

Children in Judicial and Non-Judicial Proceedings: The ECHR and CJEU Jurisprudence

Katja DRNOVŠEK

ABSTRACT

Historically, the procedural rights of children participating in judicial and other proceedings have received limited attention in the case law of the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU). The European Convention on Human Rights (ECHR) does not explicitly address the special protection of children involved in court proceedings, and while the Charter of Fundamental Rights of the European Union (the Charter) does, the CJEU rarely deals with the rights of underaged participants in proceedings as the primary consideration of the case. Consequently, the case law that examines relevant children's rights is somewhat fragmented and narrowly focused. However, in recent decades, the shift towards a child-centric approach and the impact of numerous international instruments dedicated to safeguarding children's rights, especially the Convention on the Rights of the Child, have heavily influenced the practice of both Courts. This paper provides an overview and analysis of landmark cases and other significant cases adjudicated by the ECtHR and the CJEU that focus on defining the following rights of a child: to be heard in family matters, as derived from Art. 8 of the ECHR and Art. 24 of the Charter; selected aspects of the right to a fair trial under Art. 6 of the ECHR (i.e. the right to effective participation and access to a lawyer); the representation of a child in proceedings before the ECtHR. Acknowledging the varying competencies and objectives of both courts, greater emphasis is placed on the more comprehensive ECtHR case law, all while duly considering the relevant CJEU jurisprudence.

KEYWORDS

children's rights, minors in judicial proceedings, the right to be heard, the right to effective participation, access to a lawyer

1. Introduction

Historically, the procedural rights of children participating in judicial and other proceedings have received limited attention in the case law of the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU).

Katja DRNOVŠEK (2024) 'Children in Judicial and Non-Judicial Proceedings: The ECHR and CJEU Jurisprudence'. In: Anikó RAISZ (ed.) *Children's Rights in Regional Human Rights Systems*. pp. 111–129. Miskolc–Budapest, Central European Academic Publishing.
https://doi.org/10.71009/2024.ar.crihrhs_5

Furthermore, the European Convention on Human Rights (ECHR)¹ does not explicitly address the protection or special status of children involved in court proceedings. Importantly, this is despite the Charter of Fundamental Rights of the European Union (the Charter)² addressing the rights of the child in Art. 24, including the right to be heard and the protection of their best interests. Meanwhile, the CJEU rarely deals with the rights of underaged participants in proceedings as the primary consideration of the case. Consequently, the case law examining children's rights in judicial and other proceedings is somewhat fragmented, and often focuses on specific issues within the broader framework of procedural guarantees and fair trials.

However, in recent decades, the shift towards the child-centric approach and the impact of numerous international instruments dedicated to safeguarding children's rights have heavily influenced the practice of both the ECtHR and the CJEU. The evolution of European and international legislation now tends towards acknowledging that while children have the same rights as adults and must be recognised as full rights holders, they are also entitled to additional rights because of their special needs and vulnerability to exploitation and abuse, especially when they are involved in judicial proceedings.³

The ECtHR has produced a comprehensive and extensive body of jurisprudence on issues related to the participation of children in family law proceedings (enshrined in the child's right to be heard as part of the right to respect for private and family life under Art. 8 of the ECHR), the treatment of minor defendants in criminal cases (enshrined in the right to effective participation and access to a lawyer as part of the right to a fair trial under Art. 6 of the ECHR), the representation of children before the ECtHR (i.e. able to lodge a complaint on behalf of a child), and the protection of underaged immigrants and asylum seekers, children in detention, and children improperly removed across borders.⁴ The ECtHR is the sole interpreter of all matters on the ECHR, and has no obligations towards any other international law or jurisprudence, including the United Nations Convention on the Rights of the Child.⁵ Officially, there is no connection between the ECHR and the aforementioned Convention. Nevertheless, the ECtHR has acknowledged a reciprocal, harmonious relationship between the two conventions, and frequently refers to both when addressing the rights of the child. It even holds that, concerning children, certain positive obligations of contracting states must be interpreted in light of the Convention on the Rights of the Child.⁶

1 European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11, 14 and 15, of 4 November 1950.

2 Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, p. 391–407.

3 Durandelle, Enslen, and Thomas, no date, p. 2.

4 See also European Union Agency for Fundamental Rights and Council of Europe, 2022, p. 31; Braithwaite, Harby, and Miletić, 2019, p. 11.

5 Convention on the Rights of the Child, General Assembly resolution 44/25 of 20 November 1989.

6 See also Helland and Hollekim, 2023, pp. 213–214; European Court of Human Rights (ECtHR), Harroudj vs. France, no. 43631/09, 4 October 2012, para. 42.

The CJEU has primarily addressed issues related to the protection of children's rights through preliminary references in various areas such as free movement,⁷ European Union (EU) citizenship, migration, habitual residency, family life, and non-discrimination.⁸ Only rarely has it focused on how EU law should be interpreted regarding children participating in judicial and non-judicial proceedings. When it has addressed related issues, it has referred to the principles enshrined in both the Charter and the Convention on the Rights of the Child, particularly in the context of cross-border child abduction cases and the area of migration.⁹

The following text provides an overview and analysis of landmark cases and other significant cases adjudicated by the ECtHR and the CJEU that focus on defining the rights of a child to be heard in family matters as derived from Art. 8 of the ECHR and Art. 24 of the Charter; the selected aspects of the right to a fair trial under Art. 6 of the ECHR; the representation of a child in proceedings before the ECtHR. Acknowledging the varying competencies and objectives of both courts, a greater emphasis is placed on the ECtHR case law, but with constant due consideration of the relevant CJEU jurisprudence.

2. The Right to be Heard

2.1. ECtHR

The right of the child to be heard is not explicitly expressed in the ECHR, but the ECtHR has adopted an evolutionary approach to interpreting the ECHR. This provides great potential for the development of the right of the child to be heard through unenumerated rights (i.e. rights not explicitly stipulated in the ECHR but that can be derived from it). In the ECtHR case law, the right of the child to be heard is derived from Arts. 8 (family proceedings) and 6 (criminal proceedings) of the ECHR.¹⁰ Under Art. 8 of the ECHR, everyone has the right to respect for their private and family life, their home and their correspondence. No public authority may interfere with the exercise of this right, except when such interference is in accordance with the law and 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.

While Art. 8 contains no explicit procedural requirements, the decision-making process must be fair and such as to afford due respect to the interests safeguarded

7 See for example Court of Justice of the European Union (CJEU), C-244/06, *Dynamic Medien Vertriebs GmbH vs. Avides Media AG*, 14 February 2008.

