Le présent volume doit être cité comme suit :

« *C. I. J. Mémoires, Affaire relative à l'application de la Convention de 1902 pour régler la tutelle des mineurs (Pays-Bas c. Suède)* »

This volume should be quoted as :

"I.C.J. Pleadings, Case concerning the application of the Convention of 1902 governing the guardianship of infants (Netherlands v. *Sweden)"*

N° de vente :
Sales number **210**

AFFAIRE RELATIVE A L'APPLICATION DE LA CONVENTION DE 1902 POUR RÉGLER LA TUTELLE DES MINEURS *

(PAYS-BAS c. SUÈDE)

CASE CONCERNING THE APPLICATION OF THE CONVENTION OF 1902 GOVERNING THE GUARDIANSHIP OF INFANTS *

(NETHERLANDS *v.* SWEDEN)

* *Note du Greffe.* — Les renvois à un texte ayant fait l'objet d'une édition provisoire à l'usage de la Cour ont été remplacés par des renvois aux pages de la présente édition définitive.

* *Note by the Registry.*—Any references to a text which was issued in a provisional edition for the use of the Court have been replaced by references to the pages in the present definitive edition.

COUR INTERNATIONALE DE JUSTICE

MÉMOIRES, PLAIDOIRIES ET DOCUMENTS

AFFAIRE RELATIVE A L'APPLICATION DE LA CONVENTION DE 1902 POUR RÉGLER LA TUTELLE DES MINEURS

(PAYS-BAS c. SUÈDE)

ARRÊT DU 28 NOVEMBRE 1958

INTERNATIONAL COURT OF JUSTICE

PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

CASE CONCERNING THE APPLICATION OF THE CONVENTION OF 1902 GOVERNING THE GUARDIANSHIP OF INFANTS

(NETHERLANDS *v.* SWEDEN)

JUDGMENT OF NOVEMBER 28th, 1958

PRINTED IN THE NETHERLANDS

SECTION B. — MÉMOIRES
SECTION B.—PLEADINGS

1. MEMORIAL SUBMITTED BY THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS

Part I

The facts (in order of time)

On May 7, 1945, Marie Elisabeth Boll is born at Norrköping out of the marriage of Johannes Boll and Gerd Elisabeth Lindvall. Both the parents and the child are Netherlanders, the father and the daughter by birth, the mother, Swedish born, by marriage.

On December 5, 1953, Mrs. Boll dies. Under Netherlands law, on the decease of one of the spouses, the surviving spouse becomes guardian of the infant children, by operation of law, and a deputy guardian is appointed by the Courts. Accordingly Johannes Boll becomes guardian automatically, and on June 2, 1954, the Justice of the Peace of Amsterdam appoints Jan Albertus Idema, notary, of Dordrecht, and a Netherlander, as deputy guardian (exh. A).

On May 5, 1954, the barnarvårdsnämnd (Child Welfare Board) of Norrköping passes a resolution, pursuant to para. 22*a* of the barnavårdslag (Child Welfare Act) by which Marie Elisabeth is submitted to skyddsuppfostran, i.e. made a ward of the Board (exh. B). Para. 22*a* reads: "The Child Welfare Board takes measures ... in respect of children under sixteen years old that, in the parental home, are treated badly or are exposed to serious neglect, or to other danger to physical or mental health."

On June 22, 1954, this resolution, appealed against by Johannes Boll and Jan Albertus Idema, is confirmed by a resolution of the Östergötland County Government (exh. C).

On August 5, 1954, Johannes Boll, with his own consent, is released of his guardianship by the Civil Court of Juvenile Affairs of Dordrecht, this on account of his not being able, as a ship's captain, to give permanent care to the child, and, by an order of the said Court, the guardianship is conferred upon Catharina Trijntje Idema, *née* Postema, a Netherlander, of Zeist (exh. D).

On October 5, 1954, the resolution of the Östergötland County Government, above mentioned, appealed against by Johannes Boll, Jan Albertus Idema and Catharina Trijntje Idema, is confirmed by a decree of the King in Council (exh. E).

On June 3, 1955, the Child Welfare Board of Norrköping decides to maintain the skyddsuppfostran (exh. F).

On October 28, 1955, the Östergötland County Government, acting on the petition of Catharina Trijntje Idema and Jan Albertus

Idema, passes a resolution rescinding the decision of the Child Welfare Board and ordering the *discontinuation* of the skyddsuppfostran (exh. G).

