

The Religious Rights of Children Belonging to National Minorities and Indigenous Peoples

‘...freedom of every person to worship God in his own way – everywhere in the world.’¹

Katarzyna ZOMBORY

ABSTRACT

The enjoyment of the right to freedom of religion by children from cultural and religious minorities is vitally important for their harmonious development – as well as for preserving both their own cultural identity and that of their entire community. This chapter seeks to outline the international legal framework for protecting the religious rights of such children. The relevant legal standards can be found in general human rights instruments at both the universal and regional level, as well as in categorical human rights regimes – dedicated specifically to the protection of children and to the protection of national minorities and indigenous peoples. Some of the applicable provisions emphasise the child’s autonomous right to freedom of religion, while others support the child’s right to acquire and uphold the religious identity of his or her parents and the entire community.

KEYWORDS

children’s religious rights, religious identity, indigenous peoples, national minorities

1. Introduction

The UN Convention on the Rights of the Child² in its Preamble underscores the importance of the traditions and cultural values of each group for the protection and harmonious development of its children. For national minorities and

1 Roosevelt, 1941 (‘Four Freedoms speech’).

2 Convention on the Rights of the Child, adopted in New York on 20 November 1989 by General Assembly resolution 44/25, UN Treaty Series no. 27531.

Katarzyna ZOMBORY (2025) ‘The Religious Rights of Children Belonging to National Minorities and Indigenous Peoples’ in Katarzyna ZOMBORY – Márta BENYUSZ (eds.) *Religion and Children’s Rights*. Miskolc–Budapest: Central European Academic Publishing. pp. 153–176. https://doi.org/10.71009/2025.kzmb.racr_7



indigenous peoples, the enjoyment of certain human rights is particularly important in preserving their own individual identity and that of their entire community. Such special guarantees include the right to freedom of religion and belief, whose enjoyment is necessary for safeguarding the common spiritual consciousness of a minority group or an indigenous community.³ The Council of Europe's Framework Convention for the Protection of National Minorities⁴ (FCNM) identifies religion as one of the essential elements of the identity of persons belonging to national minorities, apart from their language, traditions, and cultural heritage.⁵ Religion can be understood as spiritual beliefs, common religious traditions and their profession, all of which play a crucial role in preserving the identity and existence of a minority group.⁶

The importance of religious rights for national minorities can be well exemplified by the fact that some minorities distinguish themselves from the majority population primarily based on their religion and beliefs. The Central European region provides for some illustrative examples of such a religious self-identification, such as the Tatar ethnic minority in Poland, who have lost their native language but remained faithful to the Muslim religion in a predominantly Roman Catholic society⁷ – or the Csángós in Romania, who define their identity based on the Roman Catholic faith, in opposition to the Orthodox majority.⁸

International legal frameworks for protecting the religious rights of children belonging to national minorities and indigenous peoples are multilayered. These religious rights fall into the intersection of general and categorical human rights regimes, and can be interpreted in relation to the premises underlying the creation of each of them. International standards for the protection of cultural minorities and indigenous peoples have been adopted to confirm that members of such communities are fully entitled to all human rights, and to ensure the conditions for preservation and developing of their own distinct identity.⁹ The international framework for children's rights, anchored in the Convention on the Rights of the Child, recognises children as fully-fledged subjects of rights. It obliges states to take children's rights more seriously by recognising their inherent dignity and worth.¹⁰ While the human rights enshrined in general human rights treaties are the rights of all human beings, and as such apply to all children and members of ethnic or cultural minorities as

3 Machnyikova, 2005, p. 194.

4 Framework Convention for the Protection of National Minorities, adopted in Strasbourg, on 1 February 1995, under the auspices of the Council of Europe, ETS no. 157.

5 Art. 5 of the FCNM.

6 Machnyikova, 2005, pp. 228 and 260.

7 On Tatar minority in Poland, see: Antonowicz-Bauer, 1984; Gawecki, 1989.

8 On Csángó minority in Romania, see: Council of Europe Parliamentary Assembly, Recommendation 1521 (2001); on Csango minority culture in Romania; Luca, 2019; Borit, 2006.

9 Machnyikova, 2005, p. 194.

10 Doek, 2019, p. 12. For more accounts on the international children's rights framework, see e.g.: Alen et al., 2006; Kilkelly and Liefwaard, 2019.

well,¹¹ the specific instruments for children and minorities can be interpreted as a supplementary protective framework.¹²

According to Zdenka Machnyikova, the level of protection of religious rights can be seen as a touchstone for the protection of cultural rights of persons belonging to national minorities.¹³ The present chapter seeks to outline the international legal framework for the protection of the religious rights of minority and indigenous children, considering the special role it plays both in protecting the cultural identity of such communities, and for the holistic and harmonious development of the child. The first part of the paper explains the notion of national minority and indigenous people, and is followed by an analysis of the provisions of the Convention on the Rights of the Child designed to uphold the child's religious identity — and to some extent of other relevant normative standards in general and categorical human rights regimes. In the last part of the paper, the author presents one selected aspect related to the protection of religious rights of minority and indigenous children, in connection with the right to religiously and culturally adequate food.