8 Especially in relation to family reunification or child abductions, for example, CJEU, C-540/03, *European Parliament vs. Council of the European Union*, 27 June 2006; CJEU, C-112/20, *M. A. vs. État belge*, 11 March 2021; CJEU, C-400/10 PPU, *J. McB. vs. L. E.*, 5 October 2010; CJEU, C-491/10 PPU, *Joseba Andoni Aguirre Zarraga vs. Simone Pelz*, 22 December 2010.

9 See also European Union Agency for Fundamental Rights and Council of Europe, 2022, p. 31.

10 Daly, 2011, pp. 442–443.

by this article. To that end, the ECtHR case law established that children must be sufficiently involved in the decision-making related to their family and private life, as guaranteed by several international legal instruments. These instruments include Art. 12 of the Convention on the Rights of the Child, Arts. 3 and 6 of the European Convention on the Exercise of Children's Rights, and Art. 24 of the Charter. For children of a certain age, the ECtHR favours the national judge hearing them in person in any proceedings affecting their rights under Art. 8; however, depending on their age and maturity, interviews with experts and subsequent reports for the judges referred to in the judicial decisions could be considered sufficient. The case law has thus incorporated the international and European standards that children must no longer be considered as their parents' property.¹¹

The right to personal autonomy, which is inherent to the notion of "private life", signifies the right to make choices as to how to lead own life, provided that this does not unjustifiably interfere with the rights and freedoms of others. This right has a different scope in the case of children who, unlike adults, lack the full autonomy of adults but are still subjects of rights. Children exercise their limited autonomy, which gradually increases with their maturity, through their right to be consulted and heard.¹² Thus, in any judicial or administrative proceedings affecting children's rights under Art. 8 of the ECHR, children capable of forming their own views must be provided with opportunities to be heard and express their views. Otherwise, it cannot be said that they were sufficiently involved in the decision-making process.¹³ As children mature and, with the passage of time, become able to formulate their own opinions, the courts should give due weight to their views and feelings, and to their right to respect for their private life.¹⁴ The situation is different for very young children, as they are still unable to form or express their wishes,¹⁵ and this is especially if their behaviour does not demonstrate sufficient maturity for their opinion to be considered properly autonomous – and not influenced by one of the parents.¹⁶ In cases involving young children, domestic authorities should seek expert opinions on whether it is possible, given the child's age and maturity, to interview the child in court, and if the assistance of a child psychology specialist is needed.¹⁷ If domestic authorities consider that the child is not capable of the discernment necessary to be heard, reports from experts providing an account of their opinion regarding the situation in dispute should be obtained to compensate for the failure to hear the child.¹⁸ Similarly, in the

11 ECHR-KS, 2022a.

12 ECtHR, *M.K. vs. Greece*, no. 51312/16, 1 February 2018, paras. 74 and 91.

13 ECtHR, *M. and M. vs. Croatia*, no. 10161/13, 3 September 2015, paras. 171 and 181; ECtHR, *C vs. Croatia*, no. 80117/17, 8 October 2020, paras. 73 and 78; ECtHR, *M.K. v. Greece*, no. 51312/16, 1 February 2018, paras. 74 and 91.

14 ECtHR, *N. TS. and others vs. Georgia*, no. 71776/12, 2 February 2016, para. 72.

15 ECtHR, *Petrov and X vs. Russia*, no. 23608/16, 23 October 2018, para. 108.

16 ECtHR, *Gajtani vs. Switzerland*, no. 43730/07, 9 September 2014, para. 107.

17 ECtHR, *Petrov and X vs. Russia*, no. 23608/16, 23 October 2018, para. 108; ECtHR, *Zelikha Magomadova vs. Russia*, no. 58724/14, 8 October 2019, para. 116.

18 ECtHR, *Neves Caratão Pinto vs. Portugal*, no. 28443/19, 13 July 2021, para. 138.

case of traumatised children, an expert should be appointed to determine whether the child's best interests might be better protected if the child is not compelled to participate in court proceedings and not questioned repeatedly. Considering the margin of appreciation enjoyed by the domestic authorities, who are better placed than the Court for related assessments, the domestic courts would be more able to reasonably consider the appropriateness, given the expert advice, of hearing the child in person, especially if the child is caught up in a conflict of loyalty. Such hearings can have traumatic effects for a child and considerably delay the proceedings.¹⁹

The views of a child are not necessarily immutable, and their objections, which must be given due weight, are not necessarily sufficient to override the parents' interests, especially when they have regular contact with their child (e.g. in cases where a child refuses to have contact with a parent with which it has regular contact). That is, the right of a child to express his/her own views should not be interpreted as effectively giving unconditional veto power to children without any other factors being considered, and without an examination being carried out to determine their best interests. Such interests normally dictate that a child's ties with the family must be maintained, except in cases where this would harm the child's health and development. In addition, if a court bases a decision on the views of a child who was palpably unable to form and articulate an opinion as to own wishes (e.g. because of a conflict of loyalty, or exposure to the alienating behaviour of one parent), such a decision could run contrary to Art. 8 of the ECHR.²⁰ At the same time, it is generally accepted that courts must consider the wishes of children of a certain age and maturity. On the practical level, there may also come a stage where it becomes pointless, if not counter-productive and harmful, to attempt to force a child to conform to a situation which, for whatever reason, he/she resists.²¹ In the case of children of divorced parents caught in a custody battle, the children may need special guardians *ad litem* to protect their interests, explain to them court proceedings and decisions and their consequences, and generally liaise between the competent judge and the child. This may also be necessary if the child is not formally a party to the custody proceedings.²²

2.2. CJEU

The CJEU has mainly addressed the procedural aspects of the protection of children's rights in the context of cross-border child abduction cases and migrations.²³

19 ECtHR, *R.M. vs. Latvia*, no. 53487/13, 9 December 2021, para. 117; ECtHR, *Gajtani vs. Switzerland*, no. 43730/07, 9 September 2014, paras. 107 and 111.

20 ECtHR, *Zelikha Magomadova v. Russia*, no. 58724/14, 8 October 2019, para. 115; ECtHR, *K.B. and others vs. Croatia*, no. 36216/13, 14 March 2017, para. 141; ECtHR, *Raw and others vs. France*, no. 10131/11, para. 117, 7 March 2013; ECtHR, *Suur vs. Estonia*, no. 41736/18, 20 October 2020, paras. 89 and 97; ECtHR, *Gajtani vs. Switzerland*, no. 43730/07, 9 September 2014, para. 107.