On February 21, 1956, the King in Council, acting on the appeal of the Child Welfare Board, pronounces a decree rescinding the last-mentioned resolution of the Östergötland County Government and confirming the decision of the Child Welfare Board of June 3, 1955 (exh. H).

Part II. *The Law*

The 1902 convention

In none of the Swedish decisions, resolutions and decrees, mentioned above, reference is made to the 1902 Convention concerning the guardianship of infants, a Convention to which both Sweden and the Netherlands are parties.

The object of the Convention is to avoid conflicts between guardianships and other protective measures on behalf of infants, that might be ordered in more than one country. The said object is achieved by giving priority to the national legislation both in the field of substantive and of adjective law (jurisdiction). In consequence of such priority no measures can be taken by local authorities as soon and as far as the national authorities have made provision for the protection of the infant.

This principle is qualified by Article 7 of the Convention, ruling that *(a)* pending the organization of the guardianship and *(b)* in all cases of urgency, the necessary measures for the protection of the person and the interests of an infant may be taken by the local authorities.

Obviously, in the present case, Article 7 *(a)* does not apply. There has been no period in which the guardianship was pending, since, as from the death of the mother, there has always been a Netherlands guardian. Consequently, if the Swedish authorities wish to justify the course they have taken, they can do so only by invoking Article 7 *(b)* and by showing that the skyddsuppfostran, as ordered and confirmed, has been a necessary measure, taken in case of urgency, for the protection of the person or the interests of the infant.

The Government of the Kingdom of the Netherlands submit that no such justification can be adduced and propose to establish:

that the skyddsuppfostran, as ordered and confirmed, is not a measure permitted by Article 7 *(b)*;

that the condition of urgency as required by Article 7 *(b)* has not been fulfilled.

The Netherlands Government undertake to substantiate their contentions in any manner the Court may desire.

Skyddsuppfostran not a measure permitted by article 7 (b)

1. Article 7 *(b)* permits *special* measures for the protection of the infant, such as the appointment of an "amicus" for representation before a local Court or of an administrator of property situate in the country of the local authorities. But it does not and cannot permit *general* measures, virtually amounting to guardianship. By such measures a rival guardianship would be established, and this is precisely what the Convention tends to avoid.

It is submitted that the skyddsuppfostran does virtually amount to a guardianship. In perusing the provisions of the Child Welfare Act, bearing on the skyddsuppfostran, one necessarily comes to the conclusion that of all the powers normally belonging to the guardian [1], practically none is left. The infant is made a ward of the Child Welfare Board (para. 22, 1), and it is to the Board that henceforth belongs the right to educate (para. 32, 1), the right to determine the infant's residence (para. 34, 1), the right of discipline (para. 37, 2), in short the entire custody. The guardianship as established by the national authorities is completely absorbed, whittled away, overruled and frustrated.

Consequently, by enabling the local authorities to establish the skyddsuppfostran, that is: a rival guardianship, the Convention would destroy its very object.

2. Furthermore, even if it could be argued that the skyddsuppfostran does not absorb the entire guardianship, another aspect must be considered. Article 7 *(b)*, in granting certain exceptional powers to the local authorities, sets aside *adjective* law. But there the matter ends. Exceptions should be constructed in the strictest manner possible. Consequently, there is no reason for assuming that Article 7 *(b)* should likewise set aside *substantive* law. This leads to the conclusion that the measures ordered by the local authorities must be of the same character as those provided for by the national legislation of the infant.

It is submitted that the skyddsuppfostran is foreign to the scheme of the national legislation of the infant, i.e. Netherlands law. The only measure, known to Netherlands law, for the protection of the infant—apart from guardianship proper—is the "ondertoezichtstelling" (Articles 365-373, Civil Code). But the differences between the "ondertoezichtstelling" and the skyddsuppfostran are far too fundamental to allow any identification. The "ondertoezichtstelling" is a judicial measure, pronounced by the Court, the skyddsuppfostran is an administrative measure, ordered by the Child Welfare Board. The "ondertoezichtstelling" is decreed for one year at the outside, the skyddsuppfostran for an indefinite period. The "ondertoezichtstelling" consists in the appointment of a "gezinsvoogd", a private person who advises and co-operates

[1] The term "guardian" should be taken to connote both the guardian and the parent vested with parental power.

with the guardian, leaving the latter's powers intact, the skyddsuppfostran makes the child a ward of the Board. The "ondertoezichtstelling" allows the placing of the child outside of its home only in exceptional circumstances and subject to a special judicial decree, the skyddsuppfostran has this placing as a normal feature.

In comparing the two sets of provisions one can but conclude that, in substance, the Netherlands institution amounts to *educational assistance* to the guardian, whereas the Swedish institution amounts to his *exclusion*.