2. A Child Belonging to a National Minority or Indigenous People

A universally accepted definition of a “child” can be found in Article 1 of the Convention on the Rights of the Child, according to which *a child* means every human being below the age of eighteen years. By contrast, there is no internationally agreed legal definition of a national minority or indigenous people.

It is generally accepted that the existence of *a national minority* is a question of fact, and that any definition should be based on both objective factor — such as the existence of a shared ethnicity, language or religion — and subjective factors, meaning self-identification of a minority group and its members.¹⁴ A commonly cited academic definition was worded by Francesco Capotorti, Special Rapporteur of the UN Sub-Commission on Prevention of Discrimination and Protection of

11 States Parties shall respect and ensure that all individuals enjoy the rights recognised without distinction of any kind. See e.g. Art. 2, para. 1 ICCPR, Art. 3 ICESCR, Art. 14 of the ECHR.

12 See: Human Rights Committee, General Comment No. 23 (50) (art. 27), 26 April 1994, CCPR/C/21/Rev.1/Add.5, para. 1. As Brems points out, the distinctiveness of categorical human rights regimes for children, cultural minorities and indigenous peoples should be put into perspective: all are considered as vulnerable groups and all face the challenge of balancing protection with emancipation or independence, see: Brems, Desmet and Vandenhoe., 2017, p. 6.

13 Machnyikova, 2005, p. 218.

14 United Nations High Commissioner for Human Rights, 2010a, p. 2. Such approach was already represented by the Permanent Court of International Justice in its Advisory Opinion of 31 July 1930, case of the Greco-Bulgarian “Communities” / Question des “Communautés” Gréco-Bulgares, Publications de la Cour permanente de justice internationale, Recueil des avis consultatifs, série B, no. 17, Leiden 1930, p. 21. For more elaborated accounts on the protection of national minorities, see e.g.: Weller, 2005; Weller, 2007; Zombory, 2023b.

Minorities.¹⁵ Within the United Nations (UN) human rights system, the term “minority” refers to national or ethnic, religious and linguistic minorities, as in the 1966 International Covenant on Civil and Political Rights (ICCPR)¹⁶ or the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.¹⁷ Unlike the UN documents, the regional European instruments on minority rights refer to “national minorities” rather than to “ethnic, religious or linguistic minorities”. The most comprehensive European document dedicated to the protection of persons belonging to national minorities (the FCNM) does not lay down a proper legal definition. The FCNM’s drafters opted for a pragmatic solution instead, which provides the states parties with a discretion as to the official recognition of a given ethnic group as national minority. In their assessment, states should consider the essential components of the identity of national minorities, such as their religion, language, traditions and cultural heritage, by which the group in question can be distinguished from the rest of society.¹⁸ This approach is also represented by the European Court of Human Rights (ECtHR), according to which the practice of recognising a group as national minority should be left largely to the state concerned, as it depends on particular domestic circumstances.¹⁹

Several Central European states have adopted national regulations which determine which ethnic groups living on their territory are officially recognised as national minorities.²⁰ For example, in Hungary Act No. 179 of 2011 on the Rights of National Minorities officially recognises and lists thirteen national minorities;²¹ in Poland, the Act of 6 January 2005 on national and ethnic minorities and on the regional languages recognises nine national and four ethnic minorities;²² while in Croatia there

15 According to Capotorti, “minority” is a group numerically inferior to the rest of the population of a state, in a non-dominant position, and whose members being nationals of the state, possess ethnic, religious or linguistic characteristics differing from the rest of the population and show, if only implicitly, a sense of solidarity directed towards preserving their culture, traditions, religion or language, see: Capotorti, 1979, para. 568.

16 International Covenant on Civil and Political Rights, adopted in New York on 16 December 1966, UN Treaty Series No. 14668.

17 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted on 18 December 1992 by General Assembly resolution No. 47/135.

18 See Art. 5 FCNM. This does not imply, however, that all ethnic, cultural, linguistic or religious differences necessarily lead to the creation of national minorities, see: Explanatory Report to the Framework Convention for the Protection of National Minorities, Strasbourg, 1 February 1995, European Treaty Series No. 157, para. 43.

