

## La CEDU sui benefici di welfare ai genitori soli (CEDU, sez. II, sent. 17 marzo 2026, ric. n. 46692/19)

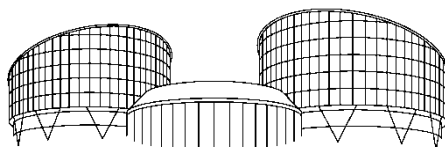
Nel caso di specie, i giudici di Strasburgo sono chiamati a pronunciarsi sulla presunta violazione dell'articolo 14 della Convenzione, letto in combinato disposto con l'articolo 1 del Protocollo n. 1 e/o con l'articolo 8, in relazione all'applicazione di un tetto ai benefici di welfare nei confronti di una madre sola con un figlio minore di due anni.

La ricorrente lamentava che la mancata esenzione dal tetto per i genitori che – a causa delle responsabilità di cura e dell'assenza di servizi gratuiti di assistenza all'infanzia per i bambini sotto i due anni – incontrano maggiori difficoltà a soddisfare il requisito lavorativo delle 16 ore settimanali integrasse una forma di discriminazione rispetto agli altri genitori beneficiari. Nell'ambito delle riforme governative, infatti, era stato introdotto un tetto massimo ai benefici annuali, dapprima fissato a 26.000 e poi ridotto a 23.000 sterline, dal quale erano esentati i soli genitori che lavoravano almeno 16 ore a settimana. Tuttavia, la ricorrente, non potendo accedere a servizi gratuiti di assistenza all'infanzia, sosteneva che tale requisito fosse, nella pratica, eccessivamente gravoso.

Ciononostante, la Corte osserva che la misura si colloca nell'ambito delle politiche socio-economiche statali, rispetto alle quali gli Stati godono di un ampio margine di apprezzamento, e persegue obiettivi legittimi, quali l'incentivazione al lavoro, la sostenibilità del sistema di welfare e l'equilibrio tra beneficiari e contribuenti. La Corte attribuisce rilievo, inoltre, a: *i*) il fatto che il legislatore abbia considerato l'impatto della misura sui genitori con figli piccoli, respingendo consapevolmente le proposte di esenzione e valorizzando il lavoro quale principale strumento di contrasto alla povertà; *ii*) la presenza di misure di sostegno alternative, quali contributi per l'assistenza all'infanzia e pagamenti discrezionali; *iii*) il successivo ampliamento dei servizi di childcare.

Alla luce di tali considerazioni, la Corte conclude che la mancata esenzione non è manifestamente priva di ragionevole fondamento e rientra nel margine di apprezzamento dello Stato; ne consegue la non violazione dell'articolo 14 della Convenzione.

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

SECOND SECTION

**CASE OF XXX v. THE UNITED KINGDOM**

(Application no. 46692/19)

JUDGMENT  
STRASBOURG  
17 March 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 XXX v. the United Kingdom,**

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Arntfinn Bårdsen, *President*,  
Saadet Yüksel,  
Péter Paczolay,  
Oddný Mjöll Arnardóttir,  
Gediminas Sagatys,  
Stéphane Pisani,  
Hugh Mercer, *judges*,  
and Andrea Tamietti, *Section Registrar*,

Having regard to:

the application (no. 46692/19) against the United Kingdom of Great Britain and Northern Ireland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by two British nationals, XXX (“the first applicant”) and XXX (“the second applicant”) (together, “the applicants”), on 29 August 2019;

the decision to give notice to the United Kingdom Government (“the Government”) of the complaints concerning Article 14 of the Convention read in conjunction with Article 1 of Protocol No. 1 and/or Article 8 of the Convention;

the decision not to have the applicants’ names disclosed;

the parties’ observations;

Having deliberated in private on 10 February 2026,

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

**INTRODUCTION**

1. The application concerns the Government’s policy of imposing a monetary cap on the total amount of welfare benefits households may receive per year. The applicants, a mother and her child, complained that the Government’s failure to exempt lone parents with children under the age of two from the scope of the cap constituted unlawful discrimination within the meaning of Article 14

of the Convention, read in conjunction with Article 1 of Protocol No. 1 and/or Article 8 of the Convention.

## **THE FACTS**

2. The applicants were born in “Omissis” and “Omissis” respectively and live in “Omissis”. They were granted legal aid and were represented by “Omissis”), a lawyer practising in London.

3. The Government were represented by their Agent, Mr J. Gaughan, of the Foreign, Commonwealth and Development Office.

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

### **I. BACKGROUND TO THE CASE**

5. In April 2013, the Government introduced secondary legislation imposing a cap of 26,000 British pounds (“GBP”) per annum on the total amount of welfare benefits households other than those comprising a sole adult could receive (see paragraphs 24-25 below) (“the original benefit cap”). The cap did not apply to lone parents if the lone parent claiming benefits worked at least 16 hours per week (see paragraph 25 below).

6. In March 2016, the Government introduced primary legislation reducing the benefit cap to GBP 23,000 per annum for households other than those comprising a sole adult in London and GBP 20,000 for such households outside of London (see paragraph 27 below) (“the revised benefit cap”). The revised benefit cap was brought into effect on 7 November 2016. Lone parents who worked at least 16 hours per week continued to be exempt from the cap (see paragraph 28 below).

7. At the time the present application was lodged, the Government offered free childcare in respect of all children aged three and four years old and certain children aged two years old (see paragraphs 40-41 below). The Government did not offer free childcare in respect of children under the age of two years old. Children were required to enter full-time education when they attained five years of age (see paragraph 42 below).

8. The first applicant is the mother of the second applicant, who was born in June 2017. Between June 2017 and June 2019, the first applicant was therefore the lone parent of a child under the age of two years old and was subject to the revised benefit cap. The first applicant was not entitled to any free childcare in respect of the second applicant during this period (see paragraph 7 above) and therefore contends that it was unduly difficult for her to work the 16 hours per week necessary to exempt herself from the revised benefit cap.

### **II. THE DOMESTIC PROCEEDINGS**

#### **A. Proceedings before the Administrative Court**

9. On 24 January 2017, a number of individuals including the first applicant issued a claim for judicial review. They argued (among other things) that: (i) the application of the revised benefit cap to lone parents of children under the age of two – who, because of their caring responsibilities, found it unduly difficult to work the 16 hours per week necessary to exempt themselves from the revised

benefit cap – constituted unlawful discrimination contrary to Article 14 of the Convention read with Article 8 and/or Article 1 of Protocol No. 1; and (ii) the application of the revised benefit cap to children under the age of two with lone parents constituted unlawful discrimination contrary to Article 14 of the Convention read with Article 8 of the Convention. The first applicant did not have a child under the age of two at the time the claim was brought, but was due to (and did) give birth later that year.

10. On 22 June 2017, the Administrative Court found in favour of the claimants on both grounds (*R (DA and others) v Secretary of State for Work and Pensions* [2017] EWHC 1446 (Admin)). Mr Justice Collins concluded that, although the aims pursued by the benefit cuts were legitimate, evidence showed that the revised benefit cap was capable of causing real damage to individuals such as the claimants who found it impossible to comply with the work requirement because of their caring responsibilities.

11. The Government appealed the judgment of the Administrative Court to the Court of Appeal.

### **B. Proceedings before the Court of Appeal**

12. On 15 March 2018, the Court of Appeal (by a majority of two to one) allowed the Government's appeal (*R (DA and others) v Secretary of State for Work and Pensions* [2018] EWCA Civ 504). Sir Patrick Elias, delivering the main judgment, rejected the submission that there were obvious and significant differences which marked out the cohort of lone parents with children under the age of two from other lone parents. He therefore found that no discrimination arose from the failure to exempt lone parents with children under the age of two from the application of the revised benefit cap. The judge observed that, in any event, it would not have been possible to say that discrimination against the parent claimants' cohort was unjustified or "manifestly without reasonable foundation". The judge did not accept that presenting the children as claimants in their own right added anything of substance to the discrimination claims brought by their parents.

13. The claimants, including the first applicant, appealed the judgment of the Court of Appeal to the Supreme Court.

### **C. Proceedings before the Supreme Court**

14. The Supreme Court heard the first applicant's (and her co-claimants') appeal ("the XXX case") jointly with another ("the D.S. case"). In the D.S. case, the claimants had alleged that the revised benefit cap discriminated unlawfully against lone parents and the children of lone parents.

15. On 15 May 2019, the Supreme Court (by a majority of five to two) dismissed both appeals, finding that there had been no Convention-related discrimination (*R (on the application of DA and others) v Secretary of State for Work and Pensions, R (on the application of DS and others) v Secretary of State for Work and Pensions* [2019] UKSC 21). The reasoning of the Justices, in so far as relevant to the XXX case, may be summarised as follows.

