SUPREME COURT OF NORWAY

O R D E R

issued on 7 April 2022 by a division of the Supreme Court composed of

Chief Justice Toril Marie Øie
Justice Wilhelm Matheson
Justice Ragnhild Noer
Justice Arne Ringnes
Justice Espen Bergh

HR-2022-729-A, (case no. 22-000884SIV-HRET)
Appeal against Agder Court of Appeal's order 18 November 2021

A	
B	(Counsel Mette Yvonne Larsen)
v.	
C	(Counsel Bente Mostad Tjugum)
X municipality	(Counsel Bjørn Cato Rosenberg)
D	(Counsel Jon Anders Hasle)

(1) Justice **Ringnes**:

Background and proceedings

(2) The issue in this case is whether foster parents have party status in a child welfare case involving revocation of a care order and the return of a child to her biological father, see section 4-21 of the Child Welfare Act.

(3) The child welfare case concerns E, who was born on 00.00.2019. Soon after her birth, the child welfare services issued an emergency order of temporary placement in an approved foster home, see section 4-6 subsection 2 of the Child Welfare Act. On 21 August 2019, the County Social Welfare Board issued a care order. The mother was granted contact rights of four times a year.

(4) Following the emergency order, the child was placed with A and B and has lived there since. There is agreement that the bond between the child and her foster parents is strong and safe and that the foster parents provide good care. The foster parents also have two children of their own.

(5) The child's father was originally unknown to the child welfare services and was therefore not considered a caregiver. By judgment of 26 August 2019, however, it was established that C is the child's father. C then approached the child welfare services to claim contact rights to his daughter and to be considered a caregiver. He also brought an action against the mother under the Children Act, requesting that his daughter have permanent residence with him.

(6) C was granted contact rights to the child from October 2019. After a while, he requested that the care of the child be transferred to him.

(7) Partly by court rulings and partly by agreement between the parties, it has been decided that, until the child welfare case has been decided, the child is to have permanent residence with her father, and that her parents are temporarily to have shared parental responsibility. However, residence with the father presupposes that the care order is revoked, and that the child is returned in accordance with section 4-21 of the Child Welfare Act. The parental dispute has been suspended pending a decision in child welfare case.

(8) On 25 September 2020, the County Board decided to uphold the care order, granting the father contact rights of 12 times per year.

(9) The father brought the case to Vestfold District Court, which, in June 2021, ruled that the care order should be upheld.

(10) The municipality appealed to the Court of Appeal, which agreed to hear the appeal in accordance with section 36-10 subsection 3 (b) of the Dispute Act. In the same ruling, an order was issued that the County Board's decision be upheld pending a final judgment.

(11) During the preparatory phase in the Court of Appeal, the foster parents demanded party status. On 18 November 2021, Agder Court of Appeal ordered as follows:

> "B and A are not to have party status in the Court of Appeal's case 21-114259ASD-ALAG."

(12) The foster parents have appealed against the order to the Supreme Court, challenging the application of the law. The Supreme Court's Appeals Selection Committee has decided that the appeal be heard by a division of the Supreme Court composed of five justices, see section 5 subsection 1 second sentence the Courts of Justice Act, and that the case be heard in accordance with the rules in the Dispute Act on appeals against judgments, see section 30-9 subsection 4.

(13) The circumstances of the case are essentially the same as in the Court of Appeal.

The parties' contentions

(14) The appellants – *B and A* – contend:

(15) The question whether foster parents have party status in a case involving revocation of a care order depends on an individual assessment, see Proposition to the Storting 133 L (2020–2021) page 304. The assessment must be made in the light of whether the foster parents have a protected family life with the child under Article 8 of the European Convention on Human Rights (ECHR).

(16) The Supreme Court order HR-2016-1111-A, where it was found as a fact that foster parents have party status in a case involving relocation of a child to a new foster home, is transferable to the case at hand. The factual effects on the foster parents when the foster home placement is terminated because the child is returned to its biological parents are largely the same as when the child moves to a new foster home.