19 See ECtHR, *Gorzeliak and Others v. Poland*, 17 February 2004, Application no. 44158/98.

20 On the protection of national minorities in Central European countries, see: Korhecz, 2022.

21 See Appendix 1 to the Act No. 179 of 2011 on the Rights of National Minorities, which states that the following qualify as national minorities: Bulgarian, Greek, Croatian, Polish, German, Armenian, Roma, Romanian, Ruthenian, Serbian, Slovak, Slovene and Ukrainian.

22 Act of 6 January 2005 on national and ethnic minorities and on the regional languages, Journal of Laws [Dz. U.] of 2005, No. 17, item 141. According to Art. 2 para. 2, the following minorities are recognised as national minorities: Byelorussians; Czechs; Lithuanians; Germans; Armenians; Russians; Slovaks; Ukrainians; Jews, while according to Art. 2 para. 4 the following minorities are recognised as ethnic minorities: the Karaim; the Lemko; the Roma; the Tatar.

are as many as twenty two national minorities officially recognised by virtue of the Constitution.²³

Similarly to the definition of national minorities, the notion of indigenous peoples is far from unambiguous. As in the case of minorities, a combination of objective and subjective criteria is used to identify indigenous peoples, instead of defining them.²⁴ The principle of self-identification is a key element in the process of identifying indigenous communities and their members, and has been confirmed by the International Labour Organization's (ILO) 1989 Indigenous and Tribal Peoples Convention²⁵ and in the 2007 UN Declaration on the Rights of Indigenous Peoples.²⁶ Indigenous peoples in Europe include most notably the Saami people, living in Sweden, Norway, Finland and Russia. Apart from Saami, many other indigenous communities can be found on the territory of the Russian Federation, the number of which is estimated at forty-six, out of which forty are officially recognised.²⁷

This paper examines the religious freedoms of children under 18 belonging to ethnic, religious or linguistic minorities (hereinafter jointly referred to as: 'national minorities'), or to indigenous peoples – whether they enjoy such official recognition or not. According to the UN Human Rights Committee, the existence of an ethnic, religious or linguistic minority in a given state party does not depend upon a decision by that state.²⁸ By the same token, the Committee on the Rights of the Child has adopted the approach that there is no requirement for states parties to

23 The Constitution of the Republic of Croatia, consolidated text of 6 July 2010. According to Part I. Historical Foundations, members of national minorities in the Republic of Croatia are: Serbs, Czechs, Slovaks, Italians, Hungarians, Jews, Germans, Austrians, Ukrainians, Rusyns, Bosniaks, Slovenians, Montenegrins, Macedonians, Russians, Bulgarians, Poles, Roma, Romanians, Turks, Vlachs, Albanians.

24 Espejo-Yaksic, 2019, pp. 589–592. A working definition of indigenous peoples was proposed in 1972 by UN Special Rapporteur Martínez Cobo, according to whom “indigenous populations” are composed of the existing descendants of the peoples who inhabited the present territory of a country wholly or partially at the time when persons of a different culture or ethnic origin arrived there from other parts of the world, overcame them and, by conquest, settlement or other means, reduced them to a non-dominant or colonial condition; who today live more in conformity with their particular social, economic and cultural customs and traditions than with the institutions of the country of which they now form part (...), see: Martínez Cobo, 1972, para. 34. For elaborated accounts on the protection of indigenous peoples, see e.g.: Hanson and Weller, 2018; Marinkás, 2018; Raisz, 2008; Raisz, 2010.

25 The Indigenous and Tribal Peoples Convention (ILO Convention No. 169), adopted in Geneva on 27 June 1989, UN Treaty Series vol. 1650, no. 28383, see Art. 1 para. 2.

26 Declaration on the Rights of Indigenous Peoples, UN General Assembly resolution of 13 September 2007, Arts. A/RES/61/295, see Arts. 9 and 33.

27 Cultural Survival, 2023, p. 1. Indigenous communities in Russia include, e.g. reindeer herder Nenets, the nomadic Enets, Buryats, Altaians, or Yakuts. Indigenous peoples in Russia are one of the most impoverished demographic groups, and indigenous children are particularly affected, in terms of their social and economic development and life expectancy, which are far below the national average. See also: Council of Europe Parliamentary Assembly, Resolution 1171 (1998) on Endangered uralic minority cultures, 25 September 1998.

28 Human Rights Committee, General Comment No. 23: Art. 27 (Rights of Minorities), para. 5.2.

officially recognise indigenous peoples or minorities in order for them to exercise their rights.²⁹

3. Legal Framework Applicable to the Religious Rights of Children Belonging to National Minorities or Indigenous Peoples

3.1. *The 1989 UN Convention on the Rights of the Child (CRC)*

In its preamble, the CRC stresses the importance of cultural values for the harmonious development of the child, a premise which unfolds into several substantial provisions of the CRC to protect the child's identity in different contexts. The overarching provision is Article 2, which requires that the rights set forth in the CRC be guaranteed to each child without discrimination of any kind, irrespective of the child's or his or her parent's race, [...] language, religion, [...] national, ethnic or social origin [...] or other status.