16. Lord Wilson, delivering the main judgment (with whom Lord Hodge agreed), concluded that the appellant cohorts had a "status" on the ground of which they could seek to complain under Article 14 of discrimination in the enjoyment of their substantive Convention rights. He also

considered that the appellant cohorts were in a relevantly different situation from all others subject to the revised benefit cap such that the failure to exempt them from the cap required justification:

“51. There is clear prima facie evidence that ... the *DA* and the *DS* cohorts are in a relevantly different situation from those others who have been treated similarly to them by their common subjection to the revised cap. For it appears

(a) that, in the case of a lone parent of a child below school age, in particular of a child below the age of two, it is contrary to the interests both of herself, of her child and of the family as a whole that she should in effect be constrained to work also outside the home;

(b) that, by the conditions which it has attached to the receipt of income support, the government has itself decided that it is contrary to their interests;

(c) that, irrespective of whether it is contrary to their interests for her to be so constrained, the extra difficulty, beyond that faced by others subjected to the cap, which confronts such parents in finding not only suitable work but also suitable childcare is plain;

(d) that, in the case of a child aged under two, the absence of any free childcare further increases that difficulty;

(e) that the incidence of failure of those represented by the *DA* and the *DS* cohorts to escape the cap, namely in the case of the wider *DS* cohort 54%, and in the case of the narrower *DA* cohort 25%, of all those who suffer it, demonstrates its disproportionate impact upon them; and

(f) that, while the effect of the cap on all households who suffer it is to reduce their income below the poverty line, poverty has a disproportionate effect on the young children within these cohorts, stunting major aspects of their development in the long term as well as in the short term.”

17. Lord Wilson considered that the court’s assessment of whether the adverse effects of rules for entitlement to welfare benefits were justified was to be undertaken by reference to whether they were “manifestly without reasonable foundation”. Pertinent to this inquiry was whether, in setting the terms of the revised benefit cap, the Government had breached Article 3.1 of the United Nations Convention on the Rights of the Child (“UNCRC”) (see paragraph 61 below). For Lord Wilson, Article 3.1 UNCRC was relevant to the Convention rights of both the children and lone parents concerned by the appeals:

“76. Insofar as in the present appeals the children themselves claim a violation of rights of their own under article 14, taken with article 8, their rights should be construed in the light of the UNCRC as an international convention which identifies the level of consideration which should have been given to their interests before subjecting their households to the revised cap.

77. But can the lone parents themselves also claim that their own rights under article 14, taken with article 8, must be construed in the light of the provision in the UNCRC for consideration of their children’s interests? The interests of the lone parents in play in the present appeals are indistinguishable from the interests of their children below school age. Their claim is as parents: so, without their children, it would not exist. Indeed their claim is as lone parents: so responsibility for

their children in effect rests solely upon them. And their claim is to defend furtherance of their family life from the effects of a cap on benefits specifically computed by reference to the needs of their children and themselves taken together. ...”

18. However, following an analysis of the parliamentary materials explaining the background to the Government’s decision and in particular the Government’s policy objectives (including a number of the materials referred to at paragraphs 30-38 below), Lord Wilson concluded – “[b]y a narrow margin” – that the Government did not breach Article 3.1 UNCRC by subjecting the appellant cohorts to the revised benefit cap. Lord Wilson also concluded that the Government’s decision to treat the appellant cohorts similarly to all others subject to the revised benefit cap was not “manifestly without reasonable foundation”, considering in particular the Government’s belief that there were better long-term outcomes for children who lived in working households, and the Government’s provision of Discretionary Housing Payments to address particular hardship (see paragraphs 44-46 below).

19. Lord Carnwath (with whom Lord Reed and Lord Hughes agreed) was similarly of the view that the appeal should be dismissed on the basis that the approach adopted by the Government was not “manifestly without reasonable foundation”. He considered that, in circumstances where the claims in question fell within the ambit of Article 8 so as to engage the issue of discrimination under Article 14, the “best interests” principle under Article 3.1 UNCRC was potentially relevant. The judge was also content to assume for the purposes of the appeal that the appellants satisfied the “status” requirement, but was unable to reach a concluded view on the matter in the absence of directly relevant authority from this Court:

“108. I must accept ... that in *R (Stott) v Secretary of State for Justice* the majority of this court adopted a relatively broad view of the concept of “status”. On that basis I would agree that “lone parents” can properly be regarded as having a status within the *Thlimmenos* principle. In agreement with Lord Hodge, I am much more doubtful as to the appropriateness of the other narrower forms of status relied on in this case ... However, in the absence of any directly relevant Strasbourg authority on these points, it is difficult to reach a concluded view. Like Lord Hodge I am content to assume for present purposes that the “status” requirement is satisfied in respect of each such group.”

20. Lord Hodge (with whom Lord Hughes agreed) agreed with Lord Wilson that the appeals should be dismissed for the reasons provided. He agreed with Lord Carnwath’s view on justification and the application of the “manifestly without reasonable foundation” standard. While Lord Hodge was content to assume that the appellants had the required “status” to mount a challenge under Article 14 of the Convention, he shared Lord Carnwath’s doubts on this issue.

21. Lady Hale (dissenting) agreed with Lord Wilson that “lone parent” constituted a status within the meaning of Article 14, and that it could be sub-divided according to the ages of the lone parent’s child. She also agreed with Lord Wilson that the appellant cohorts were in a relevantly different situation from others subject to the revised benefit cap. However, Lady Hale considered that the revised benefit cap was not suitable to achieving any of its declared aims and that, even if it were, the Government had failed to strike a fair balance between the interests of the community on the one hand and the interests of the children concerned and their parents on the other. In particular,

Lady Hale was of the view that there was little or no evidence that proper account had been taken of the effect of the revised benefit cap on the welfare of children in lone parent families.

22. Lord Kerr (dissenting) agreed with Lord Wilson that the appellants had the requisite status to advance claims under Article 14 and that there was clear *prima facie* evidence that the appellants were in a relevantly different situation from others subject to the revised benefit cap. However, the judge considered that the “manifestly without reasonable foundation” test should not be applied domestically and that it ought only be applied when considering whether a measure pursued a “legitimate aim” as opposed to whether a measure was “proportionate”. Lord Kerr concluded that the Government had failed in this case to carry out a proper weighing of the particular interests of the appellant cohorts against the objectives of the revised benefit cap, as the Government were required to do under Article 3.1 UNCRRC.

## **RELEVANT LEGAL FRAMEWORK AND PRACTICE**

### **I. DOMESTIC LAW AND PRACTICE**

#### **A. The Government’s welfare reforms**

23. In March 2012, the Government enacted the Welfare Reform Act 2012 (“the 2012 Act”). The 2012 Act introduced a new integrated working-age benefit called “Universal Credit” to replace six separate pre-existing benefits including working tax credit. The 2012 Act contained provisions allowing for a phased transition from the pre-existing benefits to Universal Credit.

#### **B. The original benefit cap**

24. Sections 96 and 97 of the 2012 Act enabled regulations to be introduced imposing a cap on the welfare benefits to which a single person or couple was entitled. Pursuant to these provisions, the Government adopted the Benefit Cap (Housing Benefit) Regulations 2012 (Statutory Instrument no. 2012/2994) (“the 2012 Regulations”), which amended a previous set of regulations – the Housing Benefit Regulations 2006 (Statutory Instrument no. 2006/213) (“the 2006 Regulations”) – so as to provide that, if a household’s total entitlement to specified welfare benefits exceeded an annual limit, the household’s entitlement should be capped at that limit (regulation 75A of the 2006 Regulations). The annual limit stipulated for households other than those comprising a sole adult was GBP 26,000 (regulation 75G of the 2006 Regulations). This cap – the original benefit cap – came into force on 15 April 2013. An equivalent cap was set for recipients of Universal Credit (see regulation 79 of the Universal Credit Regulations 2013 (Statutory Instrument no. 2013/376) (“the 2013 Regulations”).

25. The 2006 Regulations, as amended by the 2012 Regulations, provided for certain exemptions to the original benefit cap. Under regulation 75E of the 2006 Regulations, the benefit cap did not apply to those entitled to working tax credit. A lone parent was entitled to working tax credit if, among other things, she or he undertook work for at least 16 hours each week (regulation 4(1) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (Statutory Instrument no. 2002/2005) (“the 2002 Regulations”). Similarly, the benefit cap did not apply to an award of Universal Credit (which was introduced to replace working tax credit: see paragraph 23 above) where a household met an earnings threshold based on 16 hours work at the National Minimum

Wage (see regulation 82 of the 2013 Regulations). Under regulation 75F of the 2006 Regulations and regulation 83 of the 2013 Regulations, those in receipt of certain benefits such as industrial injuries benefits were exempted from the benefit cap.

26. A claim challenging the application of the original benefit cap was brought domestically in 2013 by the mothers and youngest children of three lone parent families. They argued (among other things) that the cap discriminated against women contrary to Article 14 of the Convention read with Article 8 and/or Article 1 of Protocol No. 1 to the Convention. On 18 March 2015, the Supreme Court (by a majority of three to two) found no violation of the Convention and dismissed the claimants' appeal (*R (on the application of SG and others (previously JS and others)) v Secretary of State for Work and Pensions* [2015] UKSC 16).