(17) The foster parents and the child have a family life protected under Article 8 (1) of the ECHR. The girl has lived in the foster home all her life, and there is a very strong bond between her and the foster parents. The child perceives the foster parents as her parents and the foster parents' two children as her siblings. The foster parents' task is to ensure that the child grows up in a safe and good environment. The appellants have indeed fulfilled this task. In a case like this, where the child has bonded with the foster parents from birth, it cannot matter that the foster home placement is in principle temporary.

(18) A return of the child to the father would interfere with the foster parents' right to a family life with the child under Article 8. This means that the revocation order is "directed against" the foster parents under section 36-3 of the Dispute Act, and Article 8 of the ECHR is in any case an independent legal basis for party status, see Article 13.

(19) In order for the interference with family life to be proportionate and not amount to a violation, the foster parents must be granted a procedural status that safeguards their rights. This can be deduced from several rulings by the European Court of Human Rights (ECtHR).

(20) Policy considerations also suggest that the foster parents have party status. Among other things, such a status may contribute to clarification of the case and ease the cooperation between the foster parents and the father.

(21) The foster parents may be joined in the case in the Court of Appeal although they were not parties to the case in the District Court and the County Board. On this point, the appellants agree with the contentions of X municipality.

(22) B and A ask the Supreme Court to rule as follows:

> "1. B and A are granted party status in the Court of Appeal's case 21-114259ASD-ALAG.
> 2. B and A are awarded costs in the Court of Appeal."

(23) *X municipality* contends:

(24) The municipality believes that the foster parents should have party status and agrees with their contentions. The best interests of the child are a primary consideration. The girl is too young to express an opinion in the matter, but it must be assumed that she wants to stay in the foster home. The foster parents should thus have party status out of consideration for the child, as this would strengthen her interests in the process.

(25) The foster parents have the right to be joined as a party even if the case is in the Court of Appeal. According to section 15-3, see section 15-2 subsection 5 of the Dispute Act, a third person may not, at the outset, be joined as a party to a case before the appellate court. However, the Dispute Act applies with the limitations recognised in international law or stipulated in any agreement with a foreign state, see section 1-2 of the Dispute Act.

(26) The reservation is aimed at human rights conventions such as the ECHR and the Convention on the Rights of the Child. If the foster parents are denied the opportunity to participate in the appellate court's hearing of the case, this will entail a breach of the State's obligations to respect the right to family life under Article 8 of the ECHR. This also implies that the foster parents are not given an effective legal remedy to safeguard their rights under the ECHR, see Article 13.

(27) X municipality asks the Supreme Court to rule as follows:

> "1. B and A are granted party status in the Court of Appeal's case 21-114259ASD-ALAG."

(28) The respondent – *C* – contends:

(29) The foster parents are not parties under Norwegian internal law. A revocation of a care order under section 4-21 of the Child Welfare Act is not a coercive measure directed against the foster parents, see section 36-3 of the Dispute Act. Preparatory works and case law also reflect this perception of the law.

(30) Principally, no family life has been established that is covered by Article 8 (1) of the ECHR. The ECtHR rulings invoked by the foster parents do not concern foster parents' rights under Article 8 in the event of revocation of a care order. From the ECtHR's judgment of 27 May 2021 in Case 54978/17 *Jessica Marchi v. Italy*, it may be deduced that the legal risk associated with foster placement being temporary implies that there is no protected family life. The foster parents cannot have a legitimate expectation that their cohabitation with the child in itself is protected under Article 8. In our case, it is also significant that the father was granted contact rights and requested revocation quickly after he was legally declared as the father of the child.

(31) In the alternative, the denial of party status is necessary and proportionate under Article 8 (2). Here, the father agrees with the mother's contentions.

(32) In the further alternative, the foster parents may not be joined as a party under the rules on subjective accumulation, as the claim for party status was made too late.

(33) C asks the Supreme Court to rule as follows:

> "The appeal is dismissed."

