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

FIFTH SECTION

**CASE OF F.W. v. SPAIN**

*(Application no. 8122/24)*

JUDGMENT

Art 8 • Family life • Declaration of the applicant's children as being in a situation of neglect and their subsequent placement in care • Impugned measures temporary and reversible • Possibility of administrative and judicial review • Domestic authorities' decisions based on an acceptable assessment of facts, with relevant and sufficient reasons and guided by the children's best interests • Fair balance struck between interests at stake • Domestic authorities acted within margin of appreciation
Art 14 ( Art 8) • Discrimination • Family life • No discrimination on grounds of disability • Declaration and placement decisions based on case-specific circumstances and not on discriminatory stereotypes

Prepared by the Registry. Does not bind the Court.

STRASBOURG

5 November 2026

*This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.*

**In the case of F.W. v. Spain,**
The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:
Kateřina Šimáčková*, President*,
María Elósegui,
Andreas Zünd,
Diana Sârcu,
Mykola Gnatovskyy,
Sébastien Biancheri,
Nicholas Emiliou*, judges*,

and Victor Soloveytchik, *Section Registrar,*

Having regard to:

the application (no. 8122/24) against the Kingdom of Spain lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Syrian national, Ms F.W. ("the applicant"), on 16 March 2024;

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

the decision not to have the applicant's name disclosed;

the observations submitted by the respondent Government and the observations in reply submitted by the applicant;

the comments submitted by Fundación Save the Children, Gentium, MEDUSA Human Rights, Plena Inclusión España and Women's Link Worldwide, who were granted leave to intervene by the President of the Section;

Having deliberated in private on 6 October 2026,

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

## INTRODUCTION

1. The case concerns the declaration of the applicant's children as being in a situation of neglect and their subsequent placement in care. Three provisional administrative decisions taken in May 2018 were confirmed by an administrative decision in December 2020, which was subsequently upheld by the domestic courts. The applicant argued that the decisions had violated her right to family life under Article 8 of the Convention. She also alleged discrimination contrary to Article 14 of the Convention, taken in conjunction with Article 8, stating that the decisions had been influenced by her status as a woman with a disability and by her socio-economic circumstances.

## THE FACTS

2. The applicant was born in 1981 and lives in Madrid. The applicant was represented by Ms P. García de Viedma Alonso, a lawyer practising in Madrid.

3. The Government were represented by their Agent, Mr A. Brezmes Martínez de Villarreal.

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

### I. FAMILY CIRCUMSTANCES PRIOR TO THE DECLARATION THAT THE CHILDREN WERE IN A SITUATION OF NEGLECT

5. The applicant is a Syrian woman. She has four children: a girl born in 2010 (child A), a boy born in 2011 (child B), a boy born in 2016 (child C) and a girl born in November 2018 (child D).

6. According to a certificate issued in January 2019 the applicant has a 79% disability on account of functional limitations in both the upper and lower limbs. The decision was considered as definitive as there were no prospects of improvement. Other documents in the file mention a disability of 86% or 88% but they do not seem to be based on any official assessment.

7. Her second child, B, has a disability resulting from cerebral palsy. According to a document issued in Türkiye in 2017 the degree of his disability was assessed at 76%. A certificate issued in Spain in 2023 indicated that he suffered from a neuro-muscular dysfunction caused by cerebral palsy and dyskinesia syndrome of perinatal origin. His disability was assessed at 80%.

8. In July 2017 the applicant and her family arrived in Spain from Türkiye in the framework of a resettlement programme and were granted subsidiary protection. They were given accommodation in a refugee reception centre (hereinafter "the CAR") in the Madrid region and were granted additional material assistance and access to healthcare.

9. On 27 July 2017 the applicant and her husband at the time, I.A., had an argument in the CAR during which he slapped her in the face in front of their children. On 5 September 2017 I.A. was convicted of the offence of domestic violence (*malos tratos en el ámbito familiar*) and sentenced to nine months and one day of imprisonment. On 6 June 2018 the prison sentence was suspended for two years subject to conditions, including that I.A. refrain from approaching the applicant and/or communicating with her.

10. Meanwhile on 14 September 2017 the applicant, I.A. and the children voluntarily left the reception centre and moved to Germany.

11. In April 2018 the family returned to Spain and, having lost their place at the CAR, they were accommodated in a social emergency reception centre (SAMUR Social – hereinafter "the SAMUR").

12. A report issued by the CAR on 18 April 2018, subsequently submitted to the Directorate General on Family and Children of the Madrid Region ("the DGFC"), provided details on the interventions carried out in respect of the family. It noted that the family had been provided with medical care and material assistance (approximately 2,000 euros (EUR)) upon arrival and that, following coordination between several public and private institutions, they had been provided with wheelchairs for the applicant and B and other equipment. It further indicated that I.A. had beaten the applicant but she had not wanted to report him, and that there were suspicions of ill-treatment by I.A. against the applicant and the children. It further noted the existence of criminal proceedings against I.A., and the fact that the family had left the centre. It observed that the family had sometimes refused to attend medical appointments and that the applicant had refused the assistance of the centre's staff, so A had been taking care of the applicant and the younger children. Lastly, it noted that the applicant and I.A. had had a negative attitude despite the assistance provided.

## II. ADMINISTRATIVE PROCEEDINGS DECLARING THE APPLICANT'S CHILDREN TO BE IN A SITUATION OF NEGLECT AND THE FAMILY'S CIRCUMSTANCES DURING THAT PERIOD (MAY 2018 - DECEMBER 2020)

13. On 21 May 2018 the SAMUR sent a report to the Child Guardianship Authority ("the Guardianship Authority") of the DGFC asking it to take protection measures in respect of the three children. It indicated that the applicant was not able to carry out basic day-to-day activities, that she had refused the assistance of caregivers during her stay at the CAR, and that A was taking care of both the applicant and B. It further stated that I.A. had been expelled from the reception centre for repeatedly violating the centre's rules, acting in an aggressive manner towards his family and staff, and being accused of sexually abusing another resident. It added that following his expulsion, he had returned to the centre intoxicated and had demonstrated sexually inappropriate behaviour towards A.

14. On 22 May 2018 the DGFC started the proceedings to assume guardianship (*tutela*) of the three children, observing that there was a possible situation of neglect (*desamparo*).

15. The SAMUR subsequently sent a second report on the children's situation. It stated that since I.A.'s expulsion from the centre the children had been under the staff's care, as their mother was unable to take care of them. It stated that the parents had not been informed of the request for protection measures, as they feared the family would flee, noting in that regard that they had previously left the CAR, that they had financial means and that I.A. was in contact with other members of the family.

16. On 24 May 2018 the Guardianship Authority issued three separate decisions declaring the children A, B and C as being in a situation of neglect. The decisions indicated that the children were lacking protection based on the following grounds:

> "– Children of Syrian origin, provisionally hosted in the SAMUR.
>
> – [I.A.] expelled from the centre for sexual aggression against another resident, with a restraining order from the centre. His current whereabouts are unknown. He has been accused of gender violence against [the applicant] – without conviction. Abuse of alcohol.
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> – [The applicant] has an 86% disability, is six months pregnant ... and is unable to perform basic day-to-day activities.
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> – [The applicant] is not aware of the situation and refuses medical assistance for her and the children, one of them with a 76% disability. Victim of gender [violence] by [I.A.]
>
> – [The applicant] refuses to be assisted by professionals in caring for the children and does not have relatives who can assist them.
>
> – [The applicant] lacks the necessary capacity to take care of and protect her children.
>
> – The SAMUR is arranging a place in a centre for persons with disabilities for [the applicant].
>
> In accordance with Article 172 of the Civil Code this is to be considered as a situation of neglect, owing to the inadequate exercise of the protection duties established by law on parents [regarding] their children and because the child is being deprived of the necessary moral and material assistance.
>
> In accordance with section 10 of Decree no. 121/1988 of 23 November 1988, as amended by Decree no.

17/1992 of 12 November 19992 of the Madrid Community, in relation to section 53 of Law no. 6/1995 of 28 March 1995 on Safeguards of the rights of children and adolescents of the Madrid Community, and other related rules, [it is decided]:

– To declare that the child is in a situation of neglect.

– To assume guardianship of the child on a provisional basis through this public authority, pending completion of the proceedings.

– The [guardianship] will be provisionally exercised under the custody of the director of a protection centre of the Madrid Community."

17. The decisions indicated that the applicant and I.A. could request a review by the board of the Guardianship Authority and that the decisions could be challenged before a first-instance court. Furthermore, the applicant and I.A. could ask for the termination of the guardianship arrangement within the next two years if there was a change in circumstances. The applicant did not appeal against those decisions.

18. On 25 May 2018 the three children were transferred to an initial protection centre (*centro de primera acogida*). According to the documents in the file, the applicant could visit the children, but they were not authorised to leave the centre with her on weekends or during holidays.

19. On 4 June 2018 the children were examined by the centre's doctor, who reported that they were in a good general condition. With regard to B, the doctor stated that his condition had to be further examined to confirm a diagnosis and that some of the tests that had been recommended had not been performed.

20. On 20 June 2018 the DGFC refused a request by the applicant to allow the children to spend the weekends with her out of the centre, considering that such an arrangement was not appropriate at that time. The decision noted that the applicant had a stable emotional bond with the children, but required assistance to take care of them, and it was not possible for the staff of the centre where she was living to take care of the children on the weekends.

21. On 4 July 2018 the children were transferred to a different child protection centre ("the CPC").

22. In July 2018 the SAMUR sent an updated report stating that the applicant was being provisionally accommodated at a centre for persons with disabilities until a more permanent place could be found. The report concluded that the applicant had a high level of dependency and required assistance from third parties which, together with a lack of support from I.A. and a lack of financial means, made family reunification unfeasible.

23. On 19 July 2018 the applicant and I.A. had a meeting with an officer from the Guardianship Authority. According to the minutes of the meeting, they were informed about the protection measure and that if the situation changed, the children would be returned to their care. They were further informed of the importance of asking for assistance from social services and other institutions, in particular in relation to housing and employment.

24. On 5 September 2018 the SAMUR submitted an updated report, in which it stated that the request for protection measures had resulted from I.A.'s expulsion from the centre. It explained that no stable place in a centre for persons with disabilities had been found for the applicant yet and that, while the SAMUR was providing basic assistance, it was not assisting in family matters. The report concluded that there was a significant emotional bond between the applicant and her children, and that "the problem was [the applicant's] lack of capacity to take care of her children and to ensure adequate attention to all their needs". It noted in that regard that I.A. could not be considered as an adequate source of support or a positive point of reference for the family.

25. On 26 September 2018 the applicant had another meeting with an officer from the Guardianship Authority. She was informed of the grounds justifying the measures and she expressed her disagreement with the reports on which the measures had been based.

26. In September 2018 the CPC where the children were staying sent an information request to the DGFC. According to the CPC, the applicant and I.A. had asked to visit their children since their admission to the centre, and they had been granted a weekly visit taking place on its premises, and two telephone calls per week. In addition, the CPC stated that the children's relationship with their parents was good, and that the parents were affectionate towards the children. The CPC stressed the difficulties in establishing a working programme with the children in the absence of clear information concerning the restraining order imposed on I.A. in respect of the applicant and the alleged sexual behaviour of I.A. towards A and whether it had been

reported. In reply, the DGFC informed the CPC of the criminal proceedings against I.A. (see paragraph 9 above) and that it had reported I.A.'s sexual behaviour towards A on 12 September 2018. Following the receipt of that information, the CPC suspended the joint visits by the applicant and I.A. It appears that at least for some time I.A. did not visit the children. There is no further information in the file about any criminal proceedings against I.A. in respect of a possible sexual offence against A or about any investigative or protective measures taken in that connection.