### **C. The revised benefit cap**

27. The revised benefit cap was introduced by the Welfare Reform and Work Act 2016 ("the 2016 Act"). The 2016 Act amended the 2012 Act so as to reduce the annual limit for the receipt of welfare benefits to GBP 23,000 for households other than those comprising a sole adult in Greater London and GBP 20,000 for such households outside of Greater London (section 96(5A) of the 2012 Act). The revised cap was brought into effect on 7 November 2016 by the Benefit Cap (Housing Benefit and Universal Credit) (Amendment) Regulations 2016 (Statutory Instrument no. 2016/909) ("the 2016 Benefit Cap Regulations").

28. The exemptions provided for by regulations 75E and 75F of the 2006 Regulations and regulations 82 and 83 of the 2013 Regulations (see paragraph 25 above) continued to apply in relation to the revised benefit cap, meaning that households would not be subject to the cap if they worked at least 16 hours per week. In addition, the 2016 Benefit Cap Regulations amended regulation 75F of the 2006 Regulations and regulation 83 of the 2013 Regulations to exempt those in receipt of a Carer's or Guardian's Allowance from the revised benefit cap.

29. As summarised above (see paragraphs 9-22), proceedings were brought domestically regarding the compatibility of the revised benefit cap – in so far as it applied to lone parents, the children of lone parents, lone parents of children under the age of two and children under the age of two with lone parents – with the Convention. On 15 May 2019, the Supreme Court (by a majority of five to two) found no violation of the Convention and dismissed the claimants' appeals (see paragraphs 14-22 above).

### **D. Parliamentary consideration of the benefit cap**

30. Both the original benefit cap and the revised benefit cap were subject to parliamentary consideration prior to being enacted as law. Parliamentarians had regard to, among other things, the impact of the benefit cap on households with young children.

#### *1. The original benefit cap*

31. On 16 February 2011 the Welfare Reform Bill, which included provision for the original benefit cap, was introduced into Parliament.

32. On 17 May 2011 a Member of Parliament (“MP”) proposed an amendment to exempt households from the cap if childcare costs outweighed earnings, referring in particular to lone parents with several children including children under the age of five. The Government opposed the amendment, which was withdrawn by the MP.

33. On 21 November 2011 a member of the House of Lords tabled amendments focusing on households with children, including one exempting lone parents with children under the age of five from the ambit of the benefit cap. The amendment was opposed by the Government and was ultimately not pressed upon.

## *2. The revised benefit cap*

34. On 9 July 2015 the Welfare Reform and Work Bill (“the 2015 Bill”), which included provision for the revised benefit cap, was introduced into Parliament.

35. On 8 September 2015 the Government published a memorandum on the 2015 Bill addressed to the Joint Committee on Human Rights (a committee of 12 members appointed from both Houses of Parliament who scrutinise every Government Bill for compatibility with human rights). The memorandum asserted (among other things) that the Government had considered their proposed reduction of the benefit cap by reference to their obligations under Article 3 UNCRC:

“77. In relation to clauses 7 and 8 (reduction of the benefit cap), ... the Government has fully considered its obligations under the UNCRC, and in particular article 3 (the duty to treat the best interests of the child as a primary consideration) ... . The Government considers that £20,000 and £23,000 is a sufficient amount for families to live on many working households earn less than this. The best interests of children overall is to have parents in work and work remains the surest route out of poverty. Children in workless families are three times as likely to be in relative poverty, than families where at least one parent works. The cap has been proven to encourage movement into work. Evidence shows that capped households are 41% more likely to go into work after a year than similar uncapped households so reducing the cap further will encourage more people into work. The savings afforded to the Government by reducing spending on welfare will allow the Government to protect expenditure on education, childcare and health and the improvements to the overall economic situation will have a positive impact on children and their best interests.”

36. On 10 and 15 September 2015 a number of stakeholder organisations made representations to the Public Bill Committee of the House of Commons (a committee set up specifically to examine the details of the 2015 Bill) in respect of the revised benefit cap and lone parents with young children. Gingerbread, a charity for lone parent families, emphasised that a significant proportion of those subject to the original benefit cap were lone parents of children under the age of two who faced particular difficulties in moving into work because of (among other things) the unavailability of childcare support:

“Over 60% of people capped so far have been single parents; 70% of them have children under five and 34% have children under two ... the younger the child is when the parent is capped, the harder it is for them to get into work ... we really also need to be looking at the contradiction between the benefit cap and the conditionality policy that exists. ... If you are capping up to 20,000 single parents

who have children under two, there is no childcare support available for that group at present. There is also ... a real shortage of childcare available, so there are really clear reasons why that group of single parents will not be able to go into work. [The Government's] research, again, has shown that where those people who are capped do not find work, it is likely that 40,000 more children would be pushed into poverty. When we are looking at the benefit cap we need to look at the circumstances of the family and the age of the child ..."

37. On 17 September 2015 an MP tabled an amendment before the Public Bill Committee exempting persons responsible for the care of children under the age of two from the application of the revised benefit cap. The MP referred to the evidence that had been heard the previous week and argued that the original benefit cap had overwhelmingly applied to people who were recognised within the benefits system itself as being unable to work, including single mothers unable to work because childcare represented a substantial barrier to employment. However, the committee rejected the proposed amendment by ten votes to five.

38. Between November 2015 and February 2016 the House of Lords considered the revised benefit cap in debates and in committee. The impact of the cap on lone parents with young children was raised on multiple occasions, and several related amendments were proposed. These included amendments to exclude child-related benefits from the cap and to exclude women in late pregnancy and responsible carers of children under the age of nine months from the cap. The first of these proposed amendments was rejected; the second was withdrawn. In response to the concerns raised, the Government emphasised that the cap increased work incentives, that it promoted fairness, and that additional funds had been allocated in the form of Discretionary Housing Payments (see paragraphs 44-46 below) to provide extra support for households affected by the cap and to assist in hard cases such as those involving parents with young children.

#### **E. Contemporaneous State support**

39. Welfare support provided by the Government to the parents of young children (among others) as at the time the present application was lodged may be summarised as follows.

##### *1. Free childcare*

40. The Government offered up to 15 hours per week of free childcare, for 38 weeks per year, for all children aged three and four years old (see section 7(1) of the Childcare Act 2006 ("the 2006 Act") and regulations 3-4 of the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2014 (Statutory Instrument no. 2014/2147) ("the 2014 Regulations")). From September 2017, this entitlement was extended to 30 hours per week of free childcare, for 38 weeks per year, for eligible working parents of children aged three and four years old (see section 1 of the Childcare Act 2016 and regulation 3 of the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016 (Statutory Instrument no. 2016/1257) ("the 2016 Childcare Regulations")). Working parents were eligible for free childcare if (among other things) they were in "qualifying paid work"; that is, their expected income attained a threshold assessed by reference to (among other things) the amount a person earning the National Minimum Wage would be paid for 16 hours of work per week (see regulations 2 and 5 of the 2016 Childcare Regulations).

41. The Government also offered free childcare of up to 15 hours per week, for 38 weeks per year, in respect of certain children aged two years old in families in receipt of specified benefits (see, *inter alia*, section 7(1) of the 2006 Act and regulations 3-4 of the 2014 Regulations).

42. Under sections 7 and 8 of the Education Act 1996, children were required to enter full-time education when they attained five years of age.

### *2. Support with childcare costs*

43. The Government provided support with childcare costs at the time the present application was lodged. Lone parents in receipt of working tax credit (i.e. who worked at least 16 hours per week) could apply for help with their childcare costs and could recover up to 70% of eligible childcare costs up to a certain limit (see section 12 of the Tax Credits Act 2002 and regulation 20(2) of the 2002 Regulations). Lone parents in receipt of Universal Credit (which was introduced to replace working tax credit: see paragraph 23 above) who were either in paid work or had an offer of paid work could apply for help with their childcare costs regardless of the precise number of hours worked and could recover up to 85% of eligible childcare costs up to a certain limit (see regulations 32 and 34(1) of the 2013 Regulations).

### *3. Discretionary Housing Payments*

44. Under section 69 of the Child Support, Pensions and Social Security Act 2000 and the Discretionary Financial Assistance Regulations 2001 (Statutory Instrument no. 2001/1167) (“the 2001 Regulations”), the Government through their local authorities had the ability to provide Discretionary Housing Payments (“DHPs”) to assist claimants who were in receipt of either Housing Benefit or Universal Credit and who appeared to the relevant authority to require some further financial assistance in order to meet housing costs (regulation 2(1) of the 2001 Regulations).

45. Following the introduction of the original benefit cap in 2013, the Government began allocating DHP funding to support claimants subject to the benefit cap. The Government increased DHP funding for benefit cap claimants in Great Britain from GBP 25 million in the financial year 2015-2016 to GBP 40 million in the financial year 2016-2017. DHP funding was further increased to GBP 67.5 million in the financial year 2017-2018 for benefit cap claimants in England and Wales (DHPs having been fully devolved in Scotland from 2017). For the financial years 2018-2019 and 2019-2020, DHP funding for benefit cap claimants in England and Wales was GBP 54 million.