(34) The respondent – *D* – contends:

(35) The mother agrees with the father's contentions. D also contends that a denial of party status is necessary and proportionate under Article 8 (2).

(36) Granting party status to the foster parents will complicate the goal of reunification. As parties, the foster parents will exert influence on the revocation issue and upset the balance between the biological parents and the municipality.

(37) The consideration of the best interests of the child generally militates against granting foster parents party status. The foster parents may use such a status to make claims that do not necessarily coincide with the child's, and the scope of the dispute will increase. This may create unrest and uncertainty, and the child will be more easily subjected to a loyalty conflict. Furthermore, the foster parents will have access to sensitive personal information regarding the biological parents and the child. The consideration of the parents' privacy under Article 8 of the ECHR therefore also militates against granting the foster parents party status. The foster parents' interests are safeguarded through their right to state their opinion in section 4-21 subsection 1 of the Child Welfare Act.

(38) Therefore, denying the foster parents party status does not amount to a violation of Article 8.

(39) D asks the Supreme Court to rule as follows:

> "The appeal is dismissed."

My opinion

The law

(40) The appeal challenges an order issued by the Court of Appeal as the first instance, which means that the Supreme Court is competent to hear all aspects of the case.

(41) The main question is whether the foster parents are entitled to party status in the case in the Court of Appeal regarding the revocation of the care order. If the foster parents have party status, it must be considered whether they may be joined as a party to the appeal case under the rules on subjective accumulation in section 15-3 subsection 2, see section 15-2 subsection 5 first sentence of the Dispute Act.

(42) Section 4-21 subsection 1 third sentence of the Child Welfare Act gives the foster parents a *right to state their opinion.* According to the provision, foster parents may state their opinion

before a care order is revoked. This right must be viewed together with the "attachment exception" in subsection 1 second sentence, stating that the care order may be upheld if "the child has become so attached to persons and the environment where he or she is living that, on the basis of an overall assessment, removing the child may lead to serious problems for him or her".

(43) Foster parents are often called as witnesses before the County Board and in court. Moreover, the foster parents' experiences with the child and the child's attachment to the foster home will be relevant to the expert's assessments. The bonds to the foster home and the foster parents' views on revocation will therefore be duly clarified before any County Board decisions or court rulings are made in revocation cases.

(44) If the foster parents have *party status*, a number of important rights will be triggered. They will have the right to be called to and to attend court hearings, to be represented by counsel, to file pleadings and receive the opposing party's pleadings, to inspect documents, to present evidence and argue their case in court, and to use remedies.

Do foster parents have party status under section 36-3 of the Dispute Act?

(45) Section 36-3 subsection 1 of the Dispute Act stipulates that "[t]he action is brought by the person against whom the decision is directed or by any person who is empowered to bring such action under a special statutory provision." Foster parents do not have the right to bring an action under a particular statutory provision, and the question is whether the decision is *directed against them*.

(46) Party status under section 36-3 are limited to decisions on coercive measures, see section 36-1 subsection 1 first sentence. This section also stipulates that other claims cannot be included in the action.

(47) Thus, section 36-3 in conjunction with section 36-1 sets narrow limits for who can be a party to cases involving coercive measures, and which claims can be considered in such cases. The right to bring an action is more limited than what otherwise follows from section 1-3 of the Dispute Act on legal interest, see Rt-2012-937 paragraph 20 and HR-2020-523-U paragraph 22. I also find that section 36-3 limits the possibility to be joined as a party to the case under section 15-3 of the same Act.

(48) The natural starting point is that a care order under section 4-12 of the Child Welfare Act and decisions under section 4-21 are only directed against *the biological parents*. This understanding is supported by section 7-24 subsection 1 of the Child Welfare Act. Here, it is stipulated that "[t]he decisions of the board may be brought before the district court under the provisions of Chapter 36 of the Dispute Act by the private party or by the municipality". As coercive measures by the County Board are not directed against the municipality, the municipality has been granted special procedural capacity, see section 36-3 of the Dispute Act, which refers to "the person who is empowered to bring such action pursuant to special statutory provision". Section 7-24 subsection 1 of the Child Welfare Act second sentence further stipulates that the municipality "is a party to the case".