21 ECtHR, *C. vs. Finland*, no. 18249/02, 9 May 2006, para. 57; ECtHR, *Plaza vs. Poland*, no. 18830/07, 25 January 2011, paras. 71 and 86.

22 ECtHR, *C vs. Croatia*, no. 80117/17, 8 October 2020, paras. 76 and 77; ECtHR, *A.L. vs. Poland*, no. 28609/08, 18 February 2014, para. 74.

23 See also Lonardo, 2022, pp. 600–607.

When determining how EU law should be interpreted in relation to the child's best interests and right to be heard, the CJEU draws inspiration from the constitutional traditions common to EU member states and from the guidelines supplied by international instruments for the protection of human rights on which EU member states have collaborated or to which they are signatories. The specific instruments which the CJEU takes into account in applying the general principles of EU law include the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, and especially the ECHR, which has special significance in that respect.²⁴ The protection of the child is also enshrined in instruments drawn up within the framework of the EU, such as the Charter; for example, its Art. 24(1) provides that children have the right to such protection and care as necessary for their well-being, and Art. 24(2) provides that in all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration. Furthermore, EU member states' right to take the necessary measures for reasons relating to the protection of young persons is recognised by several EU law instruments.²⁵

The CJEU also attaches great importance to the opinions and interpretations adopted by the ECtHR in its case law. It follows from Art. 52(3) of the Charter that, in so far as the Charter contains rights which correspond to those guaranteed by the ECHR, their meanings and scope are the same as those laid down by the ECHR. However, this provision does not preclude the grant of wider protection by EU law. Under Art. 7 of the Charter, 'everyone has the right to respect for his or her private and family life, home and communications'. The wording of Art. 8(1) of the ECHR is identical to that of Art. 7, except that it uses the expression "correspondence" instead of "communications". Thus, it is clear that Art. 7 contains rights corresponding to those guaranteed by Art. 8(1) of the ECHR. Therefore, Art. 7 of the Charter must have the same meaning and scope as Art. 8(1) of the ECHR, as interpreted by the case law of the ECtHR.²⁶ The opinions summarised above (see Section 2.1.) are thus also relevant to the CJEU case law.

Concerning the right of the child to be heard, the CJEU clarified that it is a requirement of Art. 24(1) of the Charter that children should be able to express their views freely, and that the views expressed should be considered on matters which concern the children, solely 'in accordance with their age and maturity'. It also clarified that Art. 24(2) of the Charter describes that in all actions relating to children, account shall be taken of the best interests of the child, since those interests may then justify a decision not to hear the child. It also refers to Art. 12 of the Convention on the Rights of the Child for further justification, as all EU member states are signatories.

24 CJEU, C-244/06, *Dynamic Medien Vertriebs GmbH vs. Avides Media AG*, 14 February 2008, para. 39; CJEU, C-540/03, *European Parliament vs. Council of the European Union*, 27 June 2006, paras. 37 and 57.

25 CJEU, C-244/06, *Dynamic Medien Vertriebs GmbH vs. Avides Media AG*, 14 February 2008, para. 41; CJEU, C-112/20, *M. A. vs. État belge*, 11 March 2021, paras. 26 and 35–43.

26 CJEU, C-400/10 PPU, *J. McB. vs. L. E.*, 5 October 2010, para. 53.

Thus, in matters of parental responsibility, it is for the court that has to rule in the case to assess whether such a hearing is appropriate, since the conflicts requiring judgment that awards custody of a child to one of the parents (and the associated tensions) create situations in which the hearing of the child, particularly when the physical presence of the child before the court is required, may prove to be inappropriate and even harmful to the psychological health of the child. The CJEU inferred that while remaining a right of the child, hearing the child cannot constitute an absolute obligation, but must be assessed with regard to what is required in the best interests of the child in each individual case, in accordance with Art. 24(2) of the Charter. Therefore, it is not necessary for a hearing to take place before the court, but the right of the child to be heard requires that legal procedures and conditions are available for the child to express his/her views freely, and that those views are obtained by the court in some manner. In other words, while it is not a requirement of the applicable EU instruments that the views of the child are obtained in every case through a hearing, and the court retains a degree of discretion, the court that does decide to hear the child is required to take all measures which are appropriate to the arrangement of such a hearing, with regard to the child's best interests and the circumstances of each case, to ensure the effectiveness of those provisions and to offer the child a genuine and effective opportunity to express his/her views.²⁷

3. Children in criminal justice systems

3.1. General considerations

The ECtHR asserted in *Blokhin vs. Russia* that, given his/her status as a minor, a child's procedural rights must be guaranteed upon entry into the criminal justice system, and his/her innocence or guilt with respect to the specific act he/she has allegedly committed must be established in accordance with the requirements of due process and the principle of legality. On no account may a child be deprived of important procedural safeguards solely because the proceedings that may result in his/her deprivation of liberty are deemed under domestic law to be protective of his/her interests as a child and juvenile delinquent rather than penal. Furthermore, particular care must be taken to ensure that the legal classification of a child as a juvenile delinquent does not lead to the focus being shifted to their status, and thus does not lead to the neglect of the examination of the specific criminal act of which he/she has been accused and the need to adduce proof of his/her guilt in conditions of fairness. Processing a child offender through the criminal justice system on the sole basis of their status as a juvenile delinquent cannot be considered compatible with due process or the principle of legality. Discretionary treatment based on someone being a child, juvenile, or juvenile delinquent is acceptable only when their interests and those of the state are

27 CJEU, C-491/10 PPU, Joseba Andoni Aguirre Zarraga vs. Simone Pelz, 22 December 2010, paras. 60–66.

compatible. Otherwise, proportionate substantive and procedural legal safeguards do apply.²⁸

Importantly, the reasons why special treatment of minors is required, such as the person's level of maturity and intellectual and emotional capacities, do not cease immediately once legal age is reached. It follows from the ECtHR case law that if the person concerned was a minor at the time of committing the criminal offence but has reached legal age during subsequent proceedings, the considerations based on those factors could maintain some of their relevance, although their importance decreases as time passes.²⁹