46. As provided by regulation 2(2) of the 2001 Regulations, local authorities had discretion as to whether to make DHPs in a particular case, the amount of the payments and the duration for which they were made. By the time of the Supreme Court’s judgment of 15 May 2019, the Government’s DHP guidance manual included within a list of possible recipients a household which “contains ... a child ... under two years of age where childcare is a barrier to getting work”.

### *4. Flexible Support Fund*

47. In April 2011, the Government introduced a “Flexible Support Fund” which was available to those who worked less than 16 hours per week and parents ineligible for free childcare. The Flexible

Support Fund could be used to assist with childcare costs and was administered by Jobcentre Plus on a discretionary basis.

## **F. Inquiry of the House of Commons Work and Pensions Select Committee**

### *1. The Select Committee Report*

48. In February 2017, the House of Commons Work and Pensions Select Committee (a committee responsible for reviewing the policies and spending of the Government's Department for Work and Pensions) ("the Select Committee") commenced an inquiry into the benefit cap following concerns about how the cap was working in practice and the impact it was having on claimants. The Select Committee's initial inquiry could not continue because of the 2017 General Election. The inquiry was re-launched in September 2018 and culminated in a report published by the Select Committee on 12 March 2019 ("the Select Committee Report").

49. The Select Committee Report assessed the performance of the benefit cap against the three aims the Government advanced to justify its imposition: restoring fairness to the benefit system by ensuring non-working families did not receive more in benefits than working families received from going to work; making financial savings; and encouraging more people to work. The Select Committee Report concluded that the cap's performance against all three aims was "disappointing at best". It found that the fairness justification did not stand up to scrutiny because the cap failed to account for the benefits that in-work families could receive and, in any event, in-work families were already better off than similar non-working families even without the cap. In addition, it was not clear to the Select Committee that the cap was saving money: the savings claimed by the Government included only the money taken from households' benefit income, a significant proportion of which would be handed back to local authorities – mainly through DHPs – to support capped claimants.

50. In relation to the aim of incentivising work, the Select Committee Report found that the vast majority of claimants did not move into work because of the benefit cap. The Government's own evaluation of the original benefit cap showed that capped households were only 4.7 percentage points more likely to move into work compared to similar uncapped households. However, the Government repeatedly stated that the same evaluation found that capped households were 41% more likely to move into employment than similar uncapped households. While both figures were technically correct (the 41% figure being the relative increase in people moving into employment; the 4.7% figure being the absolute increase in people moving into employment), referring only to the larger figure risked giving the impression that the increase was much larger than it really was. The Select Committee suggested that the number of households moving into work as a result of the benefit cap was so low because most people who were capped, including lone parents with young children, had already been assessed by the Government as not being required to seek work because they faced major barriers to doing so.

51. As regards the impact of the benefit cap on claimants, the Select Committee Report found that the benefit cap disproportionately affected households who faced barriers to moving into employment and who were therefore not required to look for work in order to claim benefits. The Select Committee identified childcare as one such barrier to working, noting that the Government

only provided free childcare in respect of children aged two and above. The Select Committee Report also referred to evidence from Child Poverty Action Group identifying children as the “main losers” from the benefit cap and citing research from the Public Policy Institute apparently showing that the benefit cap would lead to 200,000 more children living in severe poverty.

52. The Select Committee Report called for a full audit of the benefit cap policy to be undertaken by the Government and made a number of specific recommendations. Among other things, the Select Committee recommended that the cap only be applied to claimants the Government expected to be actively looking for work in order to receive benefits (not, for example, single mothers with newborn babies), the child element (among other elements) of a claimant’s Universal Credit award be excluded from the application of the cap, and the Government no longer cite the relative increase (41%) in capped households moving into work without making clear that the absolute increase was only 4.7%.

## *2. The Government’s response to the Select Committee Report*

53. The Government published their response to the Select Committee Report on 15 May 2019. As to the aims of the benefit cap, they maintained that the policy restored fairness between those receiving out-of-work benefits and taxpayers in employment, and stated that the cap imposed a reasonable limit on the total amount a household could receive in welfare benefits to promote a fair and healthy society and maintain public confidence in the welfare system. The Government also maintained that the benefit cap provided an incentive to move into work.

54. As regards the impact of the benefit cap on claimants, the Government noted that capped households may see an improvement in their finances as a result of working any number of hours, even if their earnings were below the threshold to exempt the household from the cap. The Government also asserted that work substantially reduced the chances of poverty. The Government noted that certain households were exempted from the cap and that additional support continued to be available to those who were subject to the cap through the provision of DHPs. The Government outlined changes being introduced to make childcare less of a burden for working families: Jobcentres had been reminded that the Flexible Support Fund should be used to assist eligible claimants with their transition into work by providing grants to cover up-front childcare costs; changes had been made to the Flexible Support Fund to align it more closely with Universal Credit; and work was being undertaken to increase work coaches’ understanding and promotion of the childcare support offered by the Government.

55. As to the Select Committee’s recommendations outlined at paragraph 52 above, the Government did not accept the recommendation to apply the cap only to claimants required to actively look for work in order to receive benefits. The Government noted that the original aims of the benefit cap policy went beyond work incentives, and asserted that the fact claimants may not be required to look for work in order to receive benefits did not mean they should not be encouraged to work or to prepare for work. The Government were also unable to accept the Select Committee’s recommendation that the child element (among other elements) of a claimant’s Universal Credit award be excluded from the application of the cap, contending that Universal Credit was a unitary concept that did not allow for certain elements to be ring-fenced. The Government accepted the

Select Committee's recommendation that the 41% and 4.7% increase figures be quoted alongside each other. The Government noted that the 41% statistic was important as it highlighted that the employment rate for households in-scope for the previous cap was very low before the cap was introduced in April 2013 and it significantly increased following implementation of the cap, on top of that observed for the counterfactual, comparison group.

### **G. Subsequent developments**

56. On 1 April 2023, the Benefit Cap (Annual Limit) (Amendment) Regulations 2023 (Statutory Instrument no. 2023/335) came into effect, which amended the benefit cap to GBP 25,323 for households other than those comprising a sole adult in Greater London and GBP 22,020 for such households outside of Greater London.

57. On 1 April 2024, the Government introduced in England 15 hours per week of free childcare for eligible working parents of children aged two years old (see the Childcare (Free of Charge for Working Parents) (England) Regulations 2022 (Statutory Instrument no. 2022/1134) ("the 2022 Regulations"), as amended by the Childcare (Free of Charge for Working Parents) (England) (Amendment and Transitional Provision) Regulations 2023 (Statutory Instrument no. 2023/1330) ("the 2023 Regulations")). As was the case under the 2016 Childcare Regulations (see paragraph 40 above), working parents were eligible for free childcare if (among other things) their expected income attained a threshold assessed by reference to the amount a person earning the National Minimum Wage would be paid for 16 hours of work per week (see regulations 16 and 18 of the 2022 Regulations).

58. On 1 September 2024, the Government introduced in England 15 hours per week of free childcare for eligible working parents of children aged at least nine months old (see the 2022 Regulations, as amended by the 2023 Regulations).

59. On 5 April 2025, the payment of working tax credit ended, with claimants having the option to apply for Universal Credit or Pension Credit instead.

60. On 1 September 2025, the Government introduced in England 30 hours per week of free childcare for eligible working parents of children aged at least nine months old (see the 2022 Regulations, as amended by the 2023 Regulations).

## **II. INTERNATIONAL LAW**

61. The UNCRC was adopted in 1989. Article 3.1 of the UNCRC provides as follows:

"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."

62. The Vienna Convention on the Law of Treaties ("the Vienna Convention") was adopted in 1969. Article 31 of the Vienna Convention provides as follows:

"1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

...

3. There shall be taken into account, together with the context:

...

(c) any relevant rules of international law applicable in the relations between the parties.

..."

## **THE LAW**

### **ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION IN CONJUNCTION WITH ARTICLE 1 OF PROTOCOL NO. 1 AND/OR ARTICLE 8**

63. The applicants complained that, by failing to exclude lone parents with children under two years old from the application of the revised benefit cap legislation, the Government violated their rights to non-discrimination under Article 14 of the Convention read with Article 1 of Protocol No. 1 (in the case of the first applicant) and/or Article 8 (in the case of both applicants). These provisions read as follows:

#### **Article 14**

"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."

#### **Article 1 of Protocol No. 1**

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

#### **Article 8**

"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. Preliminary remarks**

64. The Court notes that the Supreme Court and the parties in their observations considered the applicants' complaints in tandem, notwithstanding the fact that the first applicant relied on both Article 8 and Article 1 of Protocol No. 1, whereas the second applicant relied solely on Article 8. Because the interests of the children concerned by the present case are indistinguishable from those of the parents (see paragraph 17 above), the Court considers it appropriate to proceed in the same manner.

## **B. Admissibility**

### *1. The parties' submissions*

#### **(a) The applicants**

65. The applicants asserted that their case fell within the ambit of the first applicant's substantive rights under Article 1 of Protocol No. 1 to the Convention because the effect of the revised benefit cap was to remove the first applicant's entitlement to welfare benefit payments to which she would have otherwise been entitled as a matter of domestic law.