27. In November 2018 the CPC sent a report to the DGFC providing information about the children's situation.

Regarding A, the report noted that she had difficulties managing her emotions, had frequent arguments with other children and displayed sexualised behaviour. It stressed that she was very close to the applicant and mentioned the fondling incident involving her father.

Concerning B, the report referred to his cerebral palsy and his need for support with daily activities, noting that he was showing greater autonomy and improving his communication abilities. He was respectful and had a good relationship with other children and with his siblings. It was noted that he was attached to his father and it was hard for him to say goodbye at the end of his parents' visits.

With regard to C, it was observed that he did not have any special needs, apart from those corresponding to his age (22 months at the relevant time). He was happy to see his siblings and was calm after the applicant's visits. A placement with a foster family was proposed as the family situation would not improve in the short or medium term.

The CPC indicated that the guardianship measure should be confirmed by the board of the Guardianship Authority and proposed a placement with a foster family for B and C. With regard to A, it stated that it would be more appropriate for her to stay in the CPC, as an educational intervention was needed to ensure her emotional stability, given her personal circumstances.

28. In another report of November 2018 the CPC proposed placing B and C with different foster families, as both of them required a significant level of attention, owing to B's disability and C's young age. It further indicated that visits between the three siblings should be maintained once they were placed in family foster care, as they had a good relationship with each other.

29. On 11 November 2018 the applicant gave birth to her fourth child, D. A "protection file" was opened in respect of D by the DGFC, but she remained under the applicant's care. They were both subsequently hosted by a private foundation, Fundación Madrina, which was asked to periodically report on their situation.

30. On 20 December 2018 the applicant lodged a claim with the DGFC seeking the revocation of the decision declaring the children to be in a situation of neglect and its replacement with a voluntary custody arrangement (*guarda*) for a period of two years, to be extended if necessary. She argued that she had not opposed the decision within the two-month time-limit because she had been unaware of that possibility. She affirmed that the measure had been disproportionate as her disability, lack of resources and status as a victim of domestic violence were not grounds to declare the children as being in a situation of neglect. She asserted that she had never been negligent in respect of her children, and that a voluntary custody arrangement would have been more appropriate. She stated that she was staying at an NGO facility with her newborn child and that she was taking steps to address her circumstances so as to be reunited with her children. She further asked for an increase in the number of visits with her children, and for them to be allowed to spend the Christmas holiday with her. The applicant referred to the UN Convention on the Rights of Persons with Disabilities and to the Supreme Court's case-law according to which a situation of neglect should only be declared in cases where parents neglected the protection, care and attention of the children's basic needs, and not because of economic difficulties.

31. On 9 January 2019 the CPC issued an updated report on the children, in which it stated that the applicant showed mistrust towards the CPC. It further noted that I.A. was visiting the children every week.

32. In February 2019 the CPC issued another report assessing the possibility of allowing the children to visit the applicant on the weekends. The report stated that the children had been authorised to visit the applicant at the apartment where she was residing for a few hours on Sundays and that they were very happy about it. It was thus considered that weekend visits could be authorised as long as necessary support to take care of the children was ensured and the restraining order imposed on I.A. was respected.

33. On 20 March 2019 Fundación Madrina submitted a report on the applicant's situation. It

33. On 20 March 2019 Fundación Madrina submitted a report on the applicant's situation. It stated that the applicant had been residing in an apartment managed by the foundation, together with other women, where there was 24-hour support provided by four caregivers. It indicated that the children could spend nights there with the applicant, as she was able to take care of them and the apartment was large enough to accommodate them. It affirmed that, with adequate support, she could take care of her children. It noted that earlier that month the applicant had asked Madrid City Council for an adapted apartment for her and her children, as well as other material assistance such as disability and maternity allowances. The report proposed increasing the time allocated to weekly visits and examining the possibility of extending the visits to holidays, as well as replacing the protection measures with custody.

34. On 22 March 2019 the DGFC authorised the children to visit the applicant on weekends and during holidays.

35. On 30 May 2019 the applicant had a meeting with a child protection officer from the Guardianship Authority, during which she was informed of the possibility of the children being placed with foster families, with which she disagreed.

36. On 3 June 2019 Fundación Madrina submitted an updated report, proposing that the children moved in with the applicant in her apartment.

37. In June 2019 the CPC submitted an updated report on the children's situation.

Regarding A, the report noted that her emotional management had improved, and she had learnt to solve disputes in a more positive way. It also stated that she had a realistic view of the family's situation.

In relation to B, the report stated that his mobility had improved and that he was attending primary school with the necessary adjustments. It observed that his behaviour had worsened since he started spending weekends with the applicant. His relationship with C was closer than with A, and he was managing his emotions better after his father's visits.

Concerning C, the report noted that his development in different areas was in accordance with his age, and that he was happy with the weekend visits with the applicant. The report indicated that the proposal of foster family care was to be suspended to monitor the development of the circumstances.

The report concluded that the guardianship needed to be confirmed urgently before the board of the Guardianship Authority and that the children should remain at the CPC. It noted that the weekend visits with the applicant were positive and should continue and even be extended. It stated that an assessment of whether the children could move in with the applicant was being carried out, but the applicant was experiencing some difficulties with the other women residing in the apartment.

38. A report by the Family Support Commission ("the CAF") of the Madrid City Council's Social Services of 19 September 2019 stated that the Childcare Centre no. 5 (*Centro de Atención a la Infancia* – hereinafter "the CAI") had observed that the applicant had a strong bond with her children and had the emotional capacity to take care of them, but that she had physical limitations, a lack of a family support network and circumstances preventing her from adequately taking care of them. It noted that there were not enough social resources to support the children if they stayed with their mother and agreed to confirm the guardianship measure.

39. On 25 October 2019 a social educator and a social worker of the CAI issued a report examining the possibility of maintaining, lifting or replacing the protection measure in respect of the children. It observed that the children showed stress indicators owing to the family's past experiences, namely war, exile and conflict between their parents. The applicant's eldest daughter, A, had particularly suffered from those situations: she had performed a parental role which had been inappropriate, and there were suspicions of sexual abuse, pending further assessment.

The report noted that the applicant's capacity to take care of her children was affected by her mobility limitations, that she needed support and that she did not have a family support network. It stated, nevertheless, that she had good parenting abilities and that her shortcomings were based on her physical disability. However, she had difficulties acknowledging her limitations and accepting that there were no available resources that could meet her needs plus those of her children in order to allow family reunification.

The report noted the previous CAF report (see paragraph 38 above) and concluded the following:

> "... the only elements preventing the lifting of the protection measure so that [the applicant] can take care of

her children are her physical disability and her high socio-economic vulnerability. There are no elements justifying maintaining the protection measure besides those caused by her disability".

Thus, the report concluded that the protection measure should be maintained, but it would be possible to apply the less restrictive measure considering that (i) the children had a strong bond with their parents; (ii) the applicant was a protective figure for the children; (iii) there was a strong bond between the siblings that should be maintained; and (iv) a more restrictive measure would result in the separation of the siblings and make intervention with the applicant more difficult, also hampering the processing of different support resources. Thus, the report proposed that the children remain at the CPC and that there be cooperation with the parents to ask for a custody measure. It further added that the CAI would inform the applicant of the proposal, "based on the idea that she would have a right to be reunited with her children if she had a family support network available to her or if public services could adequately address her dependency needs".

40. In November 2019 the CPC prepared a report proposing to lift the protection measure in respect of C, reuniting him with the applicant. The report stated that C was attached to the applicant and living with her would allow him to maintain his relationship with his siblings, which could be affected if he were to be placed with a foster family. It also noted that the applicant had parental skills and was able to take care of her baby, D, since her birth the year before.

41. On 13 December 2019 Fundación Madrina issued an updated report on the applicant's situation indicating that in six months she would be leaving the apartment where she was staying. It further noted the existence of problems coexisting with other residents, including when her children were visiting her, as she did not impose any limits or rules on the children.

42. In December 2019 the CPC issued an updated report on the children's situation reiterating the need for the board of the Guardianship Authority to confirm the protection measure. It noted that the applicant's situation was uncertain, as Fundación Madrina had changed its position from being available to host the children to being unable to extend their visits. It observed that there were no indicators that the applicant had failed to provide protection for her children, apart from her disability and the lack of a support network in Spain. The report concluded that the children's placement at the centre should be maintained.

43. In a meeting with the child protection officer from the Guardianship Authority on 14 January 2020 the applicant reiterated her opposition to the placement of B and C with foster families.

44. On 21 January 2020 the child protection department of the DGFC issued three separate reports on the applicant's children proposing to confirm the guardianship measure. The three reports considered that the circumstances underlying the adoption of the protection measure were still relevant, namely:

" – The inadequate exercise of the protection duties by [I.A.] because of the serious difficulties observed: signs of mistreatment against the children, judgment [convicting him of] gender-based violence against his wife, abuse of alcohol and criminal proceedings pending decision.

– Owing to the [applicant's] complete inability to exercise or adequately fulfil her parental protection responsibilities (*el imposible e inadecuado ejercicio de los deberes de protección*). This inability stems from her personal limitations associated with her disability and her reliance on third parties to take care of her children, one of whom has a disability and two of them are very young. [The exercise of those responsibilities has also been considered] inadequate because she demonstrates limited awareness of her [circumstances], her own limitations and the risks to which she has exposed her children, while failing to cater for their needs.

– The place where [the applicant] currently lives cannot facilitate the [staff] support needed to ensure the necessary attention and care required by the children, [and the fact that] she must leave that accommodation within six months.

– The protection department has maintained the urgent [guardianship] decision for a longer period than the one provided by law in order to clarify the parents' situation, citing the complexity of the case and the number of institutions involved, which have not yet provided an alternative form of assistance for [the applicant] and her children.

– The lack of other relatives who could take responsibility for the children.

– The measure of custody requested by [the applicant] is dismissed, based on two main grounds:

(i) The measure of custody is legally defined [as a protective measure that may only be imposed in the presence of] serious circumstances of a temporary nature. There are no indications that the protection measure will be temporary in nature, as required by law, which limits such measures to a period of less than two years. [Furthermore,] the protection measure cannot be implemented as an alternative to institutionalisation

institutionalisation.

(ii) The parents are not legally separated and they do not have a legal agreement in respect of the children. Implementing a custody measure would mean that [I.A.] would continue to be responsible for the children, being able to visit them without supervision and even to cohabitate."

In respect of A, the report proposed that she remain in residential care. For B and C, the reports proposed permanent family placements.

45. On 4 February 2020 the CPC submitted an updated report on the children's situation. The report noted that it appeared that the applicant and I.A. were in touch, despite the restraining order, as they had been seen together, and that it was possible that they could take the children away during a weekend visit. On 11 February 2020 the director of the CPC ordered the suspension of the children's visits to the apartment where the applicant was living after observing that the applicant had met I.A. and that the children were attending some lessons on Sundays without authorisation. Weekly visits were to take place at the CPC from then on.