Article 8 of the CRC guarantees each child the general right to preserve his or her identity, and obliges the states to respect the child's identity without unlawful interference. Article 8 lists only some elements of the child's identity – notably name, nationality and family relations. The Committee on the Rights of the Child underscores that the child's identity should be construed in a much broader sense, which includes, *inter alia*, national origin, religion and beliefs, as well as cultural identity.³⁰ The state persecution or proscription of the practice of a religion, or the state's failure to give adopted, fostered or institutionally placed children the opportunity to enjoy their religious heritage might amount to an unlawful interference in the child's religious identity.³¹ Article 8 para. 2 of the CRC imposes on states-parties the obligation to provide appropriate assistance and protection in re-establishing of the child's identity, where the child has been deprived of some or all its elements. Such measures might entail, among others, ensuring that children in state care are encouraged to practice their religion and culture of origin.³²

The preservation of the religious identity of a child placed in alternative care is explicitly upheld in Article 20 para. 3 of the CRC. It requires that state authorities pay due regard to the child's ethnic, religious, cultural and linguistic background when considering solutions for protecting a child deprived of his or her family environment, or a child in whose own best interests cannot be allowed to remain in that environment.³³

29 Children's Rights Committee, General Comment No. 11 (2009): Indigenous children and their rights under the Convention on the Rights of the Child, para. 19.

30 Committee on the Rights of the Child, General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), 29 May 2013, CRC/C/GC/14, para. 55.

31 Hodgkin and Newell, 2007, p. 115.

32 *Ibid.*, p. 117.

33 Several issues arising around the protection of a child's religious identity in alternative care can be well illustrated by the ECtHR's decision in *Abdi Ibrahim v. Norway*, concerning a placement of Muslim (refugee) child from Somalia in a Christian foster family in Norway, and

The provisions of utmost relevance for the protection of children's religious rights are included in Article 14 of the CRC, while the rights of the children belonging to religious minorities are laid down in Article 30 of the CRC. Article 14 of the CRC guarantees every child the right to freedom of thought, conscience and religion, with parental direction consistent with the child's evolving capacities. The child's right to freedom of religion encompasses theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. It embraces any religion or belief, including newly established religions, or beliefs of religious minorities, and is not limited to traditional religions or to religions and beliefs with institutional characteristics.³⁴ The right of the child to freedom of religion is protected unconditionally, unlike the child's right to manifest their religion or beliefs, which can be subjected to restrictions, albeit very limited, that are outlined in Article 14 para. 3 of the CRC. The freedom to manifest religion or belief can translate into worship, observance or practice, encompassing a broad range of acts, such as: participating in ritual and ceremonial acts, and practices integral to such acts; the use of ritual formulae and object; the display of symbols; the observance of holidays, days of rest, and dietary regulations; the wearing of distinctive clothing or head coverings; participation in rituals associated with certain stages of life; and the use of a particular language customarily spoken by a group.³⁵ Article 14 of the CRC implies both the states' negative obligation not to interfere with children's religious freedom, and their positive obligation to adopt legislation and take measures to protect this right.³⁶ In particular, the CRC 1996 Guidelines for Periodic Reports required that the states indicate in their periodic

the subsequent adoption of the child by the Christian foster family. The ECtHR has examined the complaint against the backdrop of the alleged violation by the Norwegian welfare services of the Somali biological mother's (the applicant) rights under Art. 8 (right to respect for his private and family life) and Art. 9 (right to freedom of thought, belief and religion) of the ECHR, as well as Art. 2 of Protocol No. 1 (right to education). The applicant alleged that the fact of depriving her of parental responsibility in respect of her son, who had been placed in foster care with a family with a different religious and cultural background (the foster family went to church and ate pork), and of allowing the child's adoption by that family (the family intended to baptise the adopted child and change his name), had entailed violations of her ECHR rights. The ECtHR had found a violation of Art. 8 ECHR, and noted that the applicant's rights under Art. 8 ECHR, as interpreted in the light of Art. 9, could not be complied with only by ultimately finding a foster home which corresponded to her cultural and religious background: the domestic authorities were bound by an obligation of means, not one of result; however, the arrangements made by the Norwegian authorities had failed to take due account of the applicant's interest in allowing her child to retain at least some ties to his cultural and religious origins. The ECtHR refrained from ordering a reopening of the adoption proceedings requested by the applicant under Art. 46 ECHR, considering that it could raise issues in connection with the child's and his new parents' family life and the child's best interest, see: ECtHR, *Abdi Ibrahim v. Norway*, judgement of 10 December 2021 (Grand Chamber), Application no. 15379/16, paras. 161, 182–183.