66. The applicants argued that their case fell within the ambit of their substantive rights under Article 8 of the Convention because the revised benefit cap legislation was capable of affecting the way in which family life was organised, one of the stated purposes of the cap being to encourage parents to make particular choices about working rather than staying at home to care for their children.

#### **(b) The Government**

67. The Government accepted that the applicants' case fell within the ambit of the first applicant's substantive rights under Article 1 of Protocol No. 1 to the Convention and within the ambit of both applicants' substantive rights under Article 8 of the Convention.

### *2. The Court's assessment*

68. The Court notes that the Grand Chamber's judgment in *Beeler v. Switzerland* [GC], no. 78630/12, 11 October 2022, which was handed down after the parties had submitted their observations, could be understood as narrowing the circumstances in which a complaint under Article 14 in the social welfare benefits context fell within the ambit of Article 8. However, the Government did not seek to make further submissions on this issue after *Beeler* was handed down and, in any event, the first applicant's linked complaint under Article 1 of Protocol No. 1 is unaffected by *Beeler*. The Court will therefore proceed on the basis that the applicants' complaints fall within the ambit of both Article 8 and Article 1 of Protocol No. 1 and are compatible *ratione materiae* with the provisions of the Convention pursuant to Article 35 § 3 (a).

69. The Court does not otherwise consider the application to be inadmissible on any of the grounds listed in Article 35 of the Convention. The application must therefore be declared admissible.

## **C. Merits**

### *1. The parties' submissions*

**(a)The applicants**

*(i)Whether the applicants enjoyed a “status” for the purposes of Article 14 of the Convention*

70. The applicants submitted that being a lone parent with a child under the age of two (in the case of the first applicant) and being such a child under the age of two with a lone parent (in the case of the second applicant) constituted a relevant “other status” within the meaning of Article 14 of the Convention. The applicants argued that their status was identifiable, objective and personal so as to qualify for protection under Article 14, observing that the words “other status” had generally been afforded a wide meaning by this Court.

*(ii)Whether the Government had failed to treat differently persons whose situations were significantly different*

71. The applicants argued that the imposition of the revised benefit cap on lone parents with children under the age of two involved a difference in treatment in the sense referred to by the Grand Chamber in *Thlimmenos v. Greece* [GC], no. 34369/97, § 44, ECHR 2000-IV. In other words, the Government failed to treat differently persons whose situations were significantly different.

72. The applicants asserted that lone parents with children under the age of two were in a significantly different position from the generality of those subject to the revised benefit cap because of the specific barriers they faced in entering into work and hence escaping the effects of the cap. The applicants noted in particular that the Government provided free childcare for children aged two, three and four years old, but did not provide free childcare for children under the age of two. The applicants argued that this reflected a wider governmental policy of not requiring individuals with very young children to be in or seek work in order to receive benefits.

73. The applicants submitted that children under the age of two with lone parents were in a significantly different position from the generality of those affected by the cap because of the especially profound consequences of poverty on very young children who have particular vulnerabilities and needs.

*(iii)Whether the Government’s failure to exempt lone parents with children under the age of two from the effects of the revised benefit cap was objectively and reasonably justified*

74. The applicants argued that it was incumbent on the Government to show objective and reasonable justification for their failure to treat lone parents with children under the age of two differently from the generality of those subject to the revised benefit cap. In other words, the Government were required to show that: (i) the failure to treat differently pursued a legitimate aim; and (ii) there was a reasonable relationship of proportionality between the means employed and the aim sought to be realised. At the proportionality stage of the justification analysis, it was necessary to consider whether a fair balance had been struck between the demands of the general interest of the community and the requirements of the protection of the individual’s fundamental rights.

75. The applicants argued that the Supreme Court was wrong to assess the question of proportionality by reference to whether the Government’s conduct was “manifestly without reasonable foundation”. First, the “manifestly without reasonable foundation” standard was

developed for this Court, not domestic courts. Second, the “manifestly without reasonable foundation” standard was applicable to determining whether the measure in question pursued a legitimate aim but was not applicable to the proportionality exercise. Third, in light of this Court’s judgment in *J.D. and A v. the United Kingdom*, nos. 32949/17 and 34614/17, 24 October 2019, the “manifestly without reasonable foundation” test was only applicable in cases where the difference in treatment (or failure to treat differently) resulted from a transitional measure forming part of a scheme carried out to correct an inequality; it was not a standard generally applicable when considering the justification of discriminatory measures in the welfare benefits sphere. *J.D. and A v. the United Kingdom* also made clear, according to the applicants, that “very weighty reasons” were required to justify discriminatory treatment in cases involving particular vulnerability. The applicants asserted that very young children in low-income families dependent on State benefits belonged to a particularly vulnerable group.

76. The applicants argued that the application of the revised benefit cap to lone parents of children under the age of two failed to strike a fair balance between the Government’s policy aims and the rights of the applicants. According to the applicants, evidence showed that the revised benefit cap only had a small positive impact in terms of incentivising work and achieving financial savings, and that impact was outweighed by the detrimental impact of the cap on households with young children who were not able to move into work because of their caring responsibilities and the unavailability of free childcare. The applicants relied in particular on the Select Committee Report (see paragraphs 48-52 above), which they submitted showed the aims of the benefit cap to be “fundamentally flawed”. The applicants also noted that other benefit claimants with caring responsibilities, such as those in receipt of Carer’s Allowance (see paragraph 28 above), were exempt from the revised benefit cap.

77. In relation to the justification for subjecting young children such as the second applicant to the revised benefit cap, the applicants submitted that it was necessary to take account of the rights of such children under Article 3.1 of the United Nations Convention on the Rights of the Child (“UNCRC”). The applicants argued that the Government had failed to comply with the substantive component of Article 3.1 because the effect of the revised benefit cap was to deprive parents of the ability to satisfy their children’s basic necessities. The applicants asserted that the Government had also failed to comply with the procedural component of Article 3.1 by failing to properly assess the impact of the cap on affected children, including children under the age of two for whom the consequences of the cap were particularly profound.

## **(b)The Government**

### *(i)Whether the applicants enjoyed a “status” for the purposes of Article 14 of the Convention*

78. The Government did not accept that either being a lone parent of a child under the age of two or being such a child amounted to “other status” for the purposes of Article 14 of the Convention. This was because the supposed status was a combination of acquired characteristics which were necessarily temporary in duration and which had no independent significance in isolation from the alleged discrimination. The Government argued in the alternative that, if the applicants did have an

“other status”, it was of a peripheral kind that did not place an onerous obligation on the Government to justify any discrimination.

*(ii) Whether the Government had failed to treat differently persons whose situations were significantly different*

79. The Government argued that the applicants’ situation was not significantly different to that of lone parents with children over the age of two (and such children) or the general cohort of those subject to the benefit cap. First, there was no linear or necessary connection between the age of the youngest child in a household and the financial strain which the benefit cap placed on the household (this depending instead on other factors, such as how many people lived in the capped household and where in the country the capped household was located). Second, there was no difference in the ability of lone parents with children under the age of two to find work which was significant enough to engage the *Thlimmenos* principle (this also depending on a range of factors, including whether there was help available with childcare from family or friends, the number of children the lone parent had and their ages, and the difficulty in getting to work which was available).

*(iii) Whether the Government’s failure to exempt lone parents with children under the age of two from the effects of the revised benefit cap was objectively and reasonably justified*

80. The Government asserted that the correct test for justification of any discrimination in Article 14 cases concerning State welfare benefits was whether the difference in treatment (or the failure to treat differently) was “manifestly without reasonable foundation”. To the extent the judgment in *J.D. and A v. the United Kingdom* suggested otherwise, the Government submitted that it was wrongly decided and, in any event, was distinguishable from the present case.

81. The Government argued that, irrespective of the test applied to assess the question of justification, the application of the revised benefit cap to lone parents with children under the age of two was justified. Specifically, it pursued the legitimate aims of: (i) fairness as between benefit claimants and the taxpayer (“the fairness objective”); (ii) the incentivisation of benefit claimants (including parents and lone parents) to work (“the work incentivisation objective”); and (iii) the making of fiscal savings (“the fiscal savings objective”). The benefit cap did not impose on the applicants (and those in similar situations) poverty that they were incapable of escaping by working, considering in particular the wide variety of other support available to them. In addition, during the passage of the 2016 Act Parliament had expressly considered, and rejected, an amendment to the legislation which would have exempted lone parents with children under the age of two from the revised benefit cap. The applicants’ cohort amounted, at the time of the domestic litigation, to approximately one-quarter of the total affected by the benefit cap. Therefore, a blanket exemption from the cap would have had a significant adverse impact on the achievement of the Government’s legitimate objectives.