(49) The wording of the Act thus indicates that foster parents are not included in the circle of persons who have been granted procedural capacity – and thereby party status – in cases governed by Chapter 36 of the Dispute Act.

(50) However, the foster parents argue that a family life has developed between them and the foster child, which is protected under Article 8 of the ECHR on the right to respect for family and private life. Their view is that a judgment ordering the child reunited with her father will interfere with their right to family life and thus be directed against them.

(51) I will return to the question of whether a family life exists that is protected under Article 8, and whether gives the foster parents party status. First, it must be determined whether the foster parents may be a party under section 36-3 of the Dispute Act.

(52) In my view, there is no doubt that, in this case, a revocation of the care order would affect the foster parents deeply, which is probably also the situation in many other cases where a child has lived in foster care over time, and where the foster parents have formed strong bonds with the child. A safe and good relationship between the foster parents and the child is also a prerequisite for the child's positive development.

(53) However, revocation leading to a severance of the bonds between the foster parents and the child does not mean that the decision is a *coercive measure* against the foster parents within the meaning of the law and that the foster parents have party status under the narrow scope of section 36-3. As mentioned, the coercive element of a care order under section 4-12 of the Child Welfare Act and a refusal to revoke a care order under section 4-21 is directed against the biological parents and not against the foster parents.

(54) Also, the Supreme Court's Appeals Selection Committee consistently bases its rulings on the legal perception that foster parents do not have party status in care order cases, see Rt-1993-1570, Rt-1995-2000 and Rt-2012-937.

(55) The foster parents have invoked the Supreme Court's ruling in HR-2016-1111-A. This case concerned a *decision to relocate* a child from one foster home to another, see section 4-17 of the Child Welfare Act. The Supreme Court's majority of three justices concluded that the original foster parents had a right to bring an action to have the decision reviewed.

(56) In my view, the decision is not transferable to cases concerning revocation of a care order under section 4-21. Relocation cases under section 4-17 are of a very different nature, legally and factually. In section 47, Justice Indreberg references previous case law where foster parents are considered to have procedural capacity in cases concerning relocation from one foster home to another. The consideration of the best interests of the child is also different in such cases. The situation might then be that the foster parents are the only ones to safeguard the child's need to have the decision reviewed. This is expressed in paragraph 50, where Justice Indreberg stresses that "[i]f the child itself is not old enough to challenge the decision, and the child's biological parents are not involved, the foster parents may be the only ones capable of ensuring that the decision is reviewed". However, in cases governed by section 4-21, it is the municipal authorities that look after the child's interests.

(57) The foster parents have also invoked the Appeals Selection Committee's ruling HR-2020-949-U, which concerned party status for *adoptive parents* in the hearing of a request from the child's biological mother to reopen the Supreme Court's Appeals Selection Committee's final order in the adoption case. The Appeals Selection Committee found that the adoptive parents were entitled to party status in the reopened case under section 29-8 subsection 1 second sentence of the Dispute Act, pointing out that upon a reopening, the adoption decision will no longer be binding, see paragraph 17. In connection with adoption, the adoptive parents have a special legal position, and I cannot see that this ruling has any bearing on our case.

(58) In subsequent works to the current Child Welfare Act, it is assumed that foster parents are not parties to cases involving revocation of a care order, see Norwegian Official Report 2018: 18 Safe framework for foster care. In the presentation of applicable law on pages 42-43, this is stated with reference to Rt-1993-1570.