3. Finally, it is submitted that the exceptional power, conferred by Article 7 upon the local authorities, is a power to *supplement*, but not a power to *criticize and correct*, such as the skyddsuppfostran necessarily carries with it.

What are the situations covered by Article 7?

Under *(a)*, where no guardian has been appointed, the local authorities are permitted to make supplementary arrangements in a general manner.

Under *(b)*, where a guardian has been appointed but is unable to act in due time—e.g. in case the infant is summoned before a local court of criminal justice and needs immediate assistance—they are permitted to make supplementary arrangements for the special case. In both these situations the local authorities supplement without criticizing nor correcting.

The situation, however, is entirely different if a guardian is appointed by the national authorities, fulfils his office, both in a general and in a special manner, to their satisfaction, but has the misfortune not to find favour with the local authorities.

This last situation is not covered by any provision of the Convention and, in fact, cannot possibly be so covered, since any action by the local authorities would imply, on their part, the right to criticize and correct the national appointee. Such a right is not compatible with the object of the Convention. In giving priority to the appointment, as made by the national authorities, it binds all other authorities to recognize, accept and respect that appointment. But accepting the appointment *is* accepting the appointee. Consequently there is no margin for such criticism and correction as is implied by the skyddsuppfostran.

Condition of urgency not fulfilled

1. Even if the right to interfere with the guardian were granted to the local authorities, this right, under Article 7 *(b)*, would be dependent on urgency. Then one is struck by the fact that in the decree of February 21, 1956 (exh. H), the last link in the chain of Swedish decisions, the alleged urgency is not motivated at all. This strikes one the more since, in the preceding decision, the resolution of the Östergötland County Government (exh. G), very sound reasons are given for the *discontinuation* of the skyddsuppfostran.

Surely, such lack of motivation is not in conformity with the spirit of the Convention. The national authorities, learning that measures have been taken against their appointee, should be in a position to judge why the appointment has not been respected.

The absence of motivation, in the Swedish decision, appears particularly curious in view of the keenness shown by the Swedish authorities, to know the motivation of the Netherlands order. After Johannes Boll had been released of his guardianship by the Dordrecht Court, under an order of August 5, 1954 (exh. D), in Sweden the case was brought before the King in Council (exh. E) and on October 5 of that year the skyddsuppfostran was continued, *i.a.* on the ground that the Netherlands Court's order had not been sufficiently motivated. Apparently the Swedish authorities impose on the Netherlands authorities a duty of motivation they are not ready to comply with themselves.

2. The explanation of the absence of motivation is only too obvious. At the time of the Swedish Royal decree of February 21, 1956 (exh. H), there cannot have been any urgent reason for the continuation of the skyddsuppfostran. One can conceive that, in a former period, the Swedish authorities, though misguided as to their rights under the Convention, in good faith assumed urgency and thought it their duty to interfere. In that period Johannes Boll was guardian of his daughter and had been charged, in Sweden, with an infamous crime committed against her. Since then, however, firstly the charge against Mr. Boll has been withdrawn, and it has become clear that there is no stain on his character, and, secondly, he has been replaced, as guardian, by Mrs. Idema whose reputation has never been questioned. In view of these developments it is extremely hard to believe that any urgency for continuing the skyddsuppfostran can possibly exist.

3. There is some reason to suppose that the Swedish authorities have been confusing the concept of urgency with the concept of desirability. Obviously the range of the latter concept is much wider than that of the former: a measure is urgent only as far as it is desirable *and* as far as it cannot suffer any delay. Particularly in the field of guardianship and protection of infants a measure may be desirable without being urgent. It may be preferable that a child should live in a home different from the parents' or guardian's. But here we have desirability, not urgency. And it is only for urgency that the Convention has made provision. Consequently, even if in the opinion of the Swedish authorities the continuation of the skyddsuppfostran would be desirable, the power to order such continuation would not be conferred by Article 7 *(b)*.

4. Finally, it is submitted that, even if there were no Convention, the plea of urgency would not be justified. In that hypothesis the local authorities would have the right to interfere in virtue of public policy, always under the assumption that the conduct of

the guardian, in their country, appears unsatisfactory. What then would be their attitude? They would say to the guardian: "If you want to exercise your office as a guardian within our country, you must suffer our supervision, our criticism, our control and the measures we think fit to take against you." That, however, is not the attitude the Swedish authorities could possibly take in the present case, even if there were no Convention. It should be borne in mind that no effort has been spared by the guardians to take the infant out of Sweden and to exercise their office in the Netherlands. But in vain—owing to the skyddsuppfostran no permission to that effect has been granted. Accordingly, what the attitude of the Swedish authorities amounts to is this: "You do *not* want to exercise your office within our country, but nevertheless you must suffer our supervision, our criticism, our control and the measures we think fit to take against you." This, even if there were no Convention, would not be fair, nor reasonable, nor justified by the principle of public policy.