82. As for the relevance of Article 3.1 UNCRC, the Government acknowledged that the Court’s jurisprudence permitted the use of elements of international law to define the meaning of terms and notions in the text of the Convention, and that this was reflective of the general rule of interpretation provided for in Article 31 of the Vienna Convention on the Law of Treaties (“the Vienna

Convention”) (see paragraph 62 above). The Government accepted, therefore, that Article 3.1 UNCRC may be relied on to inform the interpretation of Convention rights and that the best interests of children are potentially relevant to the assessment of the proportionality of any interference with Article 14 of the Convention (read with Article 8). However, the Government submitted that the applicants’ reliance on Article 3.1 UNCRC did not advance their case because the position under the UNCRC was not a determinative condition of compatibility with the Convention. In so far as the present case was concerned, any “treatment” of children for the purposes of Article 3.1 was indirect (given that none of the benefits reduced under the revised benefit cap were paid to the child), and the impact on children was uncertain because how a household responded to reductions in benefits depended on a variety of circumstances, including the choices of the parents. In any event, the national authorities had afforded an appropriate degree of consideration to the best interests of the children, having regard to the measure in question, and therefore Article 3.1 UNCRC had not been breached.

83. The Government submitted that, for the reasons summarised above, the present application was manifestly ill-founded and therefore inadmissible. If and in so far as the Court considered the application to be admissible, the Government argued it should nonetheless be dismissed on its merits.

## 2. *The Court’s assessment*

### **(a) General principles**

#### *(i) The nature of Article 14*

84. The Court notes that Article 14 complements the other substantive provisions of the Convention and the Protocols. It has no independent existence since it has effect solely in relation to “the enjoyment of the rights and freedoms” safeguarded by those provisions. The application of Article 14 does not necessarily presuppose the violation of one of the substantive rights guaranteed by the Convention. The prohibition of discrimination in Article 14 thus extends beyond the enjoyment of the rights and freedoms which the Convention and Protocols require each State to guarantee. It applies also to those additional rights, falling within the general scope of any Article of the Convention, for which the State has voluntarily decided to provide (see *Carson and Others v. the United Kingdom* [GC], no. 42184/05, § 63, ECHR 2010). As a result, although neither Article 1 of Protocol No. 1 nor Article 8 provide for the right as such to receive a social security payment of any kind, if a State does decide to create a benefits scheme it must do so in a manner which is compatible with Article 14 (see *Bah v. the United Kingdom*, no. 56328/07, § 40, ECHR 2011; *Stec and Others v. the United Kingdom* (dec.) [GC], nos. 65731/01 and 65900/01, § 55, ECHR 2005-X; and *Beeler*, cited above, § 61).

#### *(ii) Status*

85. Article 14 prohibits, within the ambit of the rights and freedoms guaranteed, discriminatory treatment having as its basis or reason a personal characteristic (or “status”) by which persons or groups of persons are distinguishable from each other (see *Kjeldsen, Busk Madsen and Pedersen v. Denmark*, 7 December 1976, § 56, Series A no. 23, and *Carson and Others*, cited above, § 70). Whilst

Article 14 refers to specific grounds which constitute “status”, the list is illustrative and not exhaustive, as shown by (*inter alia*) the inclusion in the list of the phrase “any other status” (see *Hode and Abdi v. the United Kingdom*, no. 22341/09, § 44, 6 November 2012, and *Carson and Others*, cited above, § 70). The words “other status” (and *a fortiori* the French “*toute autre situation*”) have generally been given a wide meaning (see *Clift v. the United Kingdom*, no. 7205/07, § 56, 13 July 2010, and *Carson and Others*, cited above, § 70) and their interpretation has not been limited to characteristics which are personal in the sense that they are innate or inherent (see *Kiyutin v. Russia*, no. 2700/10, § 56, ECHR 2011, and *Clift*, cited above, §§ 56-59).

(iii) *Failure to treat differently*

86. Generally, in order for an issue to arise under Article 14 there must be a difference in the treatment of persons in analogous, or relevantly similar, situations (see *Carson and Others*, cited above, § 61). However, this is not the only facet of the prohibition of discrimination in Article 14. The right not to be discriminated against in the enjoyment of the rights guaranteed under the Convention is also engaged when States fail to treat differently persons whose situations are significantly different (see *Thlimmenos*, cited above, § 44).

(iv) *Justification and margin of appreciation*

87. A difference in the treatment of persons in relevantly similar situations – or a failure to treat differently persons whose situations are significantly different – is discriminatory in contravention of Article 14 if it has no objective and reasonable justification; in other words, if it does not pursue a legitimate aim or if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be realised (see *Burden v. the United Kingdom* [GC], no. 13378/05, § 60, ECHR 2008, and *Thlimmenos*, cited above, § 44).

88. The Contracting State enjoys a margin of appreciation in assessing the question of justification (see *Burden*, cited above, § 60). The scope of the margin will vary according to the circumstances, the subject matter and the background (see *Stec and Others v. the United Kingdom* [GC], nos. 65731/01 and 65900/01, § 52, ECHR 2006-VI), as demonstrated by the following considerations.

(α) *Status and the margin of appreciation*

89. The nature of the status upon which differential treatment is based weighs heavily in determining the scope of the margin (see *Savickis and Others v. Latvia* [GC], no. 49270/11, § 183, 9 June 2022, and *Bah*, cited above, § 47). The margin is very narrow if the distinction is based on an inherent or immutable personal characteristic such as race or sex, or if it is based exclusively on the grounds of nationality (see *Savickis and Others*, cited above, § 183 and the cases cited therein). Moreover, if a restriction on fundamental rights applies to a particularly vulnerable group in society that has suffered considerable discrimination in the past (irrespective of whether their characteristics are inherent or immutable), then the State’s margin of appreciation is substantially narrower and it must have very weighty reasons for the restrictions in question. The reason for this approach, which questions certain classifications *per se*, is that such groups were historically subject to prejudice with lasting consequences, resulting in their social exclusion. Such prejudice could entail legislative stereotyping which prohibits the individualised evaluation of their capacities and needs. In the past,

the Court has identified a number of such vulnerable groups that suffered different treatment on account of a characteristic or status such as sex, sexual orientation, race or ethnicity, mental faculties or disability (see *Kiyutin*, cited above, § 63, *Guberina v. Croatia*, no. 23682/13, § 73, 22 March 2016 and the cases cited therein).

(β) General measures of economic or social strategy and the margin of appreciation

90. In the context of Article 1 of Protocol No. 1, the Court has held that in matters concerning general measures of economic or social strategy the States usually enjoy a wide margin of appreciation under the Convention. Because of their direct knowledge of their society and its needs, the national authorities are in principle better placed than the international judge to appreciate what is in the public interest on social or economic grounds, and the Court will generally respect the legislature's policy choice unless it is "manifestly without reasonable foundation" (see *Savickis and Others*, cited above, § 184 and the cases cited therein). The Court has also referred to the "manifestly without reasonable foundation" standard in the context of Article 8 (see, for example, *Dubská and Krejzová v. the Czech Republic* [GC], nos. 28859/11 and 28473/12, § 179, 15 November 2016, and *Khoroshenko v. Russia* [GC], no. 41418/04, § 120, ECHR 2015).

91. On the other hand, as the Court has stressed in the context of Article 14 in conjunction with Article 1 of Protocol No. 1, although the margin of appreciation in the context of general measures of economic or social policy is, in principle, wide, such measures must nevertheless be implemented in a manner that does not violate the prohibition of discrimination as set out in the Convention and complies with the requirement of proportionality (see *Savickis and Others*, cited above, § 185, and *Fábián v. Hungary* [GC], no. 78117/13, § 115, 5 September 2017; see also, in the context of Article 14 in conjunction with Article 8, *Yocheva and Ganeva v. Bulgaria*, nos. 18592/15 and 43863/15, § 101, 11 May 2021). Hence, in that context the Court has usually limited its acceptance to respect the legislature's policy choice as not "manifestly without reasonable foundation" to circumstances where an alleged difference in treatment resulted from a transitional measure forming part of a scheme carried out in order to correct an inequality (a "corrective transitional measure") (see *Savickis and Others*, cited above, § 185 and the cases cited therein).

92. The Court recalls in addition that, when assessing the proportionality of a general measure, the quality of the parliamentary and judicial review of the necessity of the measure is of particular importance, including to the operation of the relevant margin of appreciation (see, *mutatis mutandis*, *Executief van de Moslims van België and Others v. Belgium*, nos. 16760/22 and 8 others, §§ 109-110, 112, 13 February 2024, and *Animal Defenders International v. the United Kingdom* [GC], no. 48876/08, §§ 108-110, ECHR 2013 (extracts)).

(v) Relevance of international instruments

93. The Court notes that the Convention should so far as possible be interpreted in harmony with other rules of international law of which it forms part (see *Ukraine and the Netherlands v. Russia* [GC], nos. 8019/16 and 3 others, § 427, 9 July 2025; see also *Neulinger and Shuruk v. Switzerland* [GC], no. 41615/07, § 131, ECHR 2010). In defining the meaning of terms and notions in the text of the Convention, the Court can and must take into account elements of international law other than the

Convention, the interpretation of such elements by competent organs, and the practice of European States reflecting their common values (see *Demir and Baykara v. Turkey* [GC], no. 34503/97, §§ 85-86, ECHR 2008). It is for the Court to decide which international instruments it considers relevant and how much weight to attribute to them (see *Tănase v. Moldova* [GC], no. 7/08, § 176, ECHR 2010).