(59) In the preparatory works to the Child Welfare Act of 2021, which has not entered into force – Proposition to the Storting 133 L (2020–2021) – it is stated on page 297 that "[a]lthough foster parents are not initially considered a party in the child welfare case, they are given some special procedural rights", and a reference is made to their right to state their opinion under to section 4-21 subsection 1 third sentence. In the discussion of whether foster parents' right to party status should be regulated by law, the Ministry points out on page 303 that obtaining party status in a child welfare case triggers extensive rights. It is further stated that "it takes a lot for foster parents to be considered a party under the Public Administration Act in a child welfare case". The Ministry maintains that it should not laid down by law that a specific group of foster parents, or foster parents in specific cases, have party status.

(60) Then, the following is set out:

> "The Ministry believes that party status should be granted to foster parents also in such cases following an individual assessment under the rules of the Public Administration Act. Most of the consultant bodies that comment on the issue support the Proposition."

(61) The foster parents in the case at hand have emphasised that party status may be granted "after an individual assessment".

(62) However, the statement is not linked to any court cases involving revocation of a care order. If the Ministry had intended to deviate from the starting points that follow from applicable law, it is to be expected that the criteria for granting party status after such individual assessment would be presented. For these reasons, I cannot see that the statement provides a basis for a different view on foster parents' status under the Dispute Act in section 4-21 cases.

(63) My conclusion thus far is that section 36-3 of the Dispute Act does not grant foster parents party status in cases involving revocation of a care order under section 4-21 of the Child Welfare Act.

Are the foster parents entitled to party status under Article 8 of the ECHR?

(64) I will first consider whether the foster parents have a right to respect for family life with the foster child under to Article 8 of the ECHR.

(65) In Proposition to the Storting 133 L (2020–2021) page 295, a summary of the ECtHR's case law is given, with which I agree:

> "According to case law from the European Court of Human Rights in Strasbourg (ECtHR), the relationship between a foster child and foster parents may constitute family life under Article 8 of the European Convention on Human Rights (ECHR). When assessing whether the relationship constitutes family life, regard must be had to the nature and duration of the placement, and the role of the foster parents towards the child. In *Kopf and Liberda v. Austria* (2012), the foster parents had had the child with them for almost four years when it was reunified with its biological mother. The foster parents requested contact rights to the child. The ECtHR trusted that the foster parents were genuinely concerned about the child, and that emotional bonds had developed between the child and the foster parents during a period when

> the child was developing. This was sufficient for the relationship to fall under the family concept in Article 8 of the ECHR. Because the foster parents' request for contact rights was not decided by the national courts until more than three years later, the requirements for the national decision-making process in Article 8 of the ECHR were violated. In *Moretti and Bennedetti v. Italy* (2010), the question was whether adopting a child to a family that was not the foster family with whom the child had lived for 19 months interfered with the foster family's right to family life. The ECtHR found that the foster parents had a family life protected by the Convention. It was emphasised that the child had lived with the foster family in his first months of life. The child was also well integrated into the family and closely attached to the foster parents and the family's biological children. The foster parents had in every way acted as the child's parents, and had also submitted a request to adopt the child."

(66) In my view, the criteria laid down by the ECtHR in these rulings clearly indicate that *in our case*, a family life has been established that is covered by the family concept in Article 8. I note that the child came to the foster parents only a few hours after her birth. She has spent the important first years of her life with the family, and has now lived there for almost three years and thus her entire life. The foster parents have been her primary caregivers since she was born. It is agreed that she is well integrated into the family and closely attached to the foster parents and their two children, whom she perceives as her siblings. I trust that close emotional bonds have developed between the foster parents and the child.

(67) With support in the ECtHR's judgment of 27 May 2021, *Jessica Marchi v. Italy*, the father asserted that the "legal risk" associated with the fact that foster placement, at the outset, is a temporary measure and that the foster home agreement may be terminated suggest that there is no family life protected under Article 8.

(68) The judgment concerned an 18-month-old child who was placed with the applicant with a "legal risk" under Italian law, pending the processing of the applicant and his spouse's adoption application. After about a year, the child was placed in a new family. Following an overall assessment, the ECtHR no family life existed between the applicant and the child, emphasising the lack of a biological relationship between them, the short duration of their shared life, and the existence of a legal risk that the applicant had accepted when she received the child, see paragraph 58.