Final conclusions of the Government of the Kingdom of the Netherlands

The Netherlands Government submit that the Court should adjudge and declare:

That the measure taken and maintained by the Swedish authorities in respect of Marie Elisabeth Boll, namely the "skyddsuppfostran" instituted and maintained by the decrees of May 5th, 1954, June 22nd, 1954, October 5th, 1954, June 3rd, 1955, and February 21st, 1956, is not in conformity with the obligations binding upon Sweden *vis-à-vis* the Netherlands by virtue of the 1902 Convention governing the guardianship of infants;

That Sweden is under an obligation to end this measure.

The Hague, 29 November, 1957.

Agent for the Government of the
Kingdom of the Netherlands,
(Signed) W. RIPHAGEN.

List of Annexes

Exh. A. Appointment and swearing in of a co-guardian;

Exh. B. Extracts from the minutes kept at the meeting of the Norrköping Child Welfare Board on May 5, 1954;

Exh. C. Resolution of the Östergötland County Government, June 22, 1954;

Exh. D. Order of the Civil Court of Juvenile Affairs of Dordrecht, August 5, 1954;

Exh. E. Decree of the King in Council, October 5, 1954;

Exh. F. Extracts from the minutes kept at the meeting of the Norrköping Child Welfare Board on June 3, 1955;

Exh. G. Resolution of the Östergötland County Government, October 28, 1955;

Exh. H. Decree of the King in Council, February 21, 1956.

Exhibit A

[Translation]

APPOINTMENT AND SWEARING IN OF A CO-GUARDIAN

Kantongerecht (Cantonal Court)
at Amsterdam.

1954
Rep. II.
1409

On June 2, 1954,

there appeared before Us, Dr. I. van Creveld, Judge in the Cantonal Court at Amsterdam,
assisted by the acting Clerk M. Hertog:

(1) Johan Arnold Hong, authorized agent of:

Johannes Boll, gentleman, living at 60, Balijelaan, Utrecht, grandfather on the father's side,
and of:

(2) Henderina Eikes, wife of Johannes Boll aforesaid and of the same address,
grandmother on the father's side,
and of:

(3) Sieger Johannes Boll, garage-proprietor, living at 54 a bis, Balijelaan, Utrecht,
uncle on the father's side,
and of:

(4) Gerharda Lina Messelink, wife of Sieger Johannes Boll aforesaid and of the same address,
aunt by marriage on the father's side,

who, according to their statements, are next-of-kin or relations by marriage of the minor

Marie Elisabeth, born at Norrköping on May 7, 1945, of the marriage of Johannes Boll, living in Sweden,
and Gerd Elisabet Lindvall,
who died at Norrköping on December 5, 1953,

in order to be heard by Us at the request of the father/guardian in connection with the appointment of a co-guardian of the minor mentioned above;

The appearers stated unanimously that, in their opinion, the interests of the minor would be best served by appointing in that capacity:

Jan Albertus Idema, Notary, living at 83, Singel, Dordrecht.

Whereupon We, Cantonal Judge, associating Ourselves with the views of the appearers have appointed as co-guardian of the above mentioned minor:

Jan Albertus Idema, Notary, aforesaid,

who has thereupon taken the oath before Us in accordance with the procedure laid down by law.

This fact has been officially recorded by Us in this official report, which has been signed by Us and the Clerk.

(Sd.) M. HERTOG. *(Sd.)* I. VAN CREVELD.

Stamp of the Cantonal Court
at Amsterdam.

[Certification of the translation.]

Exhibit B

EXTRACTS FROM THE MINUTES KEPT AT A MEETING OF THE NORRKÖPING CHILD WELFARE BOARD ON MAY 5th, 1954 *[Translation]*

The City of Norrköping
Child Welfare Board.

Present: Mr. Löfgren, chairman, Mrs. Svensson, Mr. Lindegård, Miss Ringqvist, Mr. Norén, Mrs. Tillman, Miss Holmberg, Miss Käck, Miss Willén, and D:r Norlén.
Mr. Franzon and Mrs. Westerlund, deputy members, also attended.
Of the officers of the Board were present its Director, Inspector, and Inspectress.