### **(b) Application of the principles to the present case**

#### *(i) Whether the applicants enjoyed a “status” for the purposes of Article 14 of the Convention*

94. In the present case, the treatment of which the applicants complain does not fall within one of the specific grounds listed in Article 14. The applicants argued that they enjoyed an “other status” within the meaning of Article 14 in their capacity as – in the case of the first applicant – a lone parent with a child under the age of two, or – in the case of the second applicant – a child under the age of two with a lone parent (together, “the applicant cohorts”) (see paragraph 70 above).

95. As explained above (see paragraph 85), the words “other status” have generally been afforded a broad meaning and their interpretation has not been limited to characteristics which are personal in the sense that they are innate or inherent. The Court has also previously made a finding of discrimination on the basis of a combination of characteristics (see *B.S. v. Spain*, no. 47159/08, §§ 62-63, 24 July 2012) and it has found applicants to enjoy an “other status” despite that status being temporary in nature (see, for example, *Carson and Others*, cited above, §§ 70-71). In addition, as recognised in *Clift* (cited above, § 60), the notion that an applicant’s “status” must have independent significance in isolation from the alleged discrimination does not find clear support in the Court’s case-law.

96. The Court accordingly finds that the applicants enjoyed an “other status” within the meaning of Article 14 of the Convention. However, it notes that the question of “status” does not operate in isolation from other aspects of the discrimination inquiry. In particular, and as explained further below (see paragraph 103 below), the nature of an applicant’s status may inform the scope of the margin of appreciation to be afforded to the Contracting State when assessing whether a difference in treatment (or failure to treat differently) is justified on objective and reasonable grounds.

#### *(ii) Whether the Government had failed to treat differently persons whose situations were significantly different*

97. The Court recalls that the Government provided for certain exemptions to the application of the revised benefit cap. Notably, benefit claimants were able to escape the effects of the cap if they worked for at least 16 hours per week (see paragraphs 25 and 28 above). However, as was recognised by Lord Wilson in the Supreme Court (see paragraph 16 above), lone parents of children under the age of five years old – i.e. children who were not yet in compulsory full-time education and who, by virtue of their young age, were particularly dependent on their primary caregivers – were likely to face greater difficulty in working 16 hours a week than others subject to the revised benefit cap, such as lone parents with children in full-time education and couples with children of any age.

98. This difficulty was particularly pronounced for lone parents of children under the age of two (that is, those in the position of the first applicant) because they were not entitled to any free

childcare. By contrast, all lone parents of children aged three and four and certain lone parents of children aged two years old were entitled to 15 hours of free childcare per week; working lone parents of children aged three and four were entitled to 30 hours of free childcare per week (see paragraphs 40 and 41 above). The Court considers that, as a result, lone parents of children under the age of two faced a considerable additional barrier to being able to work 16 hours a week and thereby exempt themselves from the effects of the revised benefit cap. This is a factor which differentiated lone parents of children under the age of two – and, by virtue of the interwoven nature of the first and second applicants' claims noted at paragraph 64 above, children under the age of two with lone parents – from all others subject to the cap, and did so to a significant extent.

99. The Government in their observations contended that the applicant cohorts were not in a significantly different situation because the financial impact of the revised benefit cap on a given household, and the ability of lone parents of children under the age of two to work, depended on a multiplicity of factors beyond the age of the youngest child in the household (see paragraph 79 above). The Court accepts that the precise impact of the revised benefit cap on a particular household would have depended on a range of factors. However, it does not consider this sufficient to displace its finding of a significant difference. In *Paulík v. Slovakia*, no. 10699/05, § 54, ECHR 2006-XI (extracts), the Court observed that the fact there were some differences between two or more individuals did not preclude them from being in sufficiently comparable positions for the purposes of Article 14 of the Convention. The same reasoning applies *mutatis mutandis* in the *Thlimmenos* context: the fact there are some similarities between individuals does not mean that they cannot be in significantly different positions for the purposes of Article 14.

100. The Court accordingly finds that, as at the date on which the present application was lodged, the applicant cohorts were in a significantly different situation as compared to the generality of those subject to the revised benefit cap. The Court notes that, after the present application was lodged and the parties submitted their observations, the Government began to progressively expand the availability of free childcare for eligible working parents of young children (see paragraphs 57-58 and 60 above). Notably, from 1 September 2025 eligible working parents in England with children aged at least nine months old became entitled to 30 hours of free childcare per week (see paragraph 60 above). However, the Court observes that non-working parents of children under the age of two remained ineligible for free childcare (as compared to certain non-working parents of children aged two and all non-working parents of children aged three and four: see paragraphs 40 and 41 above). With this in mind, and in the absence of submissions from the parties regarding the latest developments, the Court will proceed on the basis that the applicant cohorts remain in a significantly different situation for the purposes of Article 14 of the Convention.

*(iii) Whether the Government's failure to exempt the applicant cohorts from the effects of the revised benefit cap was objectively and reasonably justified*

(α) Preliminary remarks

101. The Government in their observations invoked the fairness, work incentivisation and fiscal savings objectives as legitimate aims pursued by the revised benefit cap (see paragraph 81 above). The applicants did not contest that the revised benefit cap may *generally* have pursued legitimate

aims, but asserted that the failure to treat the applicant cohorts differently was not objectively and reasonably justified. Consequently, the Court will focus on the question of whether there was a reasonable relationship of proportionality between the Government's failure to exempt lone parents of children under the age of two from the application of the revised benefit cap on the one hand (the "means employed"), and the fairness, work incentivisation and fiscal savings objectives on the other (the "aim[s] sought to be realised") (see paragraph 87 above).

(β) Considerations relevant to the Court's proportionality assessment

102. In view of the parties' arguments and the general principles outlined above, the Court considers it necessary to proceed with a closer analysis of the various relevant considerations it will take into account when conducting its proportionality assessment in the specific circumstances of the present case.

*–Status and the margin of appreciation*

103. The Court observes at the outset that the nature of the status on which the alleged discrimination is based is particularly relevant to determining the scope of the margin of appreciation (see paragraph 89 above). In the present case, each of the applicants' statuses (the first applicant's status as the lone parent of a child under the age of two and the second applicant's status as a child under the age of two with a lone parent) is based on a combination of characteristics that are neither inherent nor immutable (compare *Savickis and Others*, cited above, § 183 as summarised at paragraph 89 above). Moreover, the Court is unable to conclude on the basis of the evidence before it that the applicant cohorts form part of distinct groups historically subject to prejudice with lasting consequences, resulting in their social exclusion, such that – irrespective of whether their characteristics are inherent or immutable – a particularly narrow margin of appreciation ought to apply in the present case (compare *Kiyutin*, cited above, § 63 and *Guberina*, cited above, § 73 as summarised at paragraph 89 above). The Court notes in this regard that, although the first applicant's situation as the lone parent of a child under the age of two may entail certain practical vulnerabilities, the present case does not involve any allegation of indirect discrimination on grounds of sex. The Court concludes in the circumstances that the Government are not required to show "very weighty reasons" for their failure to treat the applicant cohorts differently.

*–General measures of economic or social strategy and the margin of appreciation*

104. The Court notes in addition that it is concerned in the present case with a general measure of socio-economic policy. In such a context the margin of appreciation afforded to Contracting States under the Convention is, in principle, wide (see paragraphs 90-91 above). This is particularly so in circumstances where the Government are not required to show "very weighty reasons" for their failure to treat the applicant cohorts differently (see paragraph 103 above and compare *Savickis and Others*, cited above, §§ 205-206, 213).

105. The Court has previously held in the context of Article 1 of Protocol No. 1 and Article 8 that it will generally respect the legislature's policy choice in matters concerning general measures of economic or social strategy unless that choice is "manifestly without reasonable foundation" (*Savickis and Others*, cited above, § 184; *Dubská and Krejzová*, cited above, § 179; and *Khoroshenko*, cited

above, § 120: see paragraph 90 above). The Grand Chamber in *Savickis and Others* observed, however, that the Court's application of the "manifestly without reasonable foundation" standard in the context of Article 14 read with Article 1 of Protocol No. 1 has usually been limited to circumstances where an alleged difference in treatment resulted from a corrective transitional measure (see *Savickis and Others*, cited above, § 185 as summarised at paragraph 91 above). It is a matter of dispute between the parties as to whether the "manifestly without reasonable foundation" standard ought to be applied on the facts of the present case, which does not involve corrective transitional measures (see paragraphs 75 and 80 above). The Court thus considers it necessary to examine its case-law concerning the "manifestly without reasonable foundation" standard in further detail.

