms, particularly article 13 (the right to freedom of expression) and article 17 (the right to information). Furthermore, article 12 is connected to all other articles of the Convention, which cannot be fully implemented if the child is not respected as a subject with her or his own views on the rights enshrined in the respective articles and their implementation."**

(84) In paragraph 70, it is set out that the purpose of Article 3 is to ensure that in all actions undertaken concerning children, the best interest of the child is a primary consideration, and paragraph 74 states that article 3 is the goal, while Article 12 is the means to achieve this goal:

> **"There is no tension between article 3 and 12, only complementary role of the two general principles: one establishes the objective of achieving the best interests of the child and the other provides the methodology for reaching the goal of hearing either the child or the children. In fact, there can be no correct application of article 3 if the components of article 12 are not respected. Likewise, article 3 reinforces the functionality of article 12, facilitating the essential role of children in all decisions affecting their lives."**

(85) I add that the relationship between Article 12 and Article 3 is also reflected in General Comment No. 14 (2013) paragraph 43.

(86) The statements by the Committee to which I have now referred show that although the right to be heard is normally absolute, the child is not to be interviewed more often than necessary, and the Convention must be interpreted as a whole.

(87) The fact that the consideration of the best interests of the child is paramount is also reflected in case law from the European Court of Human Rights, see the Grand Chamber judgment 6 July 2010 *Neulinger and Shuruk v. Switzerland* paragraph 135:

> **"The Court notes that there is currently a broad consensus – including in international law – in support of the idea that in all decisions concerning children, their best interests must be paramount …".**

(88) *The Court of Appeal's order*

(89) I will now turn to the Court of Appeal's application of the law.

(90) The Court of Appeal has based its ruling on the expert report of 13 January 2019, stating among other things:

> **"The expert finds that there are extraordinary circumstances involving the child that make it inexpedient to give the child the opportunity to state his opinion on the access issue. When C was given such an opportunity in June 2018, he chose not to take it. He reacted with anxiety and unrest after he was told that he could speak with his trust person, and the foster family had to interrupt their holiday.**
>
> **If C, once more, is exposed to information on the proceedings and the parents' wish for access, it is more likely than not that he, again, will react with unrest, increased anxiety and reduced functioning. C is on 'overtime' when it comes to obtaining piece and quite in his care situation. He will not have that if the proceedings continue, and if he, having turned 7, is to be involved in the administrative proceedings. C is too traumatised to handle this. If there should be one shred of hope of repairing his deep traumas, he needs rest with regard to his care situation and the opportunity to establish a safe attachment to the foster home.**
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> **If this is ignored and the consideration of the child's right to state his opinion prevails over his need for stability and safety, a reduction in function may be expected as described after contact with biological parents and a setback and stagnation in his development."**

(91) The Court of Appeal found that the District Court's assessment' was "thorough, adequate and based on relevant considerations". The District Court had referred to C's previous reactions after he was informed that he could speak to his trust person during the County Board's proceedings. The Court of Appeal also emphasised the expert's assessment of the extraordinary circumstances involving C, which makes it inexpedient to interview him regarding access.

(92) Furthermore, the Court of Appeal emphasised that C's current foster home is his eighth care base, that the upcoming proceedings are the tenth in the case and that C has been diagnosed with a reactive adjustment disorder and a post-traumatic stress disorder. In the Court of Appeal's view, there are clear indications that more information and interviews regarding access will be harmful to C. It is also emphasised that C's wishes with regard to access to his parents have already been registered.

(93) Against this background, the Court of Appeal found that there is no reason to conclude that the District Court, based on the information provided, lacks an adequate basis for ruling in the case.

(94) Based on the general interpretation of the law I have presented, that exceptions must be made in cases where it is inexpedient to hear the child, I do not see that the Court of Appeal has committed any error of law.

(95) It has been contended that the Court of Appeal's order under any circumstances must be set aside since 16 months have passed since the child was interviewed. This contention cannot succeed. As a basis for its ruling, the District Court appointed an expert who issued a report on 13 January 2019, and the District Court pronounced its ruling on 1 March, only a few weeks after the report.

(96) I add that it is for the District Court to assess whether a new expert statement should be obtained with regard to interviewing C.

(97) Against this background, I conclude that the appeal should be dismissed.

(98) I vote for this

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The appeal is dismissed.

(99) Justice **Ringnes:** I agree with Justice Normann in all material respects and with her conclusion.

(100) Justice **Thyness:** Likewise.

(101) Justice **Arntzen:** Likewise.

(102) Justice **Møse:** Likewise.

(103) Following the voting, the Supreme Court gave this

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The appeal is dismissed.