§ 299.

The Chairman reported that, pending the decision of the Board, he had on 26 April taken charge of Marie Elisabet Boll, born on 7 May 1945.

. . . . . .

. . . . . .

. . . . . .

The Meeting was informed that Elisabet had on 28 April been placed in the care of her teacher, Mrs. Birgit Berg, and that she would remain there pending an examination in a psychiatric clinic for children.

The Board approved of the steps taken in the matter, and resolved to make Marie Elisabet Boll a ward of the Board pursuant to § 22 *a)* of the Child Welfare Act.

As above.
In fidem:
(sgd) Ossian GRÖNWALD.

Approved:
Sven Löfgren.
D. Lindegård.
Clara Käck.

[Certification of the translation.]

Exhibit C

[Translation]

RESOLUTION

OF THE ÖSTERGÖTLAND COUNTY GOVERNMENT *in re* THE WARDSHIP OF A MINOR; GIVEN IN THE COUNTY CHANCERY, PALACE OF LINKÖPING ON JUNE 22nd, 1954

The Östergötland
County Government,
Linköping.

Copy

IIA3 18 54.
No. 216.

The Chairman of the Norrköping Child Welfare Board having on 26 April 1954, pending the decision of the Board, taken charge of Marie Elisabeth, the daughter—born on 7 May 1945—of the Dutch citizen master mariner Johannes (Hans) Boll of 31 Jakob Ekbomsgatan in Norrköping and his deceased wife Gerd Elisabet Boll, née Lindwall, the Child Welfare Board approved the said action on May 5th 1954 and resolved that the child should be made a ward of the Board pursuant to § 22 *a)* of the Child Welfare Act.

As Hans Boll did not consent to the execution of the said Resolution, this was submitted, with a missive, for review before the County Government, reaching the County Government on 15 May 1954.

Hans Boll stated his case, and the Notary J. A. Idema of Dordrecht in Holland has also made a statement in his capacity as co-guardian of Elisabeth Boll. Both these statements were submitted through Mr. Nils Leander, a solicitor in Norrköping.

The County Government has had some inquiries made.

An opinion on Elisabeth Boll rendered by Dr. Eberhard Nyman, M.O. of the Lund Hospital Psychiatric Clinic, Infants Division, was on 19 June 1954 remitted by the Child Welfare Board to the County Government.

The Social Welfare Consultant has given his opinion.

In view of the evidence given in the case, and pursuant to the aforesaid Section of the Child Welfare Act, the County Government ratifies the Resolution submitted.

Appeals against this Resolution of the County Government will lie to the King in Council if filed in the Ministry of Social Affairs, Labour and Housing within thirty days of the date when the plaintiffs were notified of the said Resolution.

Carl HAMILTON.

D. H: son FORSBERG.

[Certification of the translation.]

Exhibit D

EXTRACT OF THE ORIGINAL INSTRUMENT IN THE CUSTODY OF THE CLERK'S OFFICE OF THE "ARRONDISSEMENTS-RECHTBANK" (DISTRICT COURT) AT DORDRECHT

[Translation]

The District Court at Dordrecht,

Having further regard to the petition submitted by the Guardianship Court at Dordrecht, dated July 29, 1954, for the purpose of releasing Johannes Boll of 83, Singel, Dordrecht, from the guardianship of his minor child Maria Elisabeth, born at Norrköping on May 7, 1945;

Having regard to the provisional decision on the petition of July 30, 1954;

Having regard to the hearing held on August 5, 1954, in accordance with this decision;

Having regard to the statement of the Clerk that the father/guardian, the co-guardian of the child and the Guardianship Court at Dordrecht were summoned in accordance with the procedure laid down by law;

Having regard to the fact that Mrs. Catharina Trijntje Postema, widow of Gerrit Kornelius Idema, of 129, Verlengde Slotlaan, Zeist, has expressed her willingness in this respect by a statement dated July 1954;

Considering that the documents submitted have satisfied the Court that the father/guardian is unfit and unable to fulfil his duties of looking after and bringing up the child on account of his being a sailor;

Considering that the interests of the child do not oppose this release on any other account;

Considering that the father/guardian does not object to this release;

Having regard to the pertinent legal provisions;

Releases Johannes Boll aforesaid from the guardianship of his minor child Maria Elisabeth aforesaid;

Appoints guardian of the abovementioned child Mrs. Catharina Trijntje Postema, widow of Gerrit Kornelius Idema, of 129, Verlengde Slotlaan, Zeist;

Orders the abovementioned child to be handed over to the guardian aforesaid;

Done by Dr. H. E. van Opstall, Deputy Single Judge, also Magistrate in the Juvenile Court, and publicly pronounced by the aforementioned judge at the session of August 5, 1954, in the presence of E. Sulman, deputy Clerk.