34 Human Rights Committee, General Comment No. 22 on Art. 18 (Freedom of Thought, Conscience or Religion), 30 July 1993, CCPR/C/21/Rev.1/Add.4, generally accepted to be equally relevant for the interpretation of Art. 14 of the CRC, para. 2. See also: Brems, 2006, p. 20, Hodgkin and Newell, 2007, p. 186.

35 Ibid., para. 4.

36 Brems, 2006, pp. 10–11.

country reports the measures adopted to ensure the child's freedom to manifest his or her religion or beliefs, including with regard to minorities or indigenous groups.³⁷

Article 14 of the CRC emphasises the child's individual freedom of religion, and as such goes against the idea of a child automatically following his or her parents' religion. In turn, Article 30 of the CRC aims to support children's right to acquire the religious identity of their parents and community.³⁸ Modelled on Article 27 of the ICCPR, Article 30 of the CRC states that 'In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.' Although children from national minorities and indigenous peoples enjoy the same CRC rights as all other children, the continuing discrimination against minority and indigenous populations justifies securing their rights in a separate provision.³⁹ The specific reference in the CRC is equal to the recognition that they require special measures in order to fully enjoy their rights.⁴⁰ The rights guaranteed in Article 30 of the CRC have both individual and collective dimension, and can be perceived as a recognition of the collective traditions and identity of the given cultural and religious community.⁴¹

Article 30 of the CRC requires from the states positive measures in order to protect the minority's or indigenous group's cultural identity, language or religion, both in terms of actively fulfilling the right, and to protect against interferences by third persons.⁴² The protective obligations stemming from Article 30 of the CRC encompass the duty of states parties to identify the ethnic, religious or linguistic minorities and indigenous groups existing within their jurisdiction.⁴³ The limits of the enjoyment of rights protected under Article 30 are delineated by the existing human rights framework; consequently, religious identity or cultural practices of the given community cannot justify practices that are prejudicial to the child's dignity, health or development. Harmful cultural or religious practices, such as female genital mutilation or early marriages, do not enjoy protection under minority rights or religious freedoms.⁴⁴

37 Committee on the Rights of the Child, General Guidelines Regarding the Form and Contents of Periodic Reports to be Submitted by States Parties under Art. 44, para. 1 (b) of the Convention (Revised), 20 November 1996, CRC/C/58, para. 57.

38 Hodgkin and Newell, 2007, pp. 188 and 463.

39 Ibid., p. 455.

40 Committee on the Rights of the Child, General Comment No. 11, para. 5.

41 Ibid., para. 16.

42 Ibid., para.17; Hodgkin and Newell, 2007, p. 456.

43 Committee on the Rights of the Child, General Guidelines Regarding the Form and Contents of Periodic Reports, para. 166.

44 Committee on the Rights of the Child, General Comment No. 11, para. 22. See also: Interim report of the UN Special Rapporteur on freedom of religion or belief, focusing on focuses on the rights of the child and his or her parents in the area of freedom of religion or belief, 5 August 2015, A/70/286, paras. 67–73.

In its monitoring activity, the Committee on the Rights of the Child has highlighted several specific issues in connection with the religious freedoms of children belonging to national minorities or indigenous peoples. According to the Committee, the prohibition of wearing a headscarf by girls in schools in certain countries might raise concerns under Article 14 of the CRC.⁴⁵ Similarly, the compulsory school curriculum including the history of the state's dominant church might lead to the infringement of the rights of children belonging to religious minorities.⁴⁶ The requirement that a student's secondary school graduation certificate indicate, where that is the case, that the student does not practice the dominant religion is equal to placing administrative and social pressures on children from religious minorities, which, in addition to religious freedoms, might also hinder their right to non-discrimination and to privacy.⁴⁷ The state intervention in religious principles and procedures, leading to the restriction in studying and practising the religion by children from Tibetan religious minorities, has prompted the Committee to express its concerns in the light of Article 30 of the CRC, and to urge China to seek a constructive solution.⁴⁸

3.2. *The 1966 International Covenant on Civil and Political Rights (ICCPR) and the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR)*

The core general international human rights instruments adopted at the universal level, the 1966 International Covenant on Civil and Political Rights (ICCPR) and the 1966 International Covenant on Economic, Social and Cultural Rights⁴⁹ (ICESCR)

45 See e.g. Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Art. 44 of the Convention. Concluding observations of the Committee on the Rights of the Child: Tunisia, 13 June 2002, CRC/C/15/Add.181, paras. 29–30.