46. On 4 March 2020 Fundación Madrina submitted an updated report on the applicant's situation. It stated that her placement in its apartment was temporary and due to terminate in May 2020, so three options were under consideration: (i) the applicant returning to Türkiye with the children, where they had relatives; (ii) finding permanent alternative accommodation for the applicant and her children; and (iii) the applicant and the children moving with I.A. into an adapted apartment. The report concluded that the applicant's relationship and bond with her children were good, but the limitations imposed by her disability prevented her from autonomously performing all the relevant tasks required to take care of her children – the support of caregivers was needed. Regarding the possibility of the children staying in the foundation's apartment, it noted that it would require financial support to face the costs of accommodating and caring for the whole family. The report noted that the weekend visits had been cancelled by the CPC because (i) the children were attending Arabic and Koran lessons without authorisation; (ii) A was carrying out activities which were not appropriate for her age during the visits (such as washing dishes); and (iii) the applicant had met I.A. in January 2020, together with B, despite the restraining order.

47. In March 2020 the CPC submitted an updated report. With respect to C, it noted that, in view of the uncertainty of the applicant's situation, he should be placed with a foster family.

48. On 8 April 2020 the CAI issued a report on the children's situation. The report identified the following "risk indicators" in respect of the applicant: (i) her high level of disability; (ii) the lack of a family support network; (iii) her mistrust of the Spanish protection system; and (iv) the high level of attention required by her children (two young children and one with a disability requiring specialised attention). It also observed several "protection indicators", including a strong bond and emotional relationship with her children; good capacity to activate formal and informal support resources; good management of her divorce; and capacity to carry out basic day-to-day activities despite her disability. The report concluded that the family situation was dependent on external resources and that, under section 17 of the Institutional Law on the Legal Protection of Minors (hereinafter "the LOPJM"), "material shortcomings [were] considered a risk indicator, but [could not] result in the separation of the family". It thus suggested implementing a custody measure, with the children remaining at the CPC, and working with the applicant so she could take care of her children.

49. In September 2020 Fundación Madrina issued an updated report, in which it stated that the applicant had to leave the apartment by mid-November. It concluded that the difficulties the applicant faced in taking care of her children could be overcome with the support of a trusted third party and that she had sufficient financial means to ensure her personal autonomy, noting that I.A. was also giving her money to help pay for the children's expenses.

50. On 23 October 2020 the CAI issued a new report examining whether to maintain, lift or modify the protection measure. The report indicated that the family's main difficulty in taking care of the children was related to their housing situation. Apparently, a request for social housing was still pending and a request for emergency housing had been unsuccessful as there were no adequate options in view of the applicant's health condition. The family was on the waiting list of a housing programme managed by the regional authorities and an NGO. It noted that there was a possibility of a housing option provided by an NGO. It noted that the applicant and I.A. had agreed that custody of the children would be granted to the applicant, and I.A. would visit the children on Fridays and Sundays. They had further agreed that I.A. would pay the applicant a child allowance of EUR 700 per month as well as a compensatory allowance of EUR 200. It was

indicated in the report that the applicant had the support of a third party who could move in with her and the children to help her take care of them. According to that report, A was not receiving special support regarding child sexual abuse.

The report concluded that the applicant was cooperating with the CAI: she had followed the advice she had received to find a house and had looked for support to handle her mobility limitations. The adverse circumstances preventing her from being reunited with her children were not attributable to the applicant, as she had actively responded to all the indications made by the CAI and social services to change her situation. Both parents had a strong bond with their children and were aware of the negative impact institutionalisation was having on the children. There were no indications of a lack of protection in respect of D, who lived with the applicant, and there were no serious shortcomings in the applicant's parental skills, although further work with both parents was appropriate.

The report reiterated that the family's situation was determined by two circumstances: the lack of adequate housing adapted to the applicant's needs and the need to have a support person or service complementing the deficits resulting from her dependence. In those circumstances, it was not possible for the children to be with the applicant, so the CAI recommended that the children stay at the CPC, promoting the relationship with their parents and between them. The intervention should focus on reuniting them with the applicant once she could offer a stable environment adapted to their needs.

51. On 16 December 2020 the board of the Guardianship Authority confirmed the situation of neglect and the protection guardianship measure in respect of the children. It ruled that A would remain in residential care while B and C would be placed with foster families. The decision was based on the following facts:

> "1. The children are under the guardianship [of the child protection authorities] and were provisionally accommodated in a SAMUR facility. [The applicant] was pregnant at that time, with a disability and was a victim of gender-based violence by [I.A.] She was scarcely aware of her difficulties, rejecting both medical assistance and the support of professionals taking care of the children. Lack of a family support network.
>
> [I.A.] was expelled from the facility without the possibility of being readmitted owing to a restraining order. There is a report against him for gender-based violence ... Alcohol abuse. Whereabouts unknown at the time when the measure was adopted.
>
> 2. The family's situation, as reported by the CAI, currently defined by the functional limitations of [the applicant] on account of her disability and, as a result, her need to have the support of a third party to take care of the children, and not having a stable house adapted to her personal needs for her and the children, as she will soon have to leave the place where she is currently living.
>
> [Account should also be taken of] her attitude and inadequate use of the resources made available to her and the ages of the children, one of them with a recognised disability of 80% [and] with a need for constant supervision.
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> Currently, as reported by the CAI, the parents are involved in separation proceedings, and an agreement is foreseen.
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> 3. [I.A.] was convicted of gender-based violence; the restraining order and prohibition to communicate with [the applicant] has been terminated. He is cooperating with the intervention and acknowledges part of his responsibility concerning the protection measure, but he [is not yet treating] his alcohol consumption.
>
> 4. The children currently go out [of the CPC] with [the applicant] without staying for the night and receive visits from the father in the CPC. There is a strong bond between them. Contact had to be adapted owing to the breach of the restraining order imposed on [I.A.]"

The decision was taken considering (i) that the circumstances on which the measure had been based had been confirmed; (ii) that the family's situation had become chronic and the time spent by the children in residential care; (iii) the lack of family alternatives for the children's care; (iv) and that a family environment, providing them safety, stability and covering their needs, would favour their development. It made reference to the relevant provisions of the Civil Code (see paragraph 70 below) and of the regional regulations on child protection (see paragraphs 75 and 77 below). The decision indicated that it could be challenged within two months from its notification. It further indicated that the social services should report on the family's situation every six months.

52. On 19 January 2021 the applicant submitted observations before the Guardianship Authority. It appears that at that point she had not yet been informed of the decision of 16 December 2020. She argued that the reasons behind the provisional decision to deprive her of her children's guardianship were questionable, as they should have resulted in a provisional removal of custody and the provision of solutions from the administration so mother and children

removal of custody and the provision of solutions from the administration so mother and children could stay together. The decision had been taken in breach of the prohibition to declare a situation of neglect based on reasons of poverty or disability, the obligation to prioritise the family unit, and the obligation to protect and assist people with disabilities and victims of gender-based violence. She argued that the authorities were not working to reunite her with her children, despite her good parental skills, her strong bond with her children, and the fact that the only reason not to return them to her was that she lacked the material means and that there were no available public resources allowing for family reunification. Furthermore, some of the circumstances had changed as she was divorced from I.A., she was receiving several allowances and had someone available to assist her. The applicant thus asked for: (i) the measure of provisional guardianship to be replaced by voluntary custody; (ii) a family intervention plan to be adopted to ensure the relationship between the applicant and her children and the one between siblings; and (iii) the protection measure to be lifted and the family to be reunited once material conditions allowed.

53. On 26 January 2021 the applicant submitted further allegations before the DGFC supplementing her observations of 19 January 2021. She asked that, in the event that placement with a foster family was considered in the best interests of the children, that was only indicated temporarily and the children were placed together.

## III. THE JUDICIAL PROCEEDINGS CONFIRMING THE SITUATION OF NEGLECT AND THE FAMILY'S CIRCUMSTANCES DURING THAT PERIOD (JANUARY 2021 - NOVEMBER 2023).

54. On 25 March 2021 the applicant lodged a claim (*escrito de oposición*) challenging the decision of the Guardianship Authority of 16 December 2020, which was supplemented with further observations lodged on 6 July 2021 (*demanda de oposición*). She argued that the decision had been based on her disability and her lack of economic means, that her maternal skills had not been disputed by any report and that the improvements in her situation had not been considered. In addition, she argued that no measures had been taken to support the family so that they could stay together or to reunite her with her children. Lastly, she complained that the decision would result in the separation of the siblings. She asked for the annulment of the decision, seeking measures to facilitate family reunification or, in the alternative, the changes in her circumstances to be taken into consideration, lifting the protection measure and reuniting her with her children. She further asked for interim measures aimed at suspending the decision in respect of the placement of B and C with foster families.

55. On 21 October 2021 the Madrid Court of First Instance no. 75 dismissed the applicant's claim and upheld the decision of 16 December 2020. It held that the decision had been adopted in conformity with relevant rules. Referring to the different reports issued concerning the situation of the applicant and the children, namely the reports of the DGFC of January 2020 and the CAI reports of April and October 2020 (see paragraphs 44, 48 and 50 above), it stated:

> "Based on the proceedings and a comprehensive evaluation of the evidence ... it must be concluded that, given the current situation, the confirmation of the guardianship and custody measures should be upheld, for while it is true that progress is being made and the situation regarding the [applicant] is evolving positively – taking into account her previous attitudes, in which she did not cooperate or acknowledge the problem – and regarding the relationship, work is being done toward the possibility of the minors returning to their mother, beginning, if appropriate, with overnight stays, it is not considered that the conditions currently exist for the minors to return to their mother. [A] is doing well at the [CPC], where she should remain, so that she is not the one responsible for her siblings and her mother as she was previously.
>
> It is true that this is an evolving situation, but it must be considered that the necessary circumstances do not exist to terminate this measure."

56. The court referred to section 17(1) of the LOPJM, as amended by Law no. 26/2015 of 28 July (see paragraph 70 below) and concluded that the protection measure should be maintained, considering that "the children would be at risk should they return to be with their mother" and that there were "risk indicators that required further work".

57. The applicant appealed against the court's judgment. She argued that the judgment had been issued in breach of legal provisions preventing the declaration of a situation of neglect based on reasons of poverty and disability and of those provisions imposing an obligation on the administration to take measures in support of families in those situations. In addition, the judgment had wrongly assessed the evidence, namely in regard to the applicant's attitude and to

C's situation, in respect of whom the administration had proposed to lift the protection measure.

58. On 19 May 2022 the Madrid *Audiencia Provincial* dismissed the applicant's appeal, considering that there had not been an incorrect assessment of the evidence and no rules had been breached. It held as follows:

> "The [administrative] decision ... duly sets out the difficulties faced by [the applicant] in exercising her parental responsibilities towards her minor children, her refusal or limited use of support services to assist with the care of her minor children, [I.A.'s] use of violence against his children and [the applicant], [I.A.'s] alcohol abuse, as well as the abuse and family burdens borne by the minor daughter, A.
>
> ...[t]he administrative file itself takes into account the CAI file, which emphasises that the [applicant] currently faces functional limitations on account of her disability and ... the need for a third party to look after and care for her children, and the lack of permanent accommodation adapted to her personal needs and those of the children, as she will also have to leave the Fundación Madrina accommodation where she currently resides in the near future. Added to this are her attitude and the inappropriate use of the resources made available to her, as well as the ages of the children, one of whom has a recognised disability of 80% and requires constant supervision. The file states that, according to the information provided by the CAI, the parents are currently in the process of separating.
>
> ...
>
> At the moment when the administrative decision was issued, neither of the parents could take care of the children for the following reasons.
>
> ...
>
> (b) [The applicant] cannot take care of the children on account of the functional limitations caused by her disability and her need for a third party to look after and care for her children, one of whom has a disability; [the applicant] has difficulty accepting her current situation, coupled with her inappropriate use of the resources made available to her, as well as the ages of the children – three, nine and ten years old (at the time the administrative decision was issued, she was pregnant with a fourth child), one of whom, as indicated, has a disability and requires constant supervision, with the risk that the responsibility for their care and supervision will once again fall on the ten-year-old girl.
>
> (c) [The applicant] must leave the accommodation where she is currently staying in the near future, thus there is no stable housing alternative available either for her alone or for her together with the children.
>
> (d) This family's difficulties in providing for and caring for their children have become chronic, both owing to the level of support the [applicant] requires and owing to the passivity of [I.A.] who, during the two years he has been working, has neither sought suitable accommodation to provide for and care for the children, nor followed the professionals' advice to begin treatment for alcoholism.
>
> (e) The need to develop a long-term plan for these children based on a stable protective measure, and, building on that stability, to assess any requests to amend the measure on the basis of realistic plans that are guaranteed to be stable and better for the children than the protective measure itself.
>
> (f) That it is not in the best interests of C, aged almost four, and B, who has special needs, to continue growing up in a care institution.
>
> (g) The absence of other family members who could take on responsibility for the children."