(Sd.) E. SULMAN. *(Sd.)* H. E. VAN OPSTALL.

(Stamp of the Cantonal Court at Dordrecht.)

[Certification of the translation.]

Exhibit E

[Translation]
Copy.

DECREE

OF THE KING IN COUNCIL *in re* THE HUMBLE APPEAL SUBMITTED BY THE DUTCH NATIONALS JOHANNES BOLL, JAN ALBERTUS IDEMA, AND CATHARINA TRIJNTJE POSTEMA

AGAINST THE RESOLUTION OF THE ÖSTERGÖTLAND COUNTY GOVERNMENT REGARDING THE WARDSHIP OF A MINOR; THIS APPEAL WAS REMITTED TO THE COUNTY GOVERNMENT FOR ITS OPINION, WHICH AFTER HEARING THE PARTIES CONCERNED WAS RENDERED ON 24 SEPTEMBER 1954; GIVEN IN THE SUPREME COURT OF ADMINISTRATIVE JUSTICE ON 5 OCTOBER 1954

The Chairman of the Norrköping Child Welfare Board having on 26 April 1954, pending the decision of the Board, taken charge of the child Marie Elisabeth, born on 7 May 1945 as the daughter of Boll and his deceased wife Gerd Elisabeth Boll, née Lindvall, the said Child Welfare Board approved the action of its Chairman at a meeting on 5 May 1954 and resolved that pursuant to § 22 *a*) of the Child Welfare Act the said child should be put under the wardship of the Board.

As Boll did not consent to the execution of this Resolution, the Child Welfare Board submitted its decision to the consideration of the County Government.

According to the Resolution now appealed against, the County Government has in consideration of the evidence produced in the case and by virtue of the aforesaid Section of the Child Welfare Act confirmed the submitted resolution.

An Appeal for the review of this Resolution of the County Government has been submitted by Boll and Idema, the latter of whom had on 2 June 1954 been appointed co-guardian of Marie Elisabeth by an Amsterdam Court of Justice. The Dordrecht Arrondissement Court having subsequently by an Order of 5 August 1954 discharged Boll from his guardianship of the aforesaid child and appointed Catharina Trijntje Postema its guardian, Catharina Postema has also appealed against the Resolution of the County Government.

The King in Council has graciously had the case of the aforesaid Appellants stated to Him.

From the evidence it appears that the mental health of the child would be endangered under the care of her father. The Resolution of the County Government was accordingly lawful.

A Dutch Court of Justice has subsequently discharged the father from the guardianship of his child and appointed Catharina Postema in his stead. According to information received, the Order of this Court also applies to the custody of the child, and Catharina Postema claims the discontinuation of the wardship with a view to giving her the custody of the child.

The evidence in the case cannot, however, be deemed to have established that the wardship of the child might be discontinued without endangering her mental health.

It has thus not even been stated under what conditions Catharina Postema would take care of the child, nor how far she is suitable to do so. The Dutch authority (Voogdijraad), which applied to the Dordrecht Court for the discharge of the father from his guardianship, is stated to have had at least some knowledge of the inquiries on which the Child Welfare Board had based its action, but the way in which the Court has motivated its Order does not indicate any such knowledge on the part of the Court. For this reason, and for lack of information in the aforesaid respects, it is impossible to judge whether the arrangements ordered by the Court may be expected to be permanent, nor whether the child might not even in that case come under the influence of her father.

In view of the dissensions to which the child has been exposed and of the other circumstances stated in evidence, it is obvious that the removal of the child to a wholly strange environment would at present seriously endanger her mental health.

For the above reasons the King in Council dismisses the Appeals. For the due observance and necessary action of all concerned.

Under the Royal Seal:
L.S.
Börje LANGTON.
Officially certified true Copy.
(sgd) Lilly BERGSTEDT,
Registrar.

No. 1322.

This is to certify that Miss Lilly Bergstedt, who has signed the above certification, is the Registrar of the Ministry for Social Affairs, Labour & Housing, in which capacity she is competent to issue Certificates of this nature.

Stockholm, in the Ministry for Foreign Affairs, 28 August, 1957.

(sgd) K. F. ALMQVIST,
Ass. Director of the
Legal Department.

Free of charge.

[Certification of the translation.]