46 Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Art. 44 of the Convention. Concluding observations: Armenia, 26 February 2004, CRC/C/15/Add. 225, paras. 31–32.

47 See e.g. Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Art. 44 of the Convention. Concluding observations of the Committee on the Rights of the Child: Greece, 2 April 2002, CRC/C/15/Add.170, paras. 44–45.

48 Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Art. 44 of the Convention. Concluding observations of the Committee on the Rights of the Child: China, 7 June 1996, CRC/C/15/Add. 56, paras. 20, 41. Despite continuous calls for protection, the Committee on the Rights of the Child still finds violations of rights of and discrimination against Tibetan and Uighur children and children of Falun Gong practitioners in mainland China, including their right to freedom of religion, language and culture. There are reports indicating that children from those communities seeking to exercise their right to freedom of religion and conscience are arrested, detained and subject to ill-treatment and torture; the state has imposed restrictions which limit Tibetan children's ability and freedom to study and practice their religion, such as the measures imposed on Tibetan monasteries and nunneries placing them under close control and surveillance, see: Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic reports of China, adopted by the Committee at its sixty-fourth session (16 September – 4 October 2013), 29 October 2013, CRC/C/CHN/CO/3-4, paras. 25, 41–42.

49 International Covenant on Economic, Social and Cultural Rights, adopted in New York on 16 December 1966, UN Treaty Series No. 14531.

contain provisions relevant for both protecting religious freedoms, and specifically for safeguarding the religious identity of national minorities and indigenous peoples.

Article 18 para. 1 of the ICCPR secures everyone's right to freedom of thought, conscience and religion, which includes the freedom to have or to adopt a religion or belief of an individual's own choice, and the freedom — either individually or in community with others and in public or private — to manifest one's religion or belief in worship, observance, practice and teaching. Article 18 para. 4 supports the transgenerational transmission of religious identity from parents to children, by obliging the state to respect the parents' liberty to ensure the religious education of their children in conformity with their own convictions.

The cultural rights of persons belonging to ethnic, religious or linguistic minorities are explicitly recognised in Article 27 of the ICCPR, which requires that persons belonging to such minorities are not denied the right, in community with other members of their group, to enjoy their own culture, and to profess and practise their own religion. The protection of these rights is directed to ensure the survival and continued development of the cultural, religious and social identity of minorities.⁵⁰ The normative content of Article 27 of the ICCPR was further elaborated in the provisions of the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which, unlike the ICCPR, is a non-binding human rights instrument. It reaffirms that states should protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities on their territories, and encourage conditions for the promotion of that identity through appropriate legislative and other measures.⁵¹ The declarations recognise the states' obligation to create favourable conditions to enable persons belonging to minorities to express their characteristics, and to develop their culture, religion, traditions and customs.⁵² It confirms that persons belonging to these minorities have the right to participate effectively in cultural and religious life, which applies to the same extent to adults and children.⁵³

Article 15 para. 1(a) of the ICESCR lays down the right of everyone, adults and children alike, to participate in cultural life. The terms “cultural” and “culture” in connection with the provisions of Article 15 para. 1(a) of the ICESCR is understood broadly, and encompasses, *inter alia*, ways of life, religion and belief systems, rites and ceremonies, food, customs and traditions through which individuals and communities express themselves.⁵⁴ The UN Committee on Economic, Social and Cultural

50 Human Rights Committee, General Comment No. 23, para. 9.

51 Art. 1 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

52 Art. 4 para. 2 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

53 Art. 2 para. 2 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

54 Committee on Economic, Social and Cultural Rights, General comment no. 21, Right of everyone to take part in cultural life (Art. 15, para. 1a of the Covenant on Economic, Social and Cultural Rights), para. 13.

Rights recognises that children play a fundamental role as the bearers and transmitters of cultural values from generation to generation, therefore their participation in the cultural and religious life of the community is of paramount importance for the preservation of collective identity. Consequently, states parties should take all steps necessary to stimulate and develop children's full potential in the area of cultural life.⁵⁵ This includes the state's obligation to provide culturally appropriate education, which enables children to develop their personality and cultural identity, and to learn and understand cultural values and practices of the communities to which they belong, as well as those of other communities. According to the committee, the educational programmes should respect the cultural specificities of national or ethnic, linguistic and religious minorities as well as indigenous peoples, and should be included in general school curricula for all children, not only for minorities and indigenous peoples.⁵⁶