3.2. The right to effective participation

In the landmark cases of *T. vs. the United Kingdom* and *V. vs. the United Kingdom*, the right to effective participation was recognised as part of the child's right to a fair trial under Art. 6 of the ECHR. Because of its importance as a precedent, the reasoning of the ECtHR in these cases is worth an extended exploration. The applicants in the respective cases were convicted of murder and abduction in a highly publicised trial after, at the age of 10, they abducted a two-year-old boy, took him on a journey of over two miles, battered him to death, and left him on a railway line to be run over. The ECtHR was called upon to consider how the guarantee in Art. 6(1) applies to criminal proceedings against children and, in particular, whether procedures which are generally considered to safeguard the rights of adults on trial, such as publicity, should be abrogated with respect to children to promote their understanding and participation. The ECtHR established that there is no clear common standard among Council of Europe member states regarding the minimum age of criminal responsibility, and that the attribution of criminal responsibility to a child of such age does not in itself give rise to a breach of the ECHR. Likewise, it cannot be said that a trial on criminal charges of a child as such violates the fair trial guarantee under Art. 6(1). However, it is essential that a child charged with an offence is dealt with in a manner which fully considers the child's age, maturity, and intellectual and emotional capacities, and that steps are taken to promote their ability to understand and participate in proceedings. Thus, in the case of a young child charged with a grave offence attracting high levels of media and public interest, the hearing should be conducted in such a way as to reduce as far as possible their feelings of intimidation and inhibition. While public trials may serve the general interest in the open administration of justice, where appropriate in view of the age and other characteristics of the child and the circumstances surrounding the criminal proceedings, this general interest could be satisfied by a modified procedure providing for selected attendance rights and judicious reporting.

In such cases, even special measures, taken in view of the child's young age, to promote the child's understanding of the proceedings (e.g. having the trial procedure be explained to them, taking them to see the courtroom in advance, and shortening

28 ECtHR, *Blokhin vs. Russia*, no. 47152/06, 23 March 2016, para. 196.

29 ECtHR, *Martin vs. Estonia*, no. 35985/09, 30 May 2013, para. 92.

the hearing times) and the representation by skilled and experienced lawyers might not be sufficient. If it is highly unlikely that the child would have felt sufficiently uninhibited in the tense courtroom and under public scrutiny to have consulted with the lawyers during the trial or, given their immaturity and their disturbed emotional state, to have cooperated with them outside the courtroom, a conclusion has to be drawn that the child was unable to participate effectively in the criminal proceedings against oneself and was, in consequence, denied a fair hearing, breaching Art. 6(1).³⁰

In other cases concerning the rights of juvenile defendants, the ECtHR further reasoned that criminal proceedings must be organised in a way that respects the principle of the best interests of the child. The right of a juvenile defendant to effectively participate in his/her criminal trial requires that the authorities deal with him/her with due regard to his/her vulnerability and capacity from the first stages of his/her involvement in a criminal investigation and, in particular, during any questioning by the police. The authorities must take steps to reduce, as far as possible, the child's feelings of intimidation and inhibition, ensure that the child has a broad understanding of the nature of the investigation, of what is at stake for the child (e.g. the significance of any penalty which may be imposed), the child's rights of defence, and particularly his/her right to remain silent.³¹

Art. 6(1) does not require a child on trial for a criminal offence to understand or be capable of understanding every point of the law or evidential detail. Given the sophistication of modern legal systems, many adults with normal intelligence are unable to fully comprehend all the intricacies and exchanges which take place in the courtroom, which is why Art. 6(3)(c) of the ECHR emphasises the importance of the right to legal representation. However, "effective participation" in this context presupposes that the accused has a broad understanding of the nature of the trial process and what is at stake for him/her, including the significance of any penalty that may be imposed. This means that he or she, if necessary with the assistance of an interpreter, lawyer, social worker, or friend, should be able to understand the general thrust of what is said in court. Furthermore, the defendant should be able to follow what is said by the prosecution witnesses and, if represented, to explain to his/her own lawyers his/her version of events, point out any statements with which he/she disagrees, and make them aware of any facts which should be put forward in his/her defence.³²

In particular, where the child risks not being able to participate effectively because of their young age and limited intellectual capacity (e.g. the child has little comprehension of the importance of making a good impression on the jury, or does not seem to have grasped the fact that him/her risk a custodial sentence), it is essential

30 Summarised from ECtHR, *T. vs. the United Kingdom*, no. 24724/94, 16 December 1999; summarised from ECtHR, *V. vs. the United Kingdom*, no. 24888/94, 16 December 1999.

31 ECtHR, *Blokhin vs. Russia*, no. 47152/06, 23 March 2016, para. 195; ECtHR, *Adamkiewicz vs. Poland*, no. 54729/00, 2 March 2010, para. 70; ECtHR, *Martin vs. Estonia*, no. 35985/09, 30 May 2013, para. 92; ECtHR, *S.C. vs. the United Kingdom*, no. 60958/00, 15 June 2004, paras. 28 and 29.

32 ECtHR, *S.C. vs. the United Kingdom*, no. 60958/00, 15 June 2004, para. 29; ECtHR, *Panovits vs. Cyprus*, no. 4268/04, 11 December 2008, para. 67.

that he/she is tried in a specialist tribunal which can give full consideration to, and make proper allowance for, the handicaps under which the child labours, and adapt its procedure accordingly.³³

3.3. Access to a lawyer

Another fundamental feature of the fair trial, which has been discussed extensively in ECtHR case law concerning children, is the right of everyone charged with a criminal offence to be effectively defended by a lawyer, which should be assigned officially if needed.³⁴ Prompt access to a lawyer constitutes an important counterweight to the vulnerability of suspects in police custody, provides a fundamental safeguard against coercion and ill treatment of suspects by the police, and contributes to the prevention of miscarriages of justice and the fulfilment of the aims of Art. 6 (i.e. securing the equality of arms between the investigating or prosecuting authorities and the accused). Art. 6(3)(c) does not specify how to exercise the right of access to a lawyer or its content. While it leaves the states to choose the means of ensuring that this right is secured in their judicial systems, the scope and content of that right should be determined in line with the aim of the ECHR, namely to guarantee rights that are practical and effective.³⁵

The ECtHR holds that in order for the right to a fair trial to remain sufficiently “practical and effective”, Art. 6(1) requires that, as a rule, access to a lawyer should be provided from the first interrogation of a suspect by the police, unless it is demonstrated in the light of the particular circumstances of each case that there are compelling reasons to restrict this right. Even where compelling reasons may exceptionally justify the denial of access to a lawyer, such restrictions, whatever their justification may be, must not unduly prejudice the rights of the accused under Art. 6. Importantly, the rights of the defence will, in principle, be irretrievably prejudiced when incriminating statements made during a police interrogation without access to a lawyer are used for a conviction.³⁶

However, assigning counsel does not in itself ensure the effectiveness of the assistance he/she may afford an accused. To that end, the following minimum requirements must be met: (1) suspects must be able to enter into contact with a lawyer from the time they are taken into custody, which means that it must be possible for a suspect to consult with their lawyer prior to an interview or even where there is no

33 ECtHR, *S.C. vs. the United Kingdom*, no. 60958/00, 15 June 2004, para. 35.

34 The ECtHR has defined the scope and importance of the right to access to a lawyer (not limited to the rights of a child involved in judicial proceedings) in great detail in its extensive case law referring to this topic. For a summary and further references, see ECHR-KS, 2023.