59. Referring to section 17 of the LOPJM (see paragraph 70 below), the *Audiencia Provincial* further held as follows:

> "In the light of the above legislation, the court considers that, in the present case, the children are at risk and that it would not be in their best interests to return to their mother. It must be borne in mind that the evidence ... shows that [the applicant], together with her children, has been entitled to various forms of social assistance while living with them, as was the case with the Fundación Madrina; she has also received financial support from various associations and organisations, and even [social housing].
>
> In sum, the children's situation of neglect is not caused by [the applicant's] disability, as noted in the CAI's report following its assessment of the minors, which indicates that the [applicant] has a poor awareness of her own difficulties – refusing medical care and professional support in looking after her children – in addition to her lack of family support. [I.A.], as recorded in the case file, reportedly continues to suffer from alcohol addiction and therefore does not constitute a figure capable of protecting the children either.
>
> ... Consequently, the measure taken is justified, as it cannot be considered that the risk of a situation of neglect has ceased ... This entails the dismissal of the appeal lodged by [the applicant] on the grounds that there are risk indicators which must be monitored and addressed as far as possible so that this situation is resolved."

60. The applicant lodged an appeal on points of law arguing that the courts had assessed the evidence in an arbitrary fashion and had breached several legal provisions (namely Article 172 § 2 of the Civil Code, sections 17 and 18 of the LOPJM, Articles 3 and 8 of the Convention on the Rights of the Child, and Article 8 of the Convention) and ignored related case-law.

61. On 12 April 2023 the Supreme Court declared the appeal inadmissible, stating that its only role in the framework of the appeal on points of law was to examine whether the courts had duly applied the principle of the best interests of the child. Since the lower court's judgment had considered that the lack of protection of the children had been demonstrated, the best interests of the child called for the confirmation of the decision.

62. The applicant lodged an *amparo* appeal, arguing a violation of her right to judicial protection (Article 24 of the Constitution), in connection to the rights to family life and not to be discriminated against (Articles 18 and 14 of the Constitution), as well as to the protection of children and the protection of their best interests (Article 39 of the Constitution) and the protection of persons with disabilities (Article 49 and Article 9 § 2 of the Constitution).

63. On 16 November 2023 the Constitutional Court declared the *amparo* appeal inadmissible, considering that it lacked constitutional significance.

### IV. THE FAMILY'S CIRCUMSTANCES AFTER THE TERMINATION OF THE ADMINISTRATIVE PROCEEDINGS (DECEMBER 2020 – JANUARY 2026)

64. On 28 December 2020 the Alcobendas Court of First Instance granted the divorce of the applicant and I.A. and approved their settlement agreement (*convenio regulador*), awarding custody of the children to the applicant, establishing I.A.'s visitation rights, and ordering I.A. to pay maintenance of EUR 200 per month for the applicant and EUR 700 per month for the children.

65. On 20 March 2021 the Families, Equality and Social Well-being Department of the Madrid City Council issued a decree declaring the applicant and her family in an "exceptional and urgent situation" within the meaning of the regulations to have access to social housing, noting that an immediate housing alternative was needed to enable the resumption of family cohabitation and the revocation of the protection measures. In July 2021 she signed a contract for an apartment and in August 2021 she moved there. Several NGOs committed to support her, namely through financial allowances to ensure the assistance of a third party.

66. On 7 September 2021 the applicant had a meeting with the child protection officer from the Guardianship Authority and asked for her children to be allowed to visit her and spend the night with her; reiterating her wish to be reunited with them and, more urgently, with C because of his age. As from December 2021 the children were allowed to visit the applicant at her apartment and spend the night there. C spent the summer of 2021, or part of it, with the applicant.

67. On 14 December 2022 the Guardianship Authority declared the termination of the protection measure in respect of C. It noted that both the CAI and the CPC considered that the applicant demonstrated sufficient capacity to take care of him at her place and was accepting the relevant support.

68. According to the latest information submitted by the parties, by January 2026 A and B were still under the guardianship and custody of the child protection authorities. A had been transferred to a specialised protection centre, as she was suffering from a depressive disorder. B was living at the CPC. A and B were visiting the applicant and spending some nights at the family home. C and D were living with the applicant. A DGFC report of January 2026 indicated that the applicant had been receiving home assistance and that an intervention was taking place with the applicant and A to ensure that A did not take on the role of carer. The report also stated that the applicant still required the assistance of a carer to look after her children. The report recommended maintaining A and B's visits to the applicant's home.

## RELEVANT LEGAL FRAMEWORK

### I. DOMESTIC LAW

69. The relevant Articles of the Civil Code read as follows:

**Article 172**

"1. Where the public body responsible for the protection of minors in the relevant territory establishes that a minor is in a situation of neglect, it shall, by operation of law, assume guardianship of the minor and must take the necessary protective measures for his or her custody, notifying the public prosecutor's office and, where appropriate, the judge who granted ordinary guardianship. The administrative decision declaring the situation of

neglect and the measures taken shall be notified in due form to the parents, guardians or carers and to the child concerned if he or she is sufficiently mature and, in any event, if he or she is over 12 years of age, immediately and within a maximum period of 48 hours. The information shall be clear, understandable and in an accessible format, including the reasons for the administration's intervention and the effects of the decision taken, and, in the case of the child, adapted to his or her level of maturity. Whenever possible, and particularly in the case of the child, this information shall be provided in person.

A situation of neglect is considered to be that which occurs in fact owing to the non-compliance or the impossible or inadequate exercise of the duties of protection established by law for the custody of minors, when they are deprived of the necessary moral or material assistance.

The assumption of guardianship by the public authority entails the suspension of parental authority or ordinary guardianship ...

2. Within two years of being notified of the administrative decision declaring the child to be in a situation of neglect, parents who continue to hold parental authority but whose authority has been suspended in accordance with paragraph 1 ... may ask the public authority to lift the suspension and revoke the declaration of the child's situation of neglect if, owing to a change in the circumstances that led to it, they consider themselves able to resume parental authority or guardianship.

Likewise, within the same period, they may object to decisions taken regarding the child's protection.

Once this period has elapsed, the right of the parents or guardians to request or object to the decisions or measures adopted for the protection of the child shall cease. However, they may provide information to the public authority and the public prosecutor's office regarding any change in the circumstances that led to the declaration that the child was in a situation of neglect ...

3. The public authority may, on its own initiative or at the request of the public prosecutor's office or any interested person or body, revoke the declaration of a situation of neglect and decide to return the child to his or her family, provided that this is deemed to be in the child's best interests. The public prosecutor's office shall be notified of this decision.

4. In fulfilment of the obligation to provide immediate care, the public authority may assume temporary custody of a child by means of an administrative decision, and shall notify the public prosecutor's office thereof, while simultaneously taking the necessary steps to identify the child, investigate his or her circumstances and verify, where appropriate, the actual situation of neglect.

Such procedures shall be carried out as quickly as possible, during which time, where appropriate, a declaration of the situation of neglect shall be made and guardianship assumed, or the appropriate protective measure shall be implemented ...

5. The public authority shall cease to exercise guardianship over minors declared to be in a situation of neglect when it establishes, through the relevant reports, that the grounds for assuming guardianship have ceased to exist ...

Provisional custody shall cease for the same reasons as guardianship."

**Article 172 *bis***

"1. Where parents or guardians, owing to serious and temporary circumstances that have been duly certified, are unable to care for their child, they may request that the public authority assume custody of the child for such time as is necessary, which may not exceed a maximum period of two years for the temporary care of that child, unless his or her best interests exceptionally warrant an extension of the measures. Once the period or extension, where applicable, has elapsed, the child must return to his or her parents or guardians or, if the circumstances are not suitable for this, be declared in a legal situation of neglect."

**Article 172 *ter***

"1. Custody shall be arranged through foster care and, where this is not possible or in the child's best interests, through residential care. Foster care shall be provided by the person or persons designated by the public authority. Residential care shall be provided by the director or person in charge of the centre where the child is placed, in accordance with the provisions of child protection legislation.

...

2. The child's best interests shall always be sought and, where this is not contrary to those interests, priority shall be given to reintegration into his or her own family and to entrusting custody of siblings to the same institution or person so that they may remain together."

**Article 173 *bis***

"2. Family foster care may take the following forms, depending on its duration and objectives:

...

(c) Permanent family foster care, which shall be established either at the end of the two-year period of temporary foster care where family reunification is not possible, or directly in cases involving children with special needs or where the circumstances of the child and his or her family so warrant ..."

70. The relevant sections of the Institutional Law on the Legal Protection of Minors (*Ley*

70. The relevant sections of the Institutional Law on the Legal Protection of Minors (*Ley Orgánica de Protección Jurídica del Menor* – "the LOPJM"), provide as follows:

**Section 11. Guiding principles of administrative action**

"1. Public authorities shall provide children with adequate assistance to enable them to exercise their rights, including the support resources they require.

...

Compensatory policies aimed at correcting social inequalities shall be promoted. In no case shall the essential content of children's rights be affected by a lack of basic social resources. Children with disabilities and their families shall be guaranteed the specialised social services required by their disability.

2. The following shall be the guiding principles for the actions of public authorities in relation to minors:

(a) The primacy of the child's best interests;

(b) The child's continued placement within his or her family of origin, unless this is not in his or her best interests, in which case family-based and stable protective measures shall be ensured, giving priority in such cases to family foster care over institutional care;

...

(k) Universal accessibility and reasonable accommodation for children with disabilities, as well as their full and effective inclusion and participation."

**Section 12. Protective measures**

"1. The protection of minors by the public authorities shall be achieved through the prevention, detection and remedy of situations of risk, by establishing appropriate services and resources for this purpose, by exercising custody and, in cases where a child is declared to be in a situation of neglect, by assuming guardianship by operation of law. In protective measures, priority shall always be given to family-based measures over residential ones, stable arrangements over temporary ones and mutually agreed arrangements over imposed ones.

2. The public authorities shall ensure that parents, guardians, custodians or foster carers fulfil their responsibilities appropriately and shall provide them with accessible services for prevention, advice and support in all areas affecting the development of minors.

3. Where children are under the parental authority, guardianship, custody or foster care of a victim of gender-based or domestic violence, the actions of the public authorities shall be aimed at ensuring the necessary support to enable the children, regardless of their age, to remain with that person, as well as their protection, specialised care and recovery.