Exhibit F

EXTRACTS FROM THE MINUTES KEPT AT A MEETING OF THE NORRKÖPING CHILD WELFARE BOARD ON JUNE 3rd, 1955

[Translation]

The City of Norrköping
Child Welfare Board.

Present: Mr. Löfgren, chairman, Mrs. Simon, v. chairman, Miss Heydl, Mr. Lindegård, Miss Ringqvist, Mr. Lars Håkan Svensson, Miss Willén, Mr. Degerman, and Dr Norlén.
Mrs. Svensson and Mrs. Westerlund, deputy members, also attended.
Of the officers of the Board were present its Director, Inspector, and Inspectress.

§ 354.

In the matter of Elisabeth Boll, last dealt with on 13 May 1955, § 277, the following letter had on 17 May been received from the girl's father:

. . . . . .

After discussing this, the Board resolved that Elisabeth Boll should still continue to be a ward of the Board, and to obtain further expert medical advice before deciding whether the girl should be moved from her present foster home.

As above.
In fidem:
(sgd) Ossian GRÖNWALD.

Approved:
Sven Löfgren.
Ida Heydl.
M. Lindegård.

[Certification of the translation.]

Exhibit G

[Translation]
Copy.

The Östergötland
County Government,
Linköping.

IIA3 14 55.

RESOLUTION

OF THE ÖSTERGÖTLAND COUNTY GOVERNMENT *in re* THE APPEAL OF THE DUTCH CITIZENS CATHARINA TRIJNTJE IDEMA-POSTEMA AND JAN ALBERTUS IDEMA, THE FORMER GUARDIAN AND THE LATTER CO-GUARDIAN OF MARIE ELISABETH BOLL OF NORRKÖPING, AGAINST THE DECISION SAID BELOW; GIVEN IN THE COUNTY CHANCERY, PALACE OF LINKÖPING, ON 28 OCTOBER 1955

No. 266.

On 26 April 1954 the Chairman of the Norrköping Child Welfare Board had, pending the decision of the Board, taken charge of the daughter Elisabeth, born on 7 May 1945, of the Dutch citizen master mariner Johannes (Hans) Boll and his deceased wife Gerd Elisabet Boll, née Lindwall. At a meeting on 5 May 1954 the Child Welfare Board approved the action taken by its Chairman and resolved that the said girl should be made a ward of the Board pursuant to § 22 *a)* of the Child Welfare Act.

This Resolution of the Child Welfare Board was submitted for review before the County Government, and was ratified by a Resolution of the said Government on 22 June 1954.

By a Decree of 24 September 1954 the King in Council dismissed the Appeal of Hans Boll, Catharina Idema-Postema, and Jan Albertus Postema against the aforesaid Resolution of the County Government.

The guardians have now applied to the Child Welfare Board to put an end to the wardship of the child, pleading that its decision was the result of a suspicion that Hans Boll had committed a certain criminal offence which the Public Prosecutor concerned had decided not to charge him with. On 3 June 1955 the Board decided, however, that Elisabeth should remain its ward. In a letter of 21 June 1955 to the County Government, Mr. Dick Bergman, the solicitor representing the guardians, has appealed against this Resolution of the Child Welfare Board.

The Child Welfare Board has stated its case, the Social Welfare Consultant has submitted his opinion, and Mr. Bergman has filed his replications.

The evidence adduced in this case and the documents of that settled by the King in Council on 24 September 1954 indicate: that a Dutch Court has ordered the discharge of Hans Boll from his guardianship and appointed Catharina Idema-Postema a guardian in his stead; that

this Order also applies to the custody of Elisabeth; that her guardian and her co-guardian Jan Albertus Idema intend to entrust the actual care of Elisabeth to Mr. Sven Törnquist, M. Lic., and his wife in Norrköping; and that these have declared themselves willing to receive Elisabeth in their home.

Mr. & Mrs. Törnquist, who themselves have two children of whom one is a girl of approximately the same age as Elisabeth, appear to be suitable for having the actual care of Elisabeth.

The County Government is of the opinion that credit should be given to the guardians' statement regarding the disposition of Elisabeth.

In view of the evidence now available in the case, and of what is said above, a continuation of the wardship is apparently not required.

Rescinding the decision of the Child Welfare Board of 3 June 1955; the County Government accordingly refers the case back to the said Board with instructions to declare its wardship at an end as soon as this Resolution of the County Government has become legally valid.

Appeals against this Resolution will lie to the King in Council, but may be non-suited unless filed in the Ministry for Social Affairs, Labour and Housing within three weeks of the date when the Appellant was notified of this Resolution.