35 ECtHR, *Salduz vs. Turkey*, no. 36391/02, 27 November 2008, para. 51; ECtHR, *Beuze vs. Belgium*, no. 71409/10, 9 November 2018, para. 131; ECtHR, *Ibrahim and others vs. the United Kingdom*, nos. 50541/08, 50571/08, 50573/08, and 40351/09, 13 September 2016, para. 272.

36 ECtHR, *Salduz vs. Turkey*, no. 36391/02, 27 November 2008, para. 55; ECtHR, *Blokhin vs. Russia*, no. 47152/06, 23 March 2016, para. 198.

interview; (2) suspects have the right for their lawyer to be physically present during their initial police interviews and whenever they are questioned in subsequent pre-trial proceedings. In addition, in assessing the overall fairness of proceedings on a case-by-case basis, an account must be taken of the entire range of services specifically associated with legal assistance (i.e. discussion of the case, organisation of the defence, collection of exculpatory evidence, preparation for questioning, support for an accused in distress, and verification of the conditions of detention). One factor that should be considered is whether the applicant is particularly vulnerable, for example, because of age or mental capacity.³⁷

Given the particular vulnerability of children and considering their level of maturity and intellectual and emotional capacities, the ECtHR emphasises the fundamental importance of providing access to a lawyer where the person in custody is a minor. This emphasis is made while referring to a significant number of relevant international law materials concerning legal assistance to minors in police custody. Even the fact that domestic law does not provide legal assistance to minors under the age of criminal responsibility when interviewed by the police is not a valid reason for failing to comply with that obligation. A systematic restriction on the right to access legal assistance based on statutory provisions is sufficient in itself to constitute a violation of Art. 6.³⁸

While a waiver of a right guaranteed by the ECHR is permissible, it must not run counter to any important public interest, must be established in an unequivocal manner, and must be attended to with minimum safeguards commensurate with the waiver's importance. Moreover, before an accused can be said to have impliedly, through his conduct, waived an important right under Art. 6, it must be shown that he/she could reasonably have foreseen what the consequences of their conduct would be. Given the vulnerability of an accused minor and the imbalance of power to which he/she is subjected by the very nature of criminal proceedings, a waiver by him/her or on his/her behalf of an important right under Art. 6 can only be accepted when it is expressed in an unequivocal manner, and after the authorities have taken all reasonable steps to ensure that he/she is fully aware of his/her rights of defence and can appreciate, as far as possible, the consequences of his/her conduct. These requirements cannot be considered to be satisfied in the case of an underaged applicant taken for questioning without his/her legal guardian and without being informed of his/her right to seek and obtain legal representation before him/her was questioned if, given the applicant's age, it is unlikely that he/she was aware of being entitled to legal representation before making any statement to the police, and if he/she could not have reasonably appreciated the consequences of his/her proceeding to be questioned without the assistance of a lawyer. In such cases, a mere caution in the words

37 ECtHR, *Beuze vs. Belgium*, no. 71409/10, 9 November 2018, para. 132–136 and 150; ECtHR, *Ibrahim and others vs. the United Kingdom*, nos. 50541/08, 50571/08, 50573/08 and 40351/09, 13 September 2016, para. 274.

38 ECtHR, *Salduz vs. Turkey*, no. 36391/02, 27 November 2008, paras. 54 and 55; ECtHR, *Beuze vs. Belgium*, no. 71409/10, 9 November 2018, para. 140.

provided for in domestic law would likely not be enough to enable them to sufficiently comprehend the nature of their rights, especially the right to remain silent.³⁹

4. Representation of children before the ECtHR

As holders of rights, children should have recourse to remedies to effectively exercise their rights or act upon violations of their rights. It remains, nonetheless, that only a few applications have been brought directly by minors before the ECtHR, and the main obstacles for children to take legal action are a lack of information about their rights and a lack of legal capacity to act in domestic law.⁴⁰ Thus, the ECtHR has not only addressed the rights of children involved in judicial proceedings before national courts in their respective states, but also their position and rights in proceedings before the ECtHR itself. In laying down the criteria on who can represent the child before the ECtHR, it adopted a pragmatic approach, stressing the importance of effective protection of the children's interests and rights.⁴¹

The object and purpose of the ECHR as an instrument for the protection of individual human beings require that its provisions, both procedural and substantive, be interpreted and applied so as to render its safeguards both practical and effective. In this context, the position of children as applicants claiming to be the victim of a violation by one of the High Contracting Parties (under Art. 34) deserves careful consideration, as they must generally rely on other persons to present their claims and represent their interests, and may not be of an age or capacity to authorise any steps to be taken on their behalf in any real sense. Therefore, a restrictive or technical approach in this area should be avoided, and the key consideration in such cases is that any serious issues concerning respect for children's rights should be examined.⁴²

The conditions governing individual applications under the ECHR are not necessarily the same as the national criteria related to *locus standi*. National rules in this respect may serve purposes different from those contemplated in Art. 34, even if they are sometimes analogous.⁴³ In principle, a person not entitled to represent another under domestic law may, in certain circumstances, act before the ECtHR in the name of the other person. In particular, minors can apply to the ECtHR even, or indeed especially, if they are represented by a person who is in conflict with the authorities

39 ECtHR, *Panovits vs. Cyprus*, no. 4268/04, 11 December 2008, paras. 68–74.

40 Durandelle, Enslin, and Thomas, no date, p. 12.

41 ECHR-KS, 2022b.

42 ECtHR, *T.A. and others vs. the Republic of Moldova*, no. 25450/20, 30 November 2021, para. 31; ECtHR, *Hromadka and Hromadkova vs. Russia*, no. 22909/10, 11 December 2014, para. 118; ECtHR, *Strand Lobben and others vs. Norway*, no. 37283/13, 10 September 2019, para. 156; ECtHR, *A.K. and L. vs. Croatia*, no. 37956/11, 8 January 2013, para. 47; ECtHR, *N.TS. and others vs. Georgia*, no. 71776/12, 2 February 2016, para. 54; ECtHR, *C vs. Croatia*, no. 80117/17, 8 October 2020, para. 55.