106. The Grand Chamber in *Savickis and Others* (cited above, § 185), in support of its observation regarding the more limited circumstances in which the "manifestly without reasonable foundation" standard has been applied in the Article 14 context, referred to the cases of *Stec and Others*, cited above at paragraph 88, §§ 61-66, *British Gurkha Welfare Society and Others v. the United Kingdom*, no. 44818/11, § 81, 15 September 2016, and *J.D. and A v. the United Kingdom*, cited above, § 88. *Stec and Others* and *British Gurkha Welfare Society and Others* both concerned policies resulting from corrective transitional measures where the Court invoked the "manifestly without reasonable foundation" standard and found no violation of the Convention under Article 14 read with Article 1 of Protocol No. 1 (see *Stec and Others* at §§ 61, 64, 66 and *British Gurkha Welfare Society and Others* at §§ 81-82, 87). By contrast, the Court in *J.D. and A v. the United Kingdom* (a case involving alleged discrimination on grounds of disability and gender) applied a stricter standard of review outside the context of corrective transitional measures, finding a violation in respect of one of the applicants under Article 14 read with Article 1 of Protocol No. 1 (see §§ 89, 107). In *Savickis and Others* itself (a case involving alleged discrimination on grounds of nationality) the Court did not apply the "manifestly without reasonable foundation" standard outside of the corrective transitional measures context, but recognised that a wide margin of appreciation was appropriate on the facts of the case (see § 213). It is on the basis of the Court's judgment in *J.D. and A v. the United Kingdom* that the applicants disputed the applicability of the "manifestly without reasonable foundation" standard in the present case (see paragraph 75 above).

107. The Court observes, however, that the cases of *J.D. and A v. the United Kingdom* and *Savickis and Others* (cases in which the Court did not apply the "manifestly without reasonable foundation" standard outside the context of corrective transitional measures) both involved statuses which required "very weighty reasons" to be advanced by the respondent State to justify a difference in treatment (see *J.D. and A v. the United Kingdom*, cited above, §§ 89, 97, and *Savickis and Others*, cited above, §§ 183, 193, 205, 213). Conversely, in cases where "very weighty reasons" were not required to be shown by the respondent State, the Court has applied the "manifestly without reasonable foundation" standard outside the context of corrective transitional measures. Thus, in *Stummer v. Austria* [GC], no. 37452/02, § 109, ECHR 2011, *Popović and Others v. Serbia*, nos. 26944/13 and 3 others, § 78, 30 June 2020, and *Šaltinytė v. Lithuania*, no. 32934/19, § 79, 26 October 2021, the Court found that the policy choices at issue in each case – none of which resulted from a transitional measure forming part of a scheme carried out in order to correct an inequality – could not be seen as "manifestly

without reasonable foundation” and did not thereby contravene Article 14 of the Convention read in conjunction with Article 1 of Protocol No. 1 (see also, in the context of Article 14 in conjunction with Article 8, *Belli and Arquier-Martinez v. Switzerland*, no. 65550/13, § 112, 11 December 2018).

108. In light of the foregoing analysis, the Court considers that the “manifestly without reasonable foundation” standard may be applied outside the context of corrective transitional measures where the respondent State is not required to show “very weighty reasons” to justify a difference in treatment or failure to treat differently.

109. The Court observes as a final consideration that the revised benefit cap was subject to considerable legislative and judicial scrutiny at the domestic level. It was adopted following examination by both Houses of Parliament (see paragraphs 34-38 above), including by parliamentarians who had heard evidence from interested parties regarding the effect of the cap on lone parents with young children and who had specifically considered a proposal to exempt carers of children under the age of two from the application of the revised benefit cap (see paragraphs 36-37 above). The effect of the revised benefit cap on the Convention rights of the applicant cohorts was subsequently assessed in detail by the High Court, the Court of Appeal and a seven-judge panel of the Supreme Court (see paragraphs 9-22 above). Such factors further reinforce the appropriateness of a wide margin of appreciation being afforded to the Government in the present case (see *Executief van de Moslims van België and Others* (cited above, §§ 109-110, 112), and *Animal Defenders International* (cited above, §§ 108-110), as summarised at paragraph 92 above). In addition, although a number of its recommendations regarding the benefit cap were not accepted, the findings of the Select Committee were carefully considered by the Government (see paragraphs 53-55 above).

#### –*The best interests of the child*

110. The Court recalls that it must take into account relevant elements of international law when defining the meaning of terms and notions in the text of the Convention (see paragraph 93 above). This principle is reflective of the general rule of interpretation provided for in Article 31 of the Vienna Convention (see also *Neulinger and Shuruk*, cited above, § 131). The Court observes in this respect that the revised benefit cap is a measure which concerns children, even if indirectly (see the findings at paragraphs 97-99 above), and recognises 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 *Strand Lobben and Others v. Norway* [GC], no. 37283/13, § 204, 10 September 2019). The Court therefore finds it appropriate to have regard to the best interests of the child when assessing proportionality in the present case. It also notes that the introduction of the revised benefit cap was actively justified by reference to the best interests of the child during the parliamentary process (see paragraph 35 above).

#### (γ) The assessment of proportionality

111. The Court observes in the first instance that, while it was asserted by the applicants and the Select Committee that the cap’s effectiveness as a work incentive was limited (see paragraphs 50 and 76 above), it was not disputed that the Government had demonstrated a causal connection – even if modest – between the imposition of the benefit cap and capped households moving into work (see

paragraphs 50, 55 and 76 above). In any event, the work incentivisation objective was not the only aim of the Government's policy. Notably, the cap was introduced to achieve fairness as between benefit claimants and the taxpayer, having regard to the need to maintain public confidence in the benefits system (see paragraphs 53 and 81 above). Although the applicants and the Select Committee suggested the fairness objective was flawed because families in work were already better off and the cap did not account for additional benefits that in-work families could receive (see paragraphs 49 and 76 above), the Court considers that the precise level at which the benefit cap was set was a matter which fell within the Government's margin of appreciation.

112. Second, the Court recalls that the Government had regard to the impact of the revised benefit cap on households with young children during the passage of the 2015 Bill through Parliament. Of particular note was the fact that a proposal to exempt carers (including lone parents) of children under the age of two from the application of the cap, motivated expressly by the fact that such carers faced particular barriers to working, was rejected in the House of Commons (see paragraph 37 above). Other amendments in the House of Lords seeking to exclude certain parents of young children and child-related benefits from the cap were either rejected or withdrawn (see paragraph 38 above). In response to amendments and concerns raised during the parliamentary process regarding the impact of the revised benefit cap on parents with young children, the Government expressed the view that it was in the best interests of children overall to have parents in work and that work remained the surest route out of poverty, noting in addition that reducing spending on welfare would allow the Government to protect expenditure on education, childcare and health, which would in turn have a positive impact on children and their best interests (see paragraph 35 above).

113. Third, the Court observes that, although free childcare was not offered by the Government to lone parents of children under the age of two as at the time the present application was lodged, other childcare-related State support was available to the applicant cohorts. Lone parents who worked at least 16 hours per week could recover up to 70% of eligible childcare costs up to a certain limit, and lone parents in receipt of Universal Credit who were either in paid work or had an offer of paid work could recover up to 85% of eligible costs up to a certain limit regardless of the precise number of hours they worked (see paragraph 43 above). The Court also notes that the Government made financial support available for benefit cap claimants which was not contingent on recipients being in work. The Government began allocating DHP funding to support claimants subject to the benefit cap in or around 2013 and increased the amount of DHP funding for benefit cap claimants in 2017 to reflect the fact that the revised benefit cap was lower than the original benefit cap (see paragraph 45 above). During debates in Parliament, the Government noted that DHP funding was available to deal with hard cases such as those involving parents with young children (see paragraph 38 above). In addition, as at the time of the Supreme Court's judgment and the Government's observations, Government guidance specifically listed households with children under the age of two – for whom childcare could represent a barrier to getting work – as possible recipients of DHP funding (see paragraph 46 above).

114. Finally, the Court notes that, after the present application was lodged and the parties submitted their observations, the Government introduced free childcare for eligible working parents of children under the age of two (see paragraphs 58, 60 and 100 above). Although not available for non-

working parents (see paragraph 100 above), the Court considers that the Government's increased provision of free childcare for the parents of very young children would have further alleviated the effect of the revised benefit cap as it applied to the applicant cohorts.

115. The Court finds in light of the foregoing considerations that the Government's decision not to exempt the applicant cohorts from the revised benefit cap was not "manifestly without reasonable foundation" (see paragraphs 104-108 above) and was a matter which fell within the Government's wide margin of appreciation in the present case (see paragraphs 104-109 above).

116. Accordingly, the Court concludes that there has been no violation of Article 14 of the Convention, read in conjunction with Article 1 of Protocol No. 1 and/or Article 8 of the Convention.

**FOR THESE REASONS, THE COURT, UNANIMOUSLY,**

1. *Declares* the application admissible;
2. *Holds* that there has been no violation of Article 14 of the Convention, read in conjunction with Article 1 of Protocol No. 1 and/or Article 8 of the Convention.

Done in English, and notified in writing on 17 March 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Andrea Tamietti Registrar  
Arnfinn Bårdsen President