(69) Considering the factual relationship between the foster parents and the child in the case at hand, I cannot see that the "legal risk" is particularly relevant for whether a family life exists within the meaning of Article 8 (1). However, it might be important in the proportionality analysis under Article 8 (2), to which I will return in more detail.

(70) Against this background, I conclude that, during the period the child has lived with the foster parents, a family life has developed that is protected under Article 8 of the ECHR.

(71) The question is whether this may give the foster parents party status in the pending case in the Court of Appeal concerning revocation of a care order and a return of child to her father, see section 4-21 of the Child Welfare Act.

(72) In the Supreme Court judgment Rt-2015-467 paragraph 54, it is set out that when a family life exists that is protected under Article 8 of the ECHR, a right normally follows under the Convention to have the courts decide whether an interference constitutes a violation of the right to family life. Section 36-3 of the Dispute Act interferes with this right to court access. This may take place if it pursues a legitimate aim and is necessary in accordance with Article 8 (2), see section 55 of the 2015 judgment. The key question is whether the interference is

necessary, and this is interpreted as a requirement of proportionality between ends and means. A fair balance must be struck between competing interests, see the Supreme Court order HR-2020-661-S paragraph 76.

(73) I am not aware of any ECtHR rulings assessing whether it constitutes a violation under the Convention that foster parents have been denied party status in reunification cases. More generally, I mention the judgment of 23 October 2018, *Petrov and X v. Russia*, where it is stated in paragraph 101 that Article 8 "contains no explicit procedural requirements". In contrast, the ECtHR has in several cases, as part of the proportionality analysis under Article 8 (2), considered whether the national decision-making process was "fair and provided the applicants with sufficient safeguards under Article 8 of the Convention", see for instance the judgment of 9 April 2019 *V.D. and Others v. Russia*.

(74) This case has certain similarities to ours. A child was placed in guardianship (in accordance with Russian law) with the applicant and was several years later returned to its biological mother. In the proportionality analysis, the ECtHR emphasised that the applicant had exercised rights as a party in the national decision-making process, see paragraph 120. However, as I see it, this was one of several aspects of the Court's overall assessment of whether the interference with family life was justified under Article 8 (2). The ECtHR's general approach in child welfare cases is, as maintained in HR-2020-661-S paragraph 113, to carry out an assessment of the proceedings as a whole against the requirements in Article 8.

(75) In the proportionality analysis under Article 8 (2), a fair balance must be struck between the interests of the child, the parents and the foster parents. When assessing this, the best interests of the child are of paramount importance, see HR-2020-661-S paragraph 77.

(76) I will first consider the *interests of the foster parents*. In cases governed by section 4-21 of the Child Welfare Act, the foster parents must be viewed in the light their task – "to give the foster child a safe and good home and to maintain the day-to-day care of the foster child", see clause 5.1 of the foster home agreement. Foster parents perform an important and necessary task for vulnerable children who have been taken into public care. I trust that the primary concern of the foster parents in our case, and foster parents in general, are the child's best interests and that the child's situation and needs are duly clarified before the County Board or the court makes a decision. Thus far, the foster parents' interests have been safeguarded through their right to express their opinion under section 4-21 subsection 1 third sentence and the attachment exception in the same provision, and their frequent appearance as witnesses.

(77) However, foster parents may have a personal interest in acting as parties in the revocation case. This must be balanced against the consideration of the best interests of the child and the biological parents' right to respect for their family life with the child. Here, it is significant that the foster parents' legal status in relation to Article 8 is of a different nature than *the biological parents*' right to respect for their family life. Foster care is in principle time-limited, and the foster parents must – as mentioned – be prepared for the child's return to its parents. In the aforementioned judgment *V.D. and Others v. Russia* paragraph 117, the ECtHR emphasised that the applicant "could not have realistically assumed that R. would have remained in her care permanently".