43 ECtHR, *Strand Lobben and others vs. Norway*, no. 37283/13, 10 September 2019, para. 156; ECtHR, *A.K. and L. vs. Croatia*, no. 37956/11, 8 January 2013, para. 46.

and criticises their decisions and conduct as not being consistent with the rights guaranteed by the ECHR. In the event of a conflict over a minor's interests between a natural parent and the person appointed by the authorities to act as the child's guardian, there is a danger that some of those interests will never be brought to the attention of the ECtHR and that the minor will be deprived of effective protection of his/her rights under the ECHR.⁴⁴

In its case law, the ECtHR thus refers to three criteria which must be met for a person to have the standing to lodge a complaint in the name of a minor: (a) a sufficiently close link between the minor and the person lodging the complaint before the ECtHR in the name of the minor; (b) the risk that in the absence of this complaint the minor will be deprived of effective protection of his/her rights; (c) the absence of any conflict of interests between the minor and the person representing him/her.⁴⁵ The adoption of these criteria in practice has resulted in several important precedents in ECtHR case law, some of which are presented below.

Whether a natural parent has standing to complain on behalf of their minor children depends on whether the party that opposes the natural parent and is entitled to represent the child under domestic law can be deemed to effectively protect the child's rights under the ECHR.⁴⁶ Normally, a natural parent has the requisite standing in a case such as the transfer of custody of the child to foster parents, although there may be exceptions such as conflicting interests (e.g. where serious parental child neglect has occurred, and the mother has failed to protect the child she seeks to represent before the ECtHR from domestic abuse).⁴⁷ This also applies to natural parents who have been deprived of their parental rights.⁴⁸ Therefore, the severance of legal ties between the parent and the child (e.g. resulting from the deprivation of parental responsibilities and the authorisation of adoption) is not decisive for whether a parent may have *locus standi* to lodge an application on behalf of the child before the ECtHR. In such cases, the child's only representatives under national law with respect to any issues concerning facts that occurred after the adoption became final would be his/her adoptive parents. However, with respect to adoption proceedings conducted at a time when the first applicant still had full responsibility for the child, it

44 ECtHR, T.A. and others vs. the Republic of Moldova, no. 25450/20, 30 November 2021, para. 32; ECtHR, E.M. and others vs. Norway, no. 53471/17, 20 January 2022, para. 64; ECtHR, Scozzari and Giunta vs. Italy, nos. 39221/98 and 41963/98, 13 July 2000, para. 138; ECtHR, Strand Lobben and others vs. Norway, no. 37283/13, 10 September 2019, para. 157; ECtHR, M.D. and others vs. Malta, no. 64791/10, 17 July 2012, para. 27.

45 ECtHR, T.A. and others vs. the Republic of Moldova, no. 25450/20, 30 November 2021, para. 33.

46 ECtHR, Eberhard and M. vs. Slovenia, nos. 8673/05 and 9733/05, 1 December 2009, para. 86.

47 ECtHR, Roengkasettakorn Eriksson vs. Sweden, no. 21574/16, 19 May 2022, para. 61; ECtHR, E.M. and others vs. Norway, no. 53471/17, 20 January 2022, para. 64; ECtHR, Strand Lobben and others vs. Norway, no. 37283/13, 10 September 2019, paras. 156–159.

48 ECtHR, Scozzari and Giunta vs. Italy, nos. 39221/98 and 41963/98, 13 July 2000, para. 138.

is in principle in a child's interests to preserve family ties, save where weighty reasons exist to justify severing those ties.⁴⁹

In addition, the ECtHR has accepted on several occasions, in the context of Art. 8 of the ECHR, that parents who did not have parental rights could lodge an application on behalf of their minor children. The key criterion for the Court in these cases was the risk that some of the children's interests would not be brought to its attention and that the children would be denied effective protection of their ECHR rights.⁵⁰ This is particularly true in litigation between a parent and a state.⁵¹ However, in cases arising out of disputes between parents, it is the parent entitled to custody who is entrusted with safeguarding the child's interests.⁵² Such conflicts concerning parental rights other than custody do not oppose parents and the state on the question of deprivation of custody, where the state, as the holder of custodial rights, cannot be deemed to ensure the children's ECHR rights. In such situations, the position of a natural parent cannot be regarded as sufficient to bring an application on behalf of a child.⁵³

The ECtHR also held that relatives other than the natural parents may have standing to represent the child. For example, it was determined that grandparents had standing to lodge the complaint on behalf of their grandson, who had been cared for and educated by them and with whom they had close emotional ties, meaning that there was a sufficiently close link between them. As the child's biological father prevailed in the domestic proceedings, was granted custody, and obviously had no interest in complaining, the child might have been deprived of effective protection of his rights if the grandparents did not stand to do so on his behalf.⁵⁴ Similarly, the aunt was determined to have standing to lodge an application on behalf of her nephews, who had lost their mother and had a complicated, if not hostile, relationship with their father, whereas the aunt had actively participated in the upbringing of the boys, cared for them, and provided a home for them.⁵⁵ In contrast, grandparents who did not have custody and had conflicts of interest with their grandchildren, while their parents had never been deprived of their parental responsibility, were considered to

49 ECtHR, *Strand Lobben and others vs. Norway*, no. 37283/13, 10 September 2019, paras. 156 and 157; ECtHR, *A.K. and L. vs. Croatia*, no. 37956/11, 8 January 2013, paras. 48 and 49; ECtHR, *Eberhard and M. vs. Slovenia*, nos. 8673/05 and 9733/05, 1 December 2009, paras. 86 and 87; ECtHR, *M.D. and others vs. Malta*, no. 64791/10, 17 July 2012, para. 27.

50 ECtHR, *Strand Lobben and others vs. Norway*, no. 37283/13, 10 September 2019, para. 157; ECtHR, *Scozzari and Giunta vs. Italy*, nos. 39221/98 and 41963/98, 13 July 2000, para. 138; ECtHR, *Lambert and others vs. France*, no. 46043/14, 5 June 2015, para. 94; ECtHR, *Eberhard and M. vs. Slovenia*, nos. 8673/05 and 9733/05, 1 December 2009, para. 87, and others.