For children belonging to indigenous peoples who live traditional lifestyles, one of the vital preconditions for the enjoyment of their religious and cultural rights is the access to ancestral land and natural resources. In indigenous communities, ancestral land often serves as a basis for religious practices or the expression of their cultural identity.⁵⁷ When the enjoyment of culture and the profession of religion are so closely linked to sacred sites and the natural environment, preserving this environment and ensuring access to land is necessary for the realisation of the child's right to 'enjoy his or her own culture, to profess and practice his or her own religion', as guaranteed in Article 30 of the CRC and Article 27 of the ICCPR.⁵⁸ Not surprisingly, according to a recent decision of the Human Rights Committee, the failure of the state to combat the effects of climate change and protect indigenous communities' collective ability to maintain their traditional way of life, to transmit to their children and future generations their culture and traditions, and to maintain ancestral graveyards and spiritual connection with the deceased, amounts to a violation of the states' obligation to protect the right to enjoy minority culture.⁵⁹ The right of indigenous peoples to maintain their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used territories and natural resources, and to uphold their responsibilities to future generations, was explicitly laid out in the 2007 UN

55 Ibid., para. 26.

56 Ibid., para. 27.

57 Committee on Economic, Social and Cultural Rights, General Comment No. 26 on Land and Economic, Social and Cultural Rights, adopted by the CESCR at its seventy-second session (26 September – 14 October 2022), E/C.12/GC/26, para. 10.

58 See also UNICEF, 2003, pp. 3–4; Espejo-Yaksic, 2019, pp. 595–596; Marinkás, 2016, pp. 24–25.

59 CCPR, *Billy and others v. Australia*, decision of 21 July 2022, communication no. 3624/2019, para. 16. The complaint was filed by eight Australian nationals, being indigenous Torres Islanders, and six of their children. The authors, *inter alia*, claimed the violations of children's rights under Art. 24 para. 1 of the ICCPR, nonetheless, the Human Rights Committee, having found a violation of Arts. 17 and 27 of the ICCPR, did not examine the claims under Art. 24 para. 1 of the ICCPR. For more on the importance of burial places for the protection of cultural identity, see e.g.: Wedel-Domaradzka, 2022; Walasek, 2019.

Declaration on the Rights of Indigenous Peoples, and secured by its several provisions.⁶⁰ The Committee on Children's Rights has recently urged states to closely consider the impact of environmental harm on traditional land and culture and the quality of the natural environment, while ensuring the rights to life, survival and development of indigenous children, as well as children belonging to non-indigenous minority groups whose rights, way of life and cultural identity are closely related to nature.⁶¹

3.3. European Instruments for the Protection of Minority and Indigenous Children's Religious Rights

On the European level, the main human rights instrument, the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms⁶² ('The European Convention on Human Rights', or 'ECHR'), adopted under the auspices of the Council of Europe ('CoE'), does not contain provisions dedicated to the protection of special categories of vulnerable groups, such as national minorities or children. It nevertheless secures in Article 9 everyone's right to the freedom of thought, conscience and religion,⁶³ which in its religious dimension is 'one of the most vital elements that go to make up the identity of believers and their conception of life.'⁶⁴ The freedom of thought, conscience, and religion, and the freedom to change religion or belief, cannot be subjected to restrictions or limitations, unlike the freedom to manifest one's religion or beliefs. The latter can be limited, albeit only under strict conditions stipulated in the limitation clause in Article 9 para. 2 of the ECHR.

Protocol No. 1 to the ECHR in Article 2 ('Right to education') provides parents with the right to choose such education and teaching for their children which is in

60 See e.g. Arts. 10, 25, 26, 29, 32 of the Declaration on the Rights of Indigenous Peoples, see also Art. 13 of the 1989 ILO Indigenous and Tribal Peoples Convention.

61 Committee on Children's Rights, General comment No. 26 (2023) on children's rights and the environment with a special focus on climate change, 22 August 2023, CRC/C/GC/26, para. 58.

62 *Convention for the Protection of Human Rights and Fundamental Freedoms* (European Convention on Human Rights, ECHR), adopted under the auspices of Council of Europe in Rome on 4 November 1950, ETS No. 005. Although this paper addresses only the European human rights system, it is important to note that in other regional human rights systems have also elaborated standards on the protection of religious rights, see e.g. Art. 8 of the *African Charter on Human and Peoples' Rights*, adopted on 27 June 1981 under the auspices of the Organisation of African Unity, OAU Doc. CAB/LEG/67/3 rev. 5 (the Banjul Charter); Art. 12 of the *American Convention on Human Rights*, adopted in San José on 22 November 1969 under the auspices of the Organization of American States, UN Treaty Series No. 17955, vol. 1144.