7. [8. in the version in force since June 2021] Public authorities shall guarantee the rights and obligations of children with disabilities in relation to their custody, guardianship, adoption or similar arrangements, ensuring that the best interests of the child are always paramount. They shall also ensure that children with disabilities have the same rights with regard to family life. To give effect to these rights and to prevent their concealment, abandonment, neglect or segregation, they shall ensure that general information, services and support are provided in advance to children with disabilities and their families."

**Section 14. Immediate assistance**

"Public authorities and services shall be obliged to provide any minor with the immediate assistance required, to take action where this falls within their area of competence or, otherwise, to refer the matter to the competent body and to bring the facts to the attention of the minor's legal representatives or, where necessary, of the public authority and the public prosecutor's office.

In the fulfilment of the obligation to provide immediate care, the public authority may assume the temporary custody of a child as provided for in Article 172.4 of the Civil Code, which shall be notified to the public prosecutor's office, while simultaneously taking the necessary steps to identify the child, investigate their circumstances and verify, where applicable, the actual situation of neglect."

71. With regards in particular to situations of risk, section 17(1) of the LOPJM, as amended by Law no. 26/2015 of 28 July, stated as follows:

**Section 17. Action to be taken in situations of risk**

"1. A situation of risk shall be deemed to exist where, owing to family, social or educational circumstances, deficiencies or conflicts, the child's personal, family, social or educational development, or his or her rights or well-being are impaired, in such a way that, while not reaching the level, intensity or persistence that would justify a declaration of a situation of neglect and the assumption of guardianship ... the intervention of the competent public authority is necessary to eliminate, reduce or compensate for the difficulties or adverse circumstances affecting [the child] and to prevent his or her neglect and social exclusion, without having to be separated from his or her family environment. To this end, having a sibling declared to be in such a situation shall be considered an indicator of risk, amongst other factors, unless family circumstances have clearly changed. The concurrence of material circumstances or deprivations shall be considered an indicator of risk, but shall never result in separation from the family environment.

...

4. The assessment of the situation of risk shall involve the development and implementation of a social and educational intervention plan for the family, which must set out the objectives, actions, resources and expected timelines, while promoting factors that protect the child and ensuring that the child remains within his or her family environment."

72. An amendment that entered into force in June 2021 eliminated the last two sentences of paragraph 1 and included specific risk indicators, including, *inter alia*, the lack of physical or psychological care, resulting in minor harm to the child's health; negligence in care; negative development of the intervention programmes; discriminatory practices; and being exposed to situations of domestic or gender-based violence, or any other circumstance implying violence against the child that could lead to a situation of neglect, if it were to persist.

73. Concerning situations of neglect, section 18 of the LOPJM establishes the following:

**Section 18. Measures to be taken in cases of neglect**

"1. Where a public authority establishes that a child is in a situation of neglect, it shall act in accordance with Article 172 *et seq*. of the Civil Code, assuming guardianship of the child by operation of law, taking the appropriate protective measures and notifying the public prosecutor's office and, where applicable, the judge who granted ordinary guardianship.

2. In accordance with the provisions of Article 172 *et seq.* of the Civil Code, a situation of neglect shall be deemed to exist where it arises in fact owing to the failure to fulfil, or the impossible or inadequate exercise of, the duties of protection established by law for the care of minors, when they are deprived of the necessary moral or material assistance.

The financial hardship of the parents, guardians or carers shall not be taken into account when assessing a situation of neglect. Furthermore, under no circumstances shall a child be separated from his or her parents on the grounds of a disability affecting the child, both parents or one of them.

...

In particular, a situation of neglect shall be deemed to exist where one or more of the following circumstances arise with sufficient gravity that, when assessed and weighed in accordance with the principles of necessity and proportionality, they pose a threat to the child's physical or mental well-being.

(a) The abandonment of the child, either because the persons legally responsible for the child's care are absent, or because they are unwilling or unable to provide such care.

(b) The expiry of the period of voluntary care, either when the child's legal guardians are in a position to take on the custody of the child but are unwilling to do so, or when, whilst wishing to take on custody, they are not in a position to do so, save in exceptional cases where voluntary care may be extended beyond the two-year period.

(c) The risk to the child's life, health and physical well-being. In particular, where there is serious physical mistreatment, sexual abuse or serious neglect in the fulfilment of nutritional and health obligations on the part of members of the family unit or third parties acting with their consent ...

(d) The risk to the child's mental health, moral integrity and personality development arising from continuous psychological mistreatment or serious and chronic neglect of his or her emotional or educational needs by their parents, guardians or carers ...

(e) Non-compliance with or the inability or failure to adequately fulfil custodial duties as a result of a serious deterioration in the family environment or living conditions, where this gives rise to circumstances or behaviour that is detrimental to the child's development or mental health.

(f) Incitement to begging, crime or prostitution, or any other exploitation of the child of a similar nature or severity.

(g) Failure to enrol a child in school, repeated unjustified absences from an educational institution, or the continued allowance or encouragement of school absenteeism during the period of compulsory education.

(h) Any other situation seriously detrimental to the child arising from the failure to exercise, or the impossible or inadequate exercise of, parental authority, guardianship or custody, the consequences of which cannot be avoided while the child remains in his or her current living environment."

74. Other relevant provisions of the LOPJM read:

**Section 19. Child custody**

"1. In addition to taking custody of children placed under guardianship because they are in a situation of neglect, the public authority shall assume custody in accordance with the provisions of Article 172 *bis* of the Civil Code, where the parents or guardians are unable to care for a child owing to serious circumstances of a temporary nature, or where the judge so orders in cases where this is legally appropriate.

2. Voluntary custody shall have a maximum duration of two years, unless the best interests of the child

exceptionally warrant an extension of the measure owing to the foreseeable reunification of the family within a short period of time.

In such cases of voluntary custody, the family must undertake to submit, where appropriate, to professional intervention."

**Section 19 *bis*. Provisions common to custody and guardianship**

"1. When the public authority assumes guardianship or custody of a child, it shall draw up an individualised protection plan setting out the objectives, prospects and duration of the intervention measures to be adopted with regard to the child's family of origin, including, where appropriate, a family reintegration programme.

In the case of a child with a disability, the public authority shall ensure the continuity of the support the child has been receiving or the provision of other support more suited to his or her needs.

2. Where the assessment indicates the possibility of a return to the family of origin, the public authority shall implement a family reintegration programme ...

3. In order to agree to the return of the neglected child to their family of origin, it is essential that there is evidence of positive progress within the family, objectively sufficient to re-establish family life; that family ties have been maintained; that there is a genuine intention to fulfil parental responsibilities appropriately; and that an expert report confirms that his or her return will not pose any significant risks to the child ..."

75. As regards regional regulations, Decree no. 121/1988 of 23 November 1988 regulates child guardianship and custody proceedings in the Madrid Autonomous Community. It states that such measures are to be guided by the best interests of the child; that preventive measures, addressing the causes that may lead to the neglect of minors, will be encouraged; and that care of the child within the family shall be favoured where possible.

76. The relevant parts of the General Act on the rights of persons with disabilities and their social inclusion (Royal Legislative Decree no. 1/2013 of 29 November 2013) provide as follows:

**Section 7. Right to equality**

"1. Persons with disabilities have the same rights as other citizens under our legal system.

2. To give effect to this right to equality, public authorities shall promote the necessary measures to ensure that persons with disabilities can exercise their rights on an equal footing in a genuine and effective manner in all areas of life.

3. Public authorities shall provide particularly robust protection for the rights of persons with disabilities in relation to gender equality, health, employment, social protection ... in accordance with the provisions of this Title and other applicable legislation.

4. Furthermore, public authorities shall provide particularly enhanced protection to those individuals or groups of individuals who are especially vulnerable to multiple discrimination, such as children and women with disabilities, older persons with disabilities, women with disabilities who are victims of gender-based violence, persons with multiple disabilities, or other persons with disabilities who are members of minority groups."

**Section 50. Scope of the right to social protection**

"1. Persons with disabilities and their families are entitled to social services providing family support, measures for the prevention and mitigation of disabilities and their progression, measures to promote personal autonomy, information and guidance, home and residential care, community support and residential services, and cultural, sports, leisure and recreational activities."

**Section 63. Violation of the right to equal opportunities**

"The right to equal opportunities of persons with disabilities ... shall be deemed to have been infringed where, on the grounds of or by reason of disability, there is direct or indirect discrimination, discrimination by association, harassment, failure to comply with accessibility requirements and to make reasonable adjustments, as well as failure to comply with legally established positive action measures."

**Section 67. Positive action measures**

"1. Public authorities shall adopt positive action measures for the benefit of persons with disabilities who are likely to face a higher degree of discrimination, including multiple discrimination, or a lower degree of equal opportunities, such as women and children, who require greater support to exercise their autonomy or make independent decisions, and those suffering from more severe social exclusion ...

2. Furthermore, within the framework of the official policy for the protection of the family, public authorities shall adopt positive action measures with regard to families where any of their members is a person with a disability."

**Section 68. Scope of positive action and equal opportunities measures**

"1. Positive action measures may consist of supplementary support and more favourable rules, criteria and practices. Equal opportunities measures may include financial assistance, practical assistance, personal assistance, specialised services, and communication aids and support services.

These measures shall constitute minimum requirements, without prejudice to any measures that may be established by the autonomous communities within the scope of their powers."

## II. INTERNATIONAL LAW MATERIAL

77. The relevant Articles of the United Nations Convention on the Rights of the Child, adopted on 20 November 1989, read as follows:

**Article 3**

"1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision."

**Article 8**

"1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference ..."

**Article 9**

"1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests ..."

**Article 18**

"1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children ..."

**Article 20**

"1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background."

**Article 23**

"1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development."

78. The United Nations Committee on the Rights of the Child General Comment no. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), UN Doc. CRC/C/GC/14, adopted on 29 May 2013, states as follows:

"60. Preventing family separation and preserving family unity are important components of the child protection system, and are based on the right provided for in article 9 ...

61. Given the gravity of the impact on the child of separation from his or her parents, such separation should only occur as a last resort measure, as when the child is in danger of experiencing imminent harm or when otherwise necessary; separation should not take place if less intrusive measures could protect the child. Before resorting to separation, the State should provide support to the parents in assuming their parental responsibilities, and restore or enhance the family's capacity to take care of the child, unless separation is necessary to protect the child. Economic reasons cannot be a justification for separating a child from his or her parents.

...

63. Likewise, a child may not be separated from his or her parents on the grounds of a disability of either the child or his or her parents. Separation may be considered only in cases where the necessary assistance to the family to preserve the family unit is not effective enough to avoid a risk of neglect or abandonment of the child or a risk to the child's safety."

79. The relevant Articles of the United Nations Convention on the Rights of Persons with Disabilities (CRPD), adopted on 12 December 2006, read as follows:

**Article 23 – Respect for home and the family**

"1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:

(a) The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;

(b) The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;

(c) Persons with disabilities, including children, retain their fertility on an equal basis with others.

2. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.

3. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.

4. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.

5. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting."

**Article 28 – Adequate standard of living and social protection**

"1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.

2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:

(a) To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;

(b) To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;

(c) To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care;

(d) To ensure access by persons with disabilities to public housing programmes;

(e) To ensure equal access by persons with disabilities to retirement benefits and programmes."

# THE LAW

## I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

80. The applicant complained that the decisions declaring her children to be in a situation of neglect and providing for their placement in care had been taken in violation of her right to family life as provided in 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

81. The Government submitted that the applicant had not appealed against the decisions of May 2018 provisionally declaring her children to be in a situation of neglect. Therefore, should an autonomous complaint of a violation of the Convention be based on those decisions, it should be declared inadmissible for non-exhaustion of domestic remedies.