51 ECHR-KS, 2022b.

52 ECtHR, *C vs. Croatia*, no. 80117/17, 8 October 2020, para. 55.

53 ECtHR, *Eberhard and M. vs. Slovenia*, nos. 8673/05 and 9733/05, 1 December 2009, para. 88; ECtHR, *Moog vs. Germany*, nos. 23280/08 and 2334/10, 6 October 2016, paras. 41 and 42; ECtHR, *K.B. and others vs. Croatia*, no. 36216/13, 14 March 2017, para. 109.

54 ECtHR, *T.A. and others vs. the Republic of Moldova*, no. 25450/20, 30 November 2021, paras. 34 and 35.

55 ECtHR, *N.TS. and others vs. Georgia*, no. 71776/12, 2 February 2016, para. 55.

have no standing to represent their grandchildren.⁵⁶ The ECtHR also denied standing to a couple with no biological ties to the child born as a result of a surrogacy agreement because of the short duration of the relationship with the child and the uncertainty of the ties from a legal perspective, as they themselves created a legal situation by engaging in conduct that was contrary to national law.⁵⁷

It is also possible for a non-governmental organisation to be recognised as having standing to act as a *de facto* representative of a direct victim of alleged violations, even without the power of attorney or written authority from the applicant, the legal guardian, or any other competent person. However, the following “exceptional circumstances” must be considered: the victim’s vulnerability; the nature of the allegations brought before the ECtHR; whether the direct victim has a next of kin or a legal guardian likely to lodge an application with the ECtHR; whether there has been contact between the direct victim and the representative; whether the representative was involved in any relevant domestic proceedings and recognised as having standing in those proceedings. In general, this would be the case with highly vulnerable persons who are manifestly incapable of expressing any wishes or views regarding their own needs and interests, and who have no other representatives to pursue their interests on their behalf (e.g. a child abandoned at birth or a child who died as a result of abuse inflicted by their parents).⁵⁸

5. Conclusions

An examination of recent case law of the ECtHR and CJEU clearly demonstrates that more attention is being paid to the protection of children participating in various judicial and non-judicial proceedings. While their rights in the past were interpreted equally to those of adults or through the prism of their parents’ rights, modern child-centric approaches have contributed to treating children as vulnerable actors who require a distinct interpretation of traditional legal concepts. Undoubtedly, this shift in perspective is at least partially due to the great influence of widely-adopted international instruments (e.g. especially the Convention on the Rights of the Child and the Guidelines on Child-Friendly Justice) over national and international authorities. They also have an increasing impact on the development of the jurisprudence of the ECtHR and CJEU, both of which refer to these acts when interpreting either the ECHR or EU law and justifying their decisions on children’s rights.

However, the case law interpreting the procedural rights and guarantees of minors remains fragmented and focused on particular topics instead of the bigger

56 ECtHR, *Kruškić and others vs. Croatia*, no. 10140/13, 25 November 2014, paras. 101 and 102.

57 ECtHR, *Paradiso and Campanelli vs. Italy*, no. 25358/12, 24 January 2017, paras. 156 and 157.

58 ECtHR, *L.R. vs. North Macedonia*, no. 38067/15, 23 January 2020, para. 47; ECtHR, *Affaire Association Innocence en Danger et Association Enfance et Partage vs. France*, nos. 15343/15 and 16806/15, 4 June 2020, paras. 122 and 131. ECtHR, *Centre for Legal Resources on Behalf of Valentin Câmpeanu vs. Romania*, no. 47848/08, 17 July 2014, paras. 104–112.

picture. In most cases, the rights of the child to be heard, to effectively participate in court proceedings, or to access a lawyer are addressed only as stepping stones to the final decision on the core issue of the case, and not the main focus of the case. An even longer list of rights of minors remains unchallenged, meaning that it has not yet been the subject of interpretation before the ECtHR or CJEU. Given the recent trends in the area of children's rights, it is expected that the case law will continue to develop in a way to increasingly recognise children as needing special adjustments in the course of proceedings to be able to successfully pursue their rights and interests (e.g. better opportunities to participate in proceedings, better communication with adults involved in proceedings, adjustments to the courtroom, manner of speech, protocol, assistants of lawyers, social workers, psychologists).⁵⁹ Further implementation of policies concerning child-friendly justice (e.g. the Guidelines on Child-Friendly Justice of the Committee of Ministers of the Council of Europe), which are more focused on children's rights, sensitive to children's interests, and responsive to children's participation in formal and informal decision-making, should significantly contribute to such outcomes.⁶⁰

59 See Daly and Rap, 2019, p. 315.

60 See Liefwaard, 2016, pp. 905–928.

References

- Braithwaite, B., Harby, C., Miletić, G. (eds.) (2019) *Children and the European Court of Human Rights – An overview of the jurisprudence* [Online]. Available at: <https://www.rolplatform.org/wp-content/uploads/2020/11/rol-children-eng.pdf> (Accessed: 25 July 2023).
- Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, p. 391–407. [Online]. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012P%2FTXT> (Accessed: 25 July 2023).
- CJEU, C-244/06, *Dynamic Medien Vertriebs GmbH vs. Avides Media AG*, 14 February 2008.
- CJEU, C-540/03, *European Parliament vs. Council of the European Union*, 27 June 2006.
- CJEU, C-491/10 PPU, *Joseba Andoni Aguirre Zarraga vs. Simone Pelz*, 22 December 2010.
- CJEU, C-112/20, *M. A. vs. État belge*, 11 March 2021.
- CJEU, C-400/10 PPU, *J. McB. vs. L. E.*, 5 October 2010.
- Convention on the Rights of the Child, General Assembly resolution 44/25 of 20 November 1989. [Online]. Available at: <https://www.ohchr.org/sites/default/files/crc.pdf> (Accessed: 25 July 2023).
- Daly, A. (2011) ‘The right of children to be heard in civil proceedings and the emerging law of the European Court of Human Rights’, *The International Journal of Human Rights*, 15(3), pp. 441–461.; <https://doi.org/10.1080/13642980903542710>.
- Daly, A., Rap, S. (2019) ‘Children’s Participation in the Justice System’ cited in Kilkelly, U., Liefwaard, T. (eds.) *International Human Rights of Children*. Singapore: Springer, pp. 299–319.; <https://doi.org/10.1007/978-981-10-4184-6>.
- Durandelle, C., Enslin, M., Thomas, E. (no date) *Taking children’s voices into consideration in European family law proceedings* [Online]. Available at: <https://portal.ejtn.eu/PageFiles/20511/semi-final%20B%20team%20France%20paper%20Themis%202022.pdf> (Accessed: 25 July 2023).
- ECHR-KS (2022a) *Key Theme – Article 8 Right of the child to be heard in domestic proceedings on family matters* [Online]. Available at: <https://ks.echr.coe.int/documents/d/echr-ks/right-of-the-child-to-be-heard-in-domestic-proceedings-on-family-matters> (Accessed: 25 July 2023).
- ECHR-KS (2022b) *Key Theme – Article 8 Representation of the child before the ECHR* [Online]. Available at: <https://ks.echr.coe.int/documents/d/echr-ks/representation-of-the-child-before-the-echr> (Accessed: 25 July 2023).
- ECHR-KS (2023) *Key Theme – Article 6 §§ 1 and 3 (c), Access to a lawyer* [Online]. Available at: <https://ks.echr.coe.int/documents/d/echr-ks/access-to-a-lawyer> (Accessed: 25 July 2023).
- ECtHR, *A.K. and L. vs. Croatia*, no. 37956/11, 8 January 2013.
- ECtHR, *A.L. vs. Poland*, no. 28609/08, 18 February 2014.
- ECtHR, *Adamkiewicz vs. Poland*, no. 54729/00, 2 March 2010.
- ECtHR, *Affaire Association Innocence en Danger et Association Enfance et Partage vs. France*, nos. 15343/15 et 16806/15, 4 June 2020.