(78) I also agree with the Court of Appeal's statements on this:

> "The fact that the foster parents' relationship with foster children is, in principle, an interest protected as part of the right to family life in Article 8 of the ECHR, also does not provide

> grounds for drawing a conclusion that they must be granted party status in a revocation of care order case under section 4-21 of the Child Welfare Act. The biological parents' relationship with the children is also protected by Article 8 of the ECHR. It has been established as a very basic principle in the long series of rulings from the ECtHR in child welfare cases that a care order must be a temporary measure. The aim is for children to be returned to their biological parents as soon as the parents are able to provide the child with proper care. The child welfare authorities have a duty to work actively to achieve this objective.
>
> It follows from this that the child's stay with the foster parents must in principle be perceived as temporary, and that the foster parents must be prepared for the child to move back to its biological parents. It must be required of them that, regardless of the strength of their emotional attachment to the child, they must cooperate loyally with child welfare services and the biological parents. Giving the foster parents the right to become involved as parties in a child protection case with the parents as counterparties would be suited to counteract the goal of reunification. It is the public authorities, represented by the child welfare services, that safeguard the best interests of the child, and have a continuing and overall responsibility for following up the child and the foster parents."

(79) Another factor that militate against granting foster parents party status is the consequences of the fact that this also gives access all the case documents, see section 14-1 subsection 1 of the Dispute Act. This also applies in cases before the County Board. The restrictions on a party's right to access case documents stipulated in section 19 subsection 1 (d) and subsection 2 of the Public Administration Act do not apply to these documents, see section 7-4 subsections 1 and 2 of the Child Welfare Act.

(80) The disadvantages of party status are described in Proposition to the Storting 133 L (2020–2021), page 304. There, it is stated that if "foster parents gain access to sensitive information about the child's parents, [it] could be problematic for the parents and thus impede the cooperation between the parents and the foster parents".

(81) As mentioned, *the consideration of the best interests of the child* is of paramount importance. In Proposition to the Storting 133 L (2020–2021) page 304, it is stated that "[if] foster parents were automatically to have party status, it would complicate processes for everyone involved, which can be experienced as burdensome, especially for the child". As parties, the foster parents will be able to request a court review of the County Board's decision and appeal against court rulings, also in cases where the municipality's position is that a decision reunification should not be reviewed.

(82) There is also a risk that the dispute changes its nature and instead becomes a conflict between the foster parents on the one hand and the biological parents on the other.

(83) Overall, the consideration for the child suggests that foster parents should not be granted party status in court cases governed by section 4-21 of the Child Welfare Act. In general, children in foster care need calm and stability, and they must be spared an intensified dispute and legal conflict that may arise between the foster parents and the parents. At the same time, it is important to listen to the foster parents, who may be the ones who know the child best. However, the foster parents' right to express their opinion under section 4-21 subsection 1 third sentence goes a long way in maintaining what the foster parents would otherwise achieve by acquiring party status.

(84) After having balanced the competing interests, I find that the requirements of a legitimate aim and necessity in Article 8 (2) of the ECHR are met.

(85) Thus, it is not necessary for me to consider the issue of subjective accumulation in the Court of Appeal.

Conclusion

(86) My conclusion is that foster parents do not have party status in cases governed by chapter 36 of the Dispute Act concerning revocation of a care order and possible return to biological parents, see section 4-21 of the Child Welfare Act.

(87) Consequently, B and A are not to have party status in the Court of Appeal's appeal case, and the appeal is dismissed.

(88) I vote for this

O R D E R :

The appeal is dismissed.

(89) Justice **Matheson:** I agree with Justice Ringnes in all material respects and with his conclusion.

(90) Justice **Noer:** Likewise.

(91) Justice **Bergh:** Likewise.

(92) Chief Justice **Øie:** Likewise.

(93) Following the voting, the Supreme Court issued this

O R D E R :

The appeal is dismissed.