



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

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FOURTH SECTION

Application no. 14231/25
Nadya ELMINARESTU
against the Netherlands
lodged on 5 June 2025
communicated on 10 July 2026

SUBJECT MATTER OF THE CASE

The application concerns restrictions on the applicant's contact rights with her young child in the context of a court-imposed co-parenting arrangement based on geographical proximity.

The applicant, an Indonesian national, shares joint parental authority over her daughter (born in November 2020) with her Dutch former partner. In 2021, she moved with the child to a women's shelter located about 50 km away, citing domestic violence, and later obtained independent housing nearby. During this period, there was no contact between the child and the father.

In June 2022, the father initiated proceedings seeking to establish contact and to restrict the applicant's residence to within five kilometres of his home, failing which he requested that the child's primary residence be transferred to him. Contact was gradually reintroduced through a supervised programme but ended in early 2023 following renewed tensions. Both parents then requested the courts to determine a care arrangement.

In July 2023, the Regional Court ruled that the child would remain primarily with the applicant on the condition that she relocate within a five-kilometre radius of the father within six months; otherwise, the child's residence would be transferred to him. The court emphasised that distance impeded a meaningful father-child relationship. It also ordered a gradual increase in contact up to eight hours every two weeks. On appeal, this

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approach was upheld, with the court stressing the need for proximity, particularly in view of the child's upcoming schooling, and extending the co-parenting area to a seven-kilometre radius. A final deadline for relocation was set for 31 October 2024.

In March 2024 the applicant requested an urgency declaration, a municipal decision granting priority on social housing waiting lists in urgent circumstances. This request was refused at all levels on the grounds that she already had independent accommodation and therefore did not meet the eligibility criteria.

In May 2024, the Regional Court established a final care arrangement entailing equal (50/50) shared care with weekly alternation, provided that the applicant would relocate to within the required radius. Failing relocation before 31 October 2024, the child's primary residence would be transferred to the father, with the applicant granted contact on alternate weekends.

On appeal, the applicant argued that relocation within seven kilometres of the father was unrealistic given the general housing shortage in the Netherlands. She therefore requested extended weekend contact (starting on Thursday afternoon) and an expansion of the co-parenting area to a broader, accessible region, referring to locations where she could obtain housing at distances of 12, 16 and 25 kilometres from the father.

On 5 March 2025 the Court of Appeal upheld the care arrangement, finding it to be in the child's best interests. It rejected extended contact as impractical in light of the distance, the child's forthcoming compulsory school attendance after her fifth birthday and her need for support in social-emotional and language development. The Court of Appeal also refused to broaden the co-parenting area due to the child's young age and the burden of travel.

On 19 May 2025, the applicant received negative cassation advice, as the court's findings were based on factual considerations and thus not subject to appeal on points of law.

The applicant complains under Article 8 of the Convention that the imposed care arrangement and strict relocation requirement disproportionately interfered with her family life. She argues, in particular, that extended contact would have been feasible given the child's age, as she was not yet of compulsory school age, and that the refusal to allow a broader co-parenting area unjustifiably limited her contact with the child.

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QUESTION TO THE PARTIES

Has there been a violation of the applicant's and her child's right to respect for their family life within the meaning of Article 8 § 1 of the Convention? In particular, did the domestic authorities strike a fair balance between the interests at stake, having regard to the child's best interests? Did the domestic authorities give relevant and sufficient reasons for their decisions to refuse (i) to extend the geographical scope of the co-parenting area and (ii) to allow the child to spend an additional day per contact period with the applicant at a time when the child was not yet subject to compulsory schooling? (See *Strand Lobben and Others v. Norway* [GC], no. 37283/13, §§ 202-213, 10 September 2019, *Cînța v. Romania*, no. 3891/19, §§ 42-45, 47, 50 and 52, 18 February 2020; and *T.A. and Others v. the Republic of Moldova*, no. 25450/20, §§49-52, 30 November 2021)?