82. The applicant argued that there had been two violations of her right to family life, the first one based on the separation from her children in May 2018 and the second one based on the decision confirming the declaration of a situation of neglect in December 2020, without having taken genuine steps towards family reunification, which had been subsequently confirmed by the domestic courts. She accepted that she had not appealed against the May 2018 decisions, but she argued that she had not been duly informed of that possibility and that she had been informed that the measures were temporary and that she could be reunited with her children if the situation improved. In any event she had shown her disagreement with the decisions to separate her from her children. In addition, she had challenged the decision of December 2020, which had been intrinsically linked to the previous ones, as they had been based on the same assessment of her parental capacity. Furthermore, the State had failed to fulfil its positive obligation to promote family reunification in the period between May 2018 and December 2020.

83. The Court reiterates that the purpose of the requirement of exhaustion of domestic remedies is to afford the Contracting States the opportunity to remedy alleged violations through their own legal systems before being called to answer before an international judicial body (see *Kuijt v. the Netherlands* (dec.) [GC], no. 19365/19, § 94, 23 September 2026). That rule must be applied "with some degree of flexibility and without excessive formalism" (ibid., § 97); it is sufficient that the complaints intended to be made subsequently before the Court should have been raised, "at least in substance and in compliance with the formal requirements and time-limits laid down in domestic law", before the national authorities (see *Castells v. Spain*, 23 April 1992, § 27, Series A no. 236, and *Fressoz and Roire v. France* [GC], no. 29183/95, § 37, ECHR 1999-I). However, in the event of there being a number of domestic remedies which an individual can pursue, that person is entitled to choose a remedy which addresses his or her essential grievance. In other words, when a remedy has been pursued, use of another remedy which has essentially the same objective is not required (see *Jasinskis v. Latvia*, no. 45744/08, § 50, 21 December 2010).

84. In the present case, the Court notes that the decisions of May 2018 clearly stated that they could be challenged before the administrative and judicial authorities (see paragraph 17

above), which the applicant did not do. However, she did challenge the decision of 16 December 2020 which confirmed the situation of neglect and extended the protection guardianship measure. She exhausted all legal remedies against it, raising in the process all the arguments in favour of her position that placing her children in public care and extending that placement breached her right to respect for her family life. It is not disputed that in the subsequent proceedings, which ended on 16 November 2023, the courts were called upon to rule on the lawfulness and proportionality of the measures taken by the authorities, and they confirmed the adequacy of the previous decisions. It follows that the applicant afforded the national authorities the opportunity to rule on the issues she later brought to the Court and must be considered, in the circumstances of the case, as having exhausted the relevant domestic remedies for the purposes of Article 35 § 1 of the Convention.

85. In view of the foregoing considerations, the Government's preliminary objection should be dismissed.

86. 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

87. The applicant argued that the decision of the Guardianship Authority of 16 December 2020, and its confirmation by the domestic courts, had resulted in an interference with her family life that had not respected the requirements of Article 8 of the Convention. In particular, she alleged that the application of the law had been manifestly unreasonable, as the declaration of a situation of neglect had been based on grounds prohibited by law, namely her disability and her socio-economic situation. She stressed in that regard that several reports had indicated that she had good parental skills, and that her limitations were mainly based on her disability and her socio-economic situation.

88. The interference had not been necessary either, as the authorities had not taken support measures to prevent the separation of the family, especially in view of her disability, her status as a beneficiary of international protection and her status as a victim of gender-based violence, and had not considered less restrictive measures. In particular, the authorities could have considered declaring a situation of risk, ordering provisional custody or inviting the applicant to request voluntary custody (see paragraphs 69 and 70 above). In addition, the fact that it had taken more than two years to confirm the measure showed that there had not been a clear situation of neglect.

89. In addition, the authorities had not taken sufficient steps to reunite the family, despite the improvement in her circumstances which, she noted, had been because of the support of private organisations. The applicant further argued in that connection that the permanent monitoring of the family by different institutions had not amounted to a comprehensive intervention with the family. The State had failed to provide coordinated, individualised and sufficient support, and had not acted with the required diligence to address the family situation.

90. Furthermore, the domestic courts had not provided sufficient reasoning in their decisions, as they had not examined the domestic and international regulations relied on by the applicant, they had not examined the related positive obligations in respect of her family, and they had not provided sufficient reasons for not taking into account the evidence showing that she had good parental skills, the real impact of her disability and the improvement of her socio-economic condition.

#### b. The Government

91. The Government accepted that there had been an interference with the applicant's right to family life. They held, nevertheless, that it had been in accordance with the requirements of Article 8, as developed in the Court's case-law. Firstly, it had been provided by law, namely by the Civil Code, the LOPJM and relevant regional regulations. It had also pursued a legitimate aim, namely the protection of the rights of others, in this case, the applicant's children.

92. The Government further held that the interference had been proportionate, based on the following reasons. The applicant had initially been unaware of her own circumstances and her

following reasons. The applicant had initially been aware of her own circumstances and her capacity to take care of the children had been directly affected by the separation from her husband, who had previously been involved in their care. The declaration of a situation of neglect had been processed urgently and had been of a temporary nature. Indeed, she had not been deprived of her parental authority, but it had merely been suspended. Thus, the applicant's disability had not been considered as permanently preventing her from taking care of her children. In addition, the temporary nature of the measure had been explained to the applicant. In any event, contact with her children had been maintained and regularly adapted.

93. The Government held that there had been no less restrictive measures available. While the law provided for the declaration of a situation of risk, which was less restrictive than a situation of neglect, the circumstances of the present case had been particularly serious. The family had lacked accommodation and financial means; I.A. could not approach the applicant; and neither parent had had a job. An intervention within the family environment would have thus been insufficient for the adequate protection of the children. They also noted that the applicant had previously refused assistance. Moreover, a comprehensive intervention, including accommodation and economic and social support, could not have taken place immediately.

94. The measure had not been based solely on the applicant's disability, but on a combination of elements: her precarious socio-economic situation, her lack of acknowledgment of her physical limitations, her status as a victim of gender-based violence, and her attitude towards the assistance provided.

95. The family's situation had been continuously and thoroughly monitored and regularly assessed by the competent public authorities and the applicant had been periodically informed of the situation.

96. The Government held that all the administrative departments involved had acted in a coordinated way to assist the applicant in different areas such as residence permits, housing and allowances. They added that a number of institutions had been involved in their situation (for example, the Asylum Office, the CAR, the SAMUR, as well as private organisations).

97. Regarding the assessment made by the domestic courts, they stated that the Madrid Court of First Instance no. 75 had considered a number of concurring elements, and not only the applicant's disability, such as not having a house and her socio-economic vulnerability. For its part, the *Audiencia Provincial* had stated that the declaration of a situation of neglect had not been based on the applicant's disability, but on her lack of awareness of her difficulties, her refusal of medical assistance and professional support, and the lack of a family support network.

98. The Government considered that the domestic courts had thoroughly examined the circumstances of the case, had based their decisions on updated reports and had duly considered the children's best interests.

**c. Third-party interveners**

*i. Fundación Save the Children*

99. Fundación Save the Children explained the different grounds and consequences of the declaration of a situation of risk and the declaration of a situation of neglect under domestic law and argued that a systematic reading of the LOPJM led to the conclusion that, in general, support measures should be taken where risk indicators are present, and only if they are ineffective a declaration of a situation of neglect might follow. It further provided an overview of the evolution of those protection measures in the domestic legal system.

100. Fundación Save the Children considered that, at the material time, the national and regional standards had been incomplete and vague in respect of the definition of risk, and had lacked development of the principles of prevention and minimal intervention. Furthermore, the relevant case-law had not established criteria to help the child protection authorities to differentiate between the situations of risk and neglect. Fundación Save the Children indicated that the domestic legal framework was clear in indicating that a situation of material scarcity could not result in the separation of a child from his or her family but the application of those rules by the domestic courts was not straightforward.

*ii. Gentium*

101. Gentium provided information on international standards concerning family separation and affirmed, on that basis, that poverty or disability could never justify the separation of a child from his or her family, which was always a measure of last resort. Regarding the context in

Spain, Gentium indicated that there was no sufficient and adequate assistance for families in vulnerable economic situations and that there were limited procedural safeguards for children and families in neglect proceedings. It further provided statistical data on child poverty, noting that a high proportion of children could be considered as exposed to “material neglect”, and noted that the lack of disaggregated statistics on separation decisions precluded meaningful monitoring of whether separation was genuinely exceptional.

102. Turning to the domestic legal framework and related domestic case-law, Gentium noted that the concepts of moral and material neglect had been interpreted differently by various courts and that limited consideration had been given to the relation between those concepts and the exclusion of poverty and disability as grounds for neglect. It further noted that there was limited scrutiny by domestic courts of the duty to provide adequate support and alternatives before separating children from their parents.

*iii. Plena Inclusión*

103. Plena Inclusión provided an overview of the international and domestic legal framework and observed that separation was only permitted where there was serious harm, duly proven, and not addressable through reasonable support and adjustments. It further provided some statistical data and noted that there was an overrepresentation of children with disabilities in protection systems, especially children with intellectual and developmental disabilities. It further considered that the negative consequences of separation on the development of children with disabilities was not sufficiently assessed.

104. Plena Inclusión affirmed that long-term institutionalisation had negative effects on children’s development, including emotional regulation and behaviour and indicated, relying on several sources, that children with intellectual disabilities achieved better levels of well-being and development where adequate support was provided to the families. It further noted that refugee children with disabilities suffered a double or triple vulnerability and separation from families in that context could aggravate related mental health issues connected with traumatic experiences and adaptation difficulties. Plena Inclusión stressed that international standards imposed a positive obligation to keep families together and that, in cases of refugee children with disabilities, rigorous verification of the support provided to the family and the alternatives offered before separation was required.

## *2. The Court’s assessment*

### a. General principles

105. The general principles applicable to cases involving child welfare measures were set out in the case of *Strand Lobben and Others v. Norway* ([GC], no. 37283/13, 10 September 2019), in which the Court stated:

> “202. The first paragraph of Article 8 of the Convention guarantees to everyone the right to respect for his or her family life. As is well established in the Court’s case-law, the mutual enjoyment by parent and child of each other’s company constitutes a fundamental element of family life, and domestic measures hindering such enjoyment amount to an interference with the right protected by this provision. Any such interference constitutes a violation of this Article unless it is “in accordance with the law”, pursues an aim or aims that is or are legitimate under its second paragraph and can be regarded as ‘necessary in a democratic society’ (see, among other authorities, *K. and T. v. Finland* [GC], no. 25702/94, § 151, ECHR 2001-VII; and *Johansen* [*v. Norway*, no. 17383/90], § 52[, 7 August 1996]).
>
> 203. In determining whether the latter condition was fulfilled, the Court will consider whether, in the light of the case as a whole, the reasons adduced to justify that measure were relevant and sufficient for the purposes of paragraph 2 of Article 8 (see, among many other authorities, *Paradiso and Campanelli* [*v. Italy* [GC], no. 25358/12], § 179[, 24 January 2017]). The notion of necessity further implies that the interference corresponds to a pressing social need and, in particular, that it is proportionate to the legitimate aim pursued, regard being had to the fair balance which has to be struck between the relevant competing interests (ibid., § 181).
>
> 204. In so far as the family life of a child is concerned, the Court reiterates that there is a broad consensus, including in international law, in support of the idea that in all decisions concerning children, their best interests are of paramount importance (see, among other authorities, *Neulinger and Shuruk v. Switzerland* [GC], no. 41615/07, § 135, ECHR 2010). Indeed, the Court has emphasised that in cases involving the care of children and contact restrictions, the child’s interests must come before all other considerations (see *Jovanovic* [*v. Sweden*, no. 10592/12], § 77[, 22 October 2015], and *Gnahoré v. France*, no. 40031/98, § 59, ECHR 2000-IX).