- ECtHR, *Beuze vs. Belgium*, no. 71409/10, 9 November 2018.
- ECtHR, *Blokhin vs. Russia*, no. 47152/06, 23 March 2016.
- ECtHR, *C vs. Croatia*, no. 80117/17, 8 October 2020.
- ECtHR, *C. vs. Finland*, no. 18249/02, 9 May 2006.
- ECtHR, *Centre for Legal Resources on Behalf of Valentin Câmpeanu vs. Romania*, no. 47848/08, 17 July 2014.
- ECtHR, *E.M. and others vs. Norway*, no. 53471/17, 20 January 2022.
- ECtHR, *Eberhard and M. vs. Slovenia*, nos. 8673/05 and 9733/05, 1 December 2009.
- ECtHR, *Gajtani vs. Switzerland*, no. 43730/07, 9 September 2014.
- ECrHR, *Harroudj vs. France*, no. 43631/09, 4 October 2012.
- ECtHR, *Hromadka and Hromadkova vs. Russia*, no. 22909/10, 11 December 2014.
- ECtHR, *Ibrahim and others vs. the United Kingdom*, nos. 50541/08, 50571/08, 50573/08 and 40351/09, 13 September 2016.
- ECtHR, *K.B. and others vs. Croatia*, no. 36216/13, 14 March 2017.
- ECtHR, *Kruškić and others vs. Croatia*, no. 10140/13, 25 November 2014.
- ECtHR, *L.R. vs. North Macedonia*, no. 38067/15, 23 January 2020.
- ECtHR, *Lambert and others vs. France*, no. 46043/14, 5 June 2015.
- ECtHR, *M. and M. vs. Croatia*, no. 10161/13, 3 September 2015.
- ECtHR, *M.D. and others vs. Malta*, no. 64791/10, 17 July 2012.
- ECtHR, *M.K. vs. Greece*, no. 51312/16, 1 February 2018.
- ECtHR, *Martin vs. Estonia*, no. 35985/09, 30 May 2013.
- ECtHR, *Moog vs. Germany*, nos. 23280/08 and 2334/10, 6 October 2016.
- ECtHR, *N.T.S. and others vs. Georgia*, no. 71776/12, 2 February 2016.
- ECtHR, *Neves Caratão Pinto vs. Portugal*, no. 28443/19, 13 July 2021.
- ECtHR, *Panovits vs. Cyprus*, no. 4268/04, 11 December 2008.
- ECtHR, *Paradiso and Campanelli vs. Italy*, no. 25358/12, 24 January 2017.
- ECtHR, *Petrov and X vs. Russia*, no. 23608/16, 23 October 2018.
- ECtHR, *Plaža vs. Poland*, no. 18830/07, 25 January 2011.
- ECtHR, *R.M. vs. Latvia*, no. 53487/13, 9 December 2021.
- ECtHR, *Raw and others vs. France*, no. 10131/11, 7 March 2013.
- ECtHR, *Roengkasettakorn Eriksson vs. Sweden*, no. 21574/16, 19 May 2022.
- ECtHR, *S.C. vs. the United Kingdom*, no. 60958/00, 15 June 2004.
- ECtHR, *Salduz vs. Turkey*, no. 36391/02, 27 November 2008.
- ECtHR, *Scozzari and Giunta vs. Italy*, nos. 39221/98 and 41963/98, 13 July 2000.
- ECtHR, *Strand Lobben and others vs. Norway*, no. 37283/13, 10 September 2019.
- ECtHR, *Suur vs. Estonia*, no. 41736/18, 20 October 2020.
- ECtHR, *T. vs. the United Kingdom*, no. 24724/94, 16 December 1999.
- ECtHR, *T.A. and others vs. the Republic of Moldova*, no. 25450/20, 30 November 2021.
- ECtHR, *V. vs. the United Kingdom*, no. 24888/94, 16 December 1999.
- ECtHR, *Zelikha Magomadova vs. Russia*, no. 58724/14, 8 October 2019.

- European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11, 14 and 15, 4 November 1950. [Online]. Available at: https://www.echr.coe.int/documents/d/echr/convention_eng (Accessed: 25 July 2023).
- European Union Agency for Fundamental Rights and Council of Europe (2022) *Handbook on European law relating to the rights of the child*. Luxembourg: Publications Office of the European Union; <https://doi.org/10.2811/079581>.
- Helland, T., Hollekim, R. (2023) 'The Convention on the Rights of the Child's Imprint on Judgments from the European Court of Human Rights: A Negligible Footprint?', *Nordic Journal of Human Rights*, 41(2), pp. 213–233.; <https://doi.org/10.1080/18918131.2023.2204634>.
- Liefwaard, T. (2016) 'Child-friendly justice: protection and participation of children in the justice system', *Temple Law Review*, 88(4), pp. 905–928.
- Lonardo, L. (2022). 'The best interests of the child in the case law of the Court of Justice of the European Union', *Maastricht Journal of European and Comparative Law*, 29(5), pp. 596–614.; <https://doi.org/10.1177/1023263X221144829>.