D. H: son FORSBERG. Carl HAMILTON.

Officially certified true copy:
(sgd) G. WINBOM.

[Certification of the translation.]

Exhibit H

[Translation]

DECREE

OF THE KING IN COUNCIL *in re* THE HUMBLE APPEAL SUBMITTED BY THE NORRKÖPING CHILD WELFARE BOARD AGAINST THE RESOLUTION OF THE ÖSTERGÖTLAND COUNTY GOVERNMENT OF 28 OCTOBER 1955 REGARDING THE DISCHARGE OF A MINOR FROM THE WARDSHIP OF THE BOARD; THIS APPEAL WAS REMITTED TO THE COUNTY GOVERNMENT FOR ITS OPINION, WHICH AFTER HEARING THE PARTIES CONCERNED WAS RENDERED ON 17 JANUARY 1956 GIVEN IN THE SUPREME COURT OF ADMINISTRATIVE JUSTICE ON 21 FEBRUARY 1956

Copy delivered by
The Ministry for Social Affairs,
Labour & Housing
to Catharina Trijntje Idema-
Postema and J. A. Idema, c/o
Attorney at Law D. Bergman,
Strandvägen 7 A, Stockholm.

The Chairman of the Child Welfare Board having on 26 April 1954, pending the Resolution of the Board, taken charge of the child Marie Elisabeth, born on 7 May 1945 as the daughter of the Dutch national Johannes Boll and his deceased wife Gerd Elisabeth Boll, née Lindwall, the said Child Welfare Board approved the action of its Chairman at a meeting on 5 May 1954 and resolved that pursuant to § 22 *a*) of the Child Welfare Act the said girl should be put under the wardship of the Board.

The County Government, to whom the matter was referred, confirmed the action of the Board by a Resolution of 22 June 1954.

Humble Appeals against this Resolution having been lodged not only by Boll and Jan Albertus Idema, who by an Amsterdam Court had on 2 June 1954 been appointed co-guardian of Marie Elisabeth, but also by Catharina Postema, who had by an Order of the Dordrecht Arrondissement Court of 5 August 1954 been appointed guardian of the child in place of Boll, these Appeals were dismissed by the King in Council for the reasons given in its Decree of 5 October 1954.

In May 1955 Idema and Catharina Postema applied to the Child Welfare Board for the discontinuation of the wardship.

At a meeting on 3 June 1955 the Child Welfare Board resolved that the child should remain under its wardship.

Idema and Catharina Postema appealed to the County Government against this decision, urging the County Government to declare the wardship of the child at an end.

In the Resolution now appealed against the County Government has stated: The evidence given in this case, and the documents of the case settled by the King in Council on "24 September" 1954, indicate that

a Dutch Court has ordered the dismissal of Böll from his guardianship and appointed Catharina Postema to be guardian in his stead; that this Order also applies to the custody of Elisabeth; that the guardian and the co-guardian Idema intend to entrust the actual care of Elisabeth to Mr. Sven Törnquist, M.Lic., and his wife in Norrköping; and that these have declared themselves willing to receive Elisabeth in their home. Mr. & Mrs. Törnquist, who themselves have two children of whom one is a girl of approximately the same age as Elisabeth, appear to be suitable for having the actual care of Elisabeth. The County Government considers that the stated intentions of the guardians as to the arrangements for Elisabeth should be credited. In view of the fresh evidence produced in the case, and of what is said above, there seems to be no reason for a further continuation of the wardship. Rescinding the Decision of the Child Welfare Board of 3 June 1955, the County Government accordingly returned the case to the said Board with instructions to declare its wardship at an end as soon as the Resolution of the County Government has acquired legal force.

The Child Welfare Board has appealed against this Resolution.

The King in Council has graciously had the Appeal of the Child Welfare Board stated to Him; and as according to the evidence in the case the child is still in need of wardship

the King in Council, rescinding the County Government Resolution now appealed against, confirms the Decision of the Child Welfare Board of 3 June 1955. For the due observance and necessary action of all concerned.

Under the Royal Seal:
(L.S.)
Börje LANGTON.

Officially certified true Copy:
(sgd) E. FAGERBERG.

No. 1321.
This is to certify that Mrs. E. Fagerberg, who has signed the above certification, is a clerk in the Chancery of the Ministry for Social Affairs, in which capacity she is competent to issue Certificates of this nature.
Stockholm, in the Ministry for Foreign Affairs, 27 August, 1957.
(sgd) K. F. ALMQVIST,
Ass. Director of the
Legal Department.
L.S.

Free of charge.

[Certification of the translation.]