205. At the same time, it should be noted that regard for family unity and for family reunification in the event of separation are inherent considerations in the right to respect for family life under Article 8. Accordingly, in the case of imposition of public care restricting family life, a positive duty lies on the authorities to take measures to facilitate family reunification as soon as reasonably feasible (*K. and T. v. Finland*, cited above, § 178).

206. In instances where the respective interests of a child and those of the parents come into conflict, Article 8 requires that the domestic authorities should strike a fair balance between those interests and that, in the 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 parents (see, for instance, *Sommerfeld v. Germany* [GC], no. 31871/96, § 64, ECHR 2003-VIII (extracts)), and the references therein).

207. Generally, the best interests of the child dictate, on the one hand, 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 *Gnahoré*, cited above, § 59). On the other hand, it is clearly also in the child's interest to ensure its development in a sound environment, and a parent cannot be entitled under Article 8 to have such measures taken as would harm the child's health and development (see, among many other authorities, *Neulinger and Shuruk*, cited above, § 136; *Elsholz v. Germany* [GC], no. 25735/94, § 50, ECHR 2000-VIII; and *Maršálek v. the Czech Republic*, no. 8153/04, § 71, 4 April 2006). An important international consensus exists to the effect that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child (see Article 9 § 1 of the United Nations Convention on the Rights of the Child ...). In addition, it is incumbent on the Contracting States to put in place practical and effective procedural safeguards for the protection of the best interests of the child and to ensure their implementation (see the United Nations Committee on the Rights of the Child General Comment no. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, paragraphs 85 and 87).

208. Another guiding principle is that a care order should be regarded as a temporary measure, to be discontinued as soon as circumstances permit, and that any measures implementing temporary care should be consistent with the ultimate aim of reuniting the natural parents and the child (see, for instance, *Olsson v. Sweden (no. 1)*, 24 March 1988, § 81, Series A no. 130). The above-mentioned 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 (see, for example, *K. and T. v. Finland*, cited above, § 178) ...

...

210. In determining whether the reasons for the impugned 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 to 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, for example, *K. and T. v. Finland*, cited above, § 154; and *Johansen*, cited above, § 64).

211. The margin of appreciation to be accorded to the competent national authorities will vary in the light of the nature of the issues and the seriousness of the interests at stake, such as, on the one hand, the importance of protecting a child in a situation which is assessed as seriously threatening his or her health or development and, on the other hand, the aim to reunite the family as soon as circumstances permit. The Court thus recognises that the authorities enjoy a wide margin of appreciation in assessing the necessity of taking a child into care (see, for example, *K. and T. v. Finland*, cited above, § 155; and *Johansen*, cited above, § 64). However, this margin is not unfettered. For example, the Court has in certain instances attached weight to whether the authorities, before taking a child into public care, had first attempted to take less drastic measures, such as supportive or preventive ones, and whether these had proved unsuccessful (see, for example, *Olsson (no. 1)*, cited above, §§ 72-74; *R.M.S. v. Spain*, no. 28775/12, § 86, 18 June 2013, § 86; and *Kutzner v. Germany*, no. 46544/99, § 75, ECHR 2002-I). A stricter scrutiny is called for in respect of any further limitations, such as restrictions placed by the authorities on parental rights of access, and of any legal safeguards designed to secure an effective protection of the right of parents and children to respect for their family life. Such further limitations entail the danger that the family relations between the parents and a young child are effectively curtailed (see *K. and T. v. Finland*, cited above, [§ 155], and *Johansen*, cited above, [§ 64]).”

106. In the application of those principles, the Court has declared inadmissible as being manifestly ill-founded several cases concerning care orders, where it was satisfied that the domestic authorities had given relevant and sufficient reasons to justify their decisions, based on an acceptable assessment of the facts, and where it observed no procedural shortcomings in the decision-making process, including with regard to the applicants' participation in them (see, for example, *E.C. v. Italy* (dec.), no. 82314/17, §§ 55-59; *Andronache v. Romania* (dec.), no. 3485/21, §§ 63-68, 17 June 2025; and, for illustrative purposes, *A.H. v. Norway* [Committee] (dec.), no. 39771/19, § 10, 11 July 2023; *H.L. v. Norway* [Committee] (dec.), no. 59747/19, § 12, 11 July 2023; *M.A. and Others v. Norway* [Committee] (dec.), no. 41172/20, §§ 8-12, 11 July 2023; and *R.K. and Others v. Norway* [Committee] (dec.), no. 45413/20, §§ 12-18, 11 July 2023).

107. The Court has also previously found that the fact that a child could be placed in a more beneficial environment for his or her upbringing would not on its own justify a compulsory measure of removal from the care of the biological parents; other circumstances must exist pointing to the "necessity" for such an interference with the parents' right under Article 8 of the Convention to enjoy a family life with their child. The authorities' role in the social welfare field is, precisely, to help persons in difficulty, to provide them with guidance in their contact with the welfare authorities and to advise them, *inter alia*, on how to overcome their difficulties. In the case of vulnerable persons, the authorities must show particular vigilance and afford increased protection (see *S.S. v. Slovenia*, no. 40938/16, § 84, 30 October 2018, and the references therein).

**b. Application of those principles to the present case**

108. The Court notes at the outset that the separation of the applicant from her children based on the provisional declaration of a situation of neglect, and its subsequent confirmation, allegedly without having taken sufficient steps to reunite the family, amounted to an interference with her right to family life under Article 8 of the Convention.

109. The Court further observes that both the Civil Code and the LOPJM provide for the declaration of a situation of neglect where children are deprived of moral or material assistance, owing to their parents or guardians' failure to comply with their duties of protection, or the inability or inadequate exercise of those duties. The Court is thus satisfied that the interference was provided by law. While the applicant contended that those provisions were interpreted in an unreasonable way, the Court considers that the relevant arguments shall be examined under the assessment of the necessity of the interference.

110. The Court has no doubt that the measures adopted in respect of the children pursued the legitimate aim of protecting their rights and freedoms, as indicated by the Government (see paragraph 91 above).

111. It remains to be ascertained whether, in the circumstances of the present case, the interference complained of by the applicant was also "necessary in a democratic society". In particular, the Court will consider whether, in the light of the case as a whole, the reasons adduced to justify that measure were relevant and sufficient for the purposes of paragraph 2 of Article 8 (see paragraph 105 above).

112. The applicant argued that the declaration of neglect had been based on her disability and her socio-economic status, in breach of domestic law. In addition, she alleged that the authorities had not considered less restrictive measures and had not taken sufficient steps to reunite the family. Lastly, the domestic courts had also failed to sufficiently motivate their decisions in relation to those aspects.

113. The Court notes, firstly, that the provisional decisions of May 2018 were taken in a very short period of time. Namely, the Guardianship Authority received the SAMUR's report on 21 May 2018 and issued the relevant decisions on 24 May 2018 (see paragraphs 13 and 16 above). The decisions were based on three available reports, two submitted by the SAMUR, and one submitted by the CAR (see paragraphs 12, 13 and 15 above). Based on those reports, the Guardianship Authority noted several concerning issues in respect of both the applicant and I.A. With regard to the applicant, the decisions took into consideration that she was apparently unable to perform basic day-to-day activities, that she lacked the capacity to take care of and protect her children, that she was not aware of the family's situation and had rejected medical assistance for her and her children, as well as assistance with the children's care, and that she did not have any relatives who could assist her (see paragraph 16 above). Thus, in the Court's view, while her disability was indeed taken into account, it was not the only element examined by

the authorities when assessing her capacity to take care of the children.

114. The Court reiterates in this regard that the authorities enjoy a wide margin of appreciation in assessing the necessity of taking a child into care, while a stricter scrutiny is called for in respect of any further limitations, such as restrictions placed by those authorities on parental rights of access (see paragraph 105 above). While the Court has also attached weight to whether the authorities had first attempted to take less drastic measures (ibid.), in the present case it also takes note of the Government's argument that, in the complex family circumstances of the applicant, a comprehensive intervention would necessarily have taken some time (see paragraph 93 above). The Court further reiterates in this regard that a wide margin is usually allowed to the State when it comes to general measures of economic or social strategy (see *Á.F.L. v. Iceland*, no. 35789/22, § 72, 10 June 2025).

115. Furthermore, the declaration of a situation of neglect and the assumption of guardianship by the child protection authorities were of a temporary nature, could be reviewed by the administrative and judicial authorities, and could have been revoked either at request of the parents, should the circumstances have changed, or at the authorities' own initiative, if it had been in the children's best interests (see paragraphs 16, 17 and 69 above). The measures adopted by the domestic authorities were, therefore, not irreversible.

116. The Court observes that the decision of the Guardianship Authority of 16 December 2020 confirmed the situation of neglect and the guardianship measure based on several elements (see paragraph 51 above). Firstly, it took into account the applicant's functional limitations, her need for support and her lack of adequate housing. Secondly, it noted the ages of the children and B's disability, for which he required constant supervision. Lastly, it also considered the applicant's attitude and inadequate use of the resources made available to her.

117. The Madrid Court of First Instance no. 75, for its part, considered that there were risk indicators that required further work, and observed that, while the situation was positively evolving, the applicant had previously failed to cooperate and to acknowledge the family's problems. It further noted that A had previously been responsible for her siblings and the applicant, so it was more convenient for her to stay at the CPC (see paragraphs 55-56 above).

118. The *Audiencia Provincial*, referring to the elements contained in the Guardianship Authority's decision, concluded that it was not in the children's best interests to return to the applicant. It held that the situation of neglect had not been caused by the applicant's disability, but by her lack of awareness of her difficulties, her refusal of support and the lack of a family support network. It further noted that she had been entitled to various forms of social assistance (see paragraphs 58-59 above). The Supreme Court confirmed that, in view of the children's lack of protection, it was in their best interests to confirm the decisions of the lower instances (see paragraph 61 above).

119. The Court notes that in seeking to protect the children's welfare, the authorities were required to respond to a complex family situation, and that, having direct contact with the family, they enjoyed a measure of discretion in their response (see, *mutatis mutandis*, *S.S. v. Slovenia*, cited above, § 92). Following the separation from I.A., the applicant was in charge of four children, including a baby, a toddler and a child with a severe disability, without any family network to support her. In those circumstances, taking into account her disability and need for support, and the considerable level of attention required by the children, taking care of them appeared especially challenging (see paragraphs 28 and 48 above).

120. Furthermore, according to the domestic authorities, the applicant lacked an understanding of her own ability to meet the children's needs (see paragraphs 16, 24, 39, 44 and 51 above, and, *mutatis mutandis*, *S.J.P. and E.S. v. Sweden*, no. 8610/11, § 104, 28 August 2018). Moreover, at some point she did accept the placement of the children in residential care, but asked for a less restrictive measure (see paragraphs 30 and 52 above).

121. The Court further notes that there were some concerning issues, such as the possible burden on A to take care of her siblings and the applicant (see paragraphs 13 and 12 above), and the possibility of I.A. visiting the children without supervision (see paragraphs 44-46 above).

122. In view of the foregoing elements, the Court considers that the domestic courts struck a fair balance between the interests of each person, with a constant concern for determining the best interests of the children.