63 Art. 9 para. 1 of the ECHR states that 'Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance'.

64 See e.g. ECtHR, *Metropolitan Church of Bessarabia and Others v. Moldova*, judgement of 13 December 2001, application no. 45701/99, para. 114. For an interpretative account on Art. 9 of the ECHR, see: Schabas, 2015, pp. 412–443.

conformity with their own religious and philosophical convictions.⁶⁵ The provisions of Article 2 of the Protocol No. 1 are a *lex specialis* in relation to Article 9 of the ECHR.⁶⁶ Although it can be seen as an optimal legal basis for protecting the religious identity of parents and children belonging to religious minorities, the ECtHR's practice demonstrates that in the educational context the majority religion enjoys considerable deference.⁶⁷ For example, according to the ECtHR the Norwegian school curriculum — which gave a larger share to knowledge of the Christian religion than to that of other religions — cannot be seen in itself as a departure from the principles of pluralism and objectivity.⁶⁸ In view of the place occupied by Christianity in the national history and tradition of the state, this should be regarded as falling within the respondent state's margin of appreciation in planning the school curriculum.⁶⁹ Similarly, the ECtHR did not find a violation of Article 2 of the Protocol 1 in connection with the state practice in Turkish schools, where Islam was given prominence through the presence of 'religious culture and ethics' classes in the curriculum, because although the state was secular in nature, Islam was the religion of the majority.⁷⁰

To better address the rights of national minorities, explicitly non-existent under the ECHR, the 1995 Framework Convention for the Protection of National Minorities (FCNM) was adopted under the auspices of the CoE. This comprehensive legal instrument, designed specifically to protect the rights of persons belonging to national minorities in its Article 5, lists religious identity among the four essential elements of the identity of a national minority, which the states parties are under duty to preserve. Article 7 of the FCNM lays down the obligation of the states parties to ensure respect for the right of every person belonging to a national minority to freedom of thought, conscience and religion. In addition, Article 8 of the FCNM recognises that every person belonging to a national minority has the right to manifest his or her religion or belief. The FCNM does not make a specific reference to protecting the rights of children belonging to minorities.

The implementation of the FCNM in states parties is monitored and evaluated by the Advisory Committee, an independent expert committee advising the CoE's

65 Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocol No. 11, Paris, 20.III.1952, ETS no. 009. Art. 2 of the Protocol No. 1. states that 'No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions'.

66 *Abdi Ibrahim v. Norway*, para. 139.

67 Schabas, 2015, p. 1003.

68 ECtHR, *Folgerø and Others v. Norway*, Judgement of 29 June 2007, appl. no. 15472/02, para. 89.

69 The same Norwegian state practice relating to the school curriculum was nevertheless challenged by the Committee of the Rights of the Child as not fully compatible with Art. 14 of the Convention on the Rights of the Child, see: Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Art. 44 of the Convention. Concluding observations: Norway, 21 September 2005, CRC/C/15/Add.263, para. 20.

70 ECtHR, *Hasan and Eylem Zengin v. Turkey*, Judgement of 9 October 2007, appl. no. 1448/04, paras. 51–52.

Committee of Ministers. Within its monitoring activity, the Advisory Committee puts a great emphasis on boosting intercultural understanding and respect. Good practices in this regard include pedagogical activities and educational programs run for the entire community, regardless of religious or national affiliation.⁷¹ The Advisory Committee urges states parties to review on a regular basis the curricula and textbooks of subjects such as history, religion and literature in order to ensure that the diversity of cultures and identities is reflected, and that tolerance and intercultural communication are promoted.⁷²

Within the EU, the respect for human rights, including the rights of persons belonging to minorities, is one of the fundamental values, enshrined in Article 2 of the Treaty on the European Union, while Article 3 para. 3 states that the EU respects its rich cultural diversity.⁷³ The EU's dedication to protecting religious diversity is reflected in several provisions of the primary EU law. The Charter of Fundamental Rights of the EU in Article 22 reaffirms that the EU promotes cultural, religious and linguistic diversity. The religious diversity is not limited to traditional European religions.⁷⁴ Article 10 of the Charter recognises everyone's right to freedom of thought, conscience and religion, which includes freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance. Similarly to the religious diversity, freedom of religion is to be understood broadly and not confined to traditionally recognised religions and beliefs.⁷⁵ According to the European Court of Justice, freedom of religion is one of the foundations of a democratic society and a basic human right.⁷⁶ Article 24 of the Charter addresses the rights of the child. Although it does not explicitly mention the freedom of religion, it is axiomatic that children benefit from the protection of all other Charter rights,⁷⁷ including Article 10, guaranteeing the freedom of religion, and Article 11, securing the freedom of expression. The latter covers all types of expression, and as such might also be understood in connection with expressing religious beliefs.