123. With regard to the possibility of adopting support measures, the Court notes that the applicant had access to some resources, such as accommodation and various allowances. Admittedly, some of them were managed by private institutions and not directly provided by the

authorities. However, the Court notes that there was some level of coordination between the institutions involved and that the child protection authorities were informed of the interventions carried out by the private institutions supporting the applicant (see for example paragraphs 29, 50 and 65 above). Moreover, the Court takes into account in this regard the authorities' arguments about the inadequate use of the available resources by the applicant and her refusal of assistance.

124. The Court further notes that the level of support required by the applicant was significant, particularly as she needed the support of a third party to take care of the children (see paragraphs 44, 51 and 58 above), and that, in the family's circumstances, it was difficult to find sufficient adequate resources to cater to their needs (see paragraph 38 above). The Court has indicated in this regard that the availability of resources for public measures in the area of family affairs and child welfare is an element to be considered in determining whether the reasons for the impugned measures were relevant and sufficient (see paragraph 105 above).

125. The Court also observes that the family's situation was under constant monitoring and that periodical reports assessing the situation and the possibilities of reunification were issued by several institutions involved.

126. Furthermore, contact and visits between the applicant and the children were always maintained and adapted according to the evolving situation. While at the beginning she was visiting the children at the CPC, the children were subsequently allowed to visit her and stay with her at Fundación Madrina and then at her apartment (see paragraphs 26, 32, 34, 45 and 68 above). Thus, the domestic authorities took progressive measures to ensure that the personal relationship between the applicant and her children was preserved and, although limited, family relations were not curtailed (see paragraph 105 above).

127. The Court further takes into consideration that the measures taken in respect of the children were not definitive, and that the domestic authorities did not rule out that the circumstances might change in such a way that the applicant could regain care of her children. In addition, she was not deprived of her parental authority, which was only suspended (see paragraph 92 above).

128. Lastly, the Court notes that, throughout the proceedings, the children remained in residential care with a view to returning to live with the applicant, and contact and visits were maintained. Moreover, C was returned to the applicant once circumstances allowed (see paragraph 67 above). The Court notes in this regard that different measures were considered in respect of C during the proceedings: returning him to the applicant (see paragraph 40 above), placing him in a foster family (see paragraphs 44, 47, and 51 above) or continuing his stay at the CPC (see paragraphs 42, 48, and 50 above). The Court observes that, in assessing those alternative measures, the authorities took into account the family's evolving circumstances and the applicant's uncertain situation, particularly concerning housing (see, for example, paragraphs 42 and 47 above). Eventually, as stated above, C remained at the CPC and, importantly, his bonds with the applicant and his siblings were maintained. Furthermore, in 2021, he was authorised to spend longer periods of time with the applicant (see paragraph 66 above). In that connection, the Court sees no reason to consider that the domestic authorities were not guided by the ultimate aim of reuniting the family (see paragraph 105 above).

129. In view of the above considerations, the Court considers that the domestic authorities' decisions were based on an acceptable assessment of the facts and the reasons given to justify the placement into care of the applicant's children were relevant and sufficient, and guided by the children's best interests. It reiterates in this connection that the national authorities have the benefit of direct contact with all the persons concerned by care measures and 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 paragraph 105 above). In the present case, the Court is satisfied that the domestic authorities acted within their margin of appreciation when determining that the children were in a situation of neglect and ordering their placement in care.

130. There has accordingly been no violation of Article 8 of the Convention.

## II. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION TAKEN IN CONJUNCTION WITH ARTICLE 8

131. The applicant complained that the decisions to place her children in care had been based on her disability, her socio-economic situation and her status as a victim of gender-based violence, and had therefore been in breach of her right not to be discriminated against as provided in Article 14 of the Convention, which reads as follows:

> "The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

## A. Admissibility

132. 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

133. The applicant alleged that there had been a violation of Article 14 of the Convention, taken in conjunction with Article 8, in three different aspects. Firstly, the guardianship decisions had been based on her disability and her socio-economic condition. The domestic authorities had not duly examined the impact of her disability on her capacity to take care of her children. Secondly, despite her status as a person with a disability, no reasonable accommodation had been considered: no residential facilities had been adapted to meet the family's needs, and no financial or personal support had been provided. Furthermore, the domestic authorities had failed to take into account her experience of gender-based violence and the related protection measures to which she had been entitled, including those intended to prevent her from being separated from her children. The domestic courts had not examined whether the limited access to public resources for families facing multiple vulnerabilities amounted to discrimination. Thirdly, the domestic decisions had been based on discriminatory stereotypes. They assumed that owing to her being a migrant woman living alone, with a disability, without financial means and as a victim of gender-based violence, she had been unable to take care of her children, without examining the individual circumstances and duly taking into account her vulnerability.

134. The applicant held that the different elements placing her in a situation of vulnerability (being a refugee woman, separated from the children's father and a victim of gender-based violence, with a disability and in a precarious socio-economic situation) had not been examined as a complex reality, but as a series of individual deficits. The authorities had thus turned the structural conditions that required enhanced protection into reasons to justify a measure that infringed her right to family life, failing to take overlapping vulnerabilities into account. Lastly, the applicant indicated that the information provided by the third-party interveners reinforced her arguments.

#### b. The Government

135. The Government held that the applicant had failed to show the existence of discriminatory treatment, as there was no evidence of any person who, in a similar situation, had received more favourable treatment. In any event, such different treatment would have been justified, as the decisions had been based on several expert and social reports. Lastly, they did not observe any stereotypes in the domestic decisions. They argued that the decisions had been based on an individualised assessment of the circumstances of the case and, in particular, of the applicant's capacity to take care of her children.

#### c. Third-party interveners

##### *i. MEDUSA Human Rights*

136. MEDUSA Human Rights referred to the international, European and national legal standards regarding the prevention of discrimination based on gender and disability, particularly in the context of sexual and reproductive rights. It noted that, despite those standards, there was a pattern of structural discrimination against women with disabilities in the exercise of their

a pattern of structural discrimination against women with disabilities in the exercise of their sexual and reproductive rights, including in the exercise of their motherhood. It stressed that policies, practices and societal attitudes continued to perpetuate stereotypes and to limit their autonomy. As a result, women with disabilities remained disproportionately deprived of their reproductive autonomy, dignity and equal participation in family and social life. More specifically, prejudices and limited access to accessible healthcare and support services undermined their ability to retain custody of their children.

*ii. Women's Link Worldwide*

137. Women's Link Worldwide referred to several instances where United Nations treaty bodies and the Inter-American Court of Human Rights had interpreted non-discrimination obligations in the respective human rights treaties to include the prohibition of intersectional discrimination. It further affirmed that the Court had substantively applied the concept of intersectional discrimination in its case-law and held that an intersectional approach to positive obligations under Articles 14 and 8 would better allow the Court to address root causes of discrimination. Lastly, referring to several reports, Women's Link Worldwide stated that there was a documented pattern in Spain of separating migrant and refugee families based on gender and racial stereotypes, as well as separating families based on their socio-economic situation or on the mother's cognitive disabilities.

*2. The Court's assessment*

**a. General principles**

138. The Court has stated that the prohibition enshrined in Article 14 encompasses differences of treatment based on an identifiable characteristic, or "status", and has considered that a person's health status, including disability, fall within the term "other status" in the text of Article 14 of the Convention (*J.D. and A v. the United Kingdom*, nos. 32949/17 and 34614/17, § 82, 24 October 2019). It has further held that victims of gender based violence may be able to invoke the protection of Article 14 in conjunction with the relevant substantive provisions of the Convention (ibid.).

139. The general principles regarding prohibition of discrimination have been set out in *Á.F.L. v. Iceland* (cited above, §§ 70-75). Concerning specifically parents with disabilities, the Court stated the following in that case:

> "82. The Court acknowledges that parents with disabilities must not be perceived as lacking sufficient parenting skills and capacity, and that they must not be deprived of custody of their children only with reference to their disability and without assessing its impact on their ability to provide parental care (see, *mutatis mutandis*, *Cînța v. Romania*, no. 3891/19, §§ 68-69, 18 February 2020, and *Kocherov and Sergeyeva v. Russia*, no. 16899/13, §§ 109-10, 29 March 2016; and compare *K. and T. v. Finland*, cited above, § 168). This position is fully consistent with the provisions of Article 23 § 4 of the CRPD as interpreted by the CRPD Committee ...
>
> 83. As regards parents with disabilities, the Court's case-law ... and the related provisions of Article 5 § 3 and Article 23 §§ 1 and 2 of the CRPD ... indicate that their parental skills and competence, as well as the impact of their disability on the upbringing and well-being of their children, should be assessed not in the abstract, but with reference to the support measures available and provided to them. To do otherwise and assess their capacity to care for children in the absence of any support would in effect amount to assessing their capacity on the basis of their disability alone.
>
> 84. The State's positive obligation to provide persons with disabilities with reasonable accommodation, including support measures to facilitate the enjoyment of family life between parents and children, is well established in the case-law (see, for example, *Kacper Nowakowski v. Poland*, no. 32407/13, § 93, 10 January 2017). However, it is important to bear in mind that as regards reasonable accommodation afforded to parents in the light of their disability, the scope and extent of that accommodation is necessarily shaped and limited not only by the considerations relating to a 'disproportionate or undue burden' ..., but also and above all by the paramount consideration of the best interests of the child ..."

**b. Application of those principles to the present case**

140. Regarding the applicant's first argument, namely that the decisions were based on her disability and socio-economic status, the Court notes, as indicated above, that the decisions were based on a number of other elements (see paragraphs 116-120 above). The Court is therefore satisfied that the decisions were based on the specific circumstances of the case, which were particularly complex, and not on the basis of the applicant's disability or her socio-

economic status alone.

141. Concerning the second argument, that is the lack of provision of reasonable accommodation, the Court notes that the applicant received assistance in different ways: she always had access to accommodation and she received various allowances. Although that support could have been considered as insufficient to cater to the family's needs at some points, the Court takes note of the Government's argument about the difficulties in providing immediate comprehensive support and about the applicant's attitude towards the assistance received (see paragraphs 93, 94 and 123 above). The Court further reiterates in this connection that a wide margin of appreciation is usually allowed to the State when it comes to general measures of economic or social strategy (see *Á.F.L. v. Iceland*, cited above, § 72).

142. Lastly, the applicant argued that the decisions had been based on discriminatory stereotypes, assuming that she was unable to take care of her children. The Court notes in that regard that the decisions were temporary in nature, and did not rule out that the circumstances might change in such a way that the applicant could regain care of the children. Indeed, C is currently living with the applicant and visits have been maintained with A and B to facilitate family reunification. The family's situation was constantly monitored and contacts and visits were adapted depending on the circumstances. The Court thus agrees with the Government's argument that the applicant's disability had not been considered as permanently preventing her from taking care of her children (see paragraph 92 above). In those circumstances, the Court does not consider that the references to the applicant's disability, her socio-economic situation, or her condition as a victim of domestic violence in the domestic authorities' decisions were based on discriminatory stereotypes.

143. The foregoing considerations are sufficient to enable the Court to conclude that the decisions declaring the applicant's children to be in a situation of neglect and providing for their placement in care were not in breach of the applicant's right not to be discriminated against on grounds of disability.

144. There has accordingly been no violation of Article 14 of the Convention, taken in conjunction with Article 8.

## FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been no violation of Article 8 of the Convention;

3. *Holds* that there has been no violation of Article 14 taken in conjunction with Article 8 of the Convention.

Done in English, and notified in writing on 5 November 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

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| Victor Soloveytchik<br>Registrar | Kateřina Šimáčková<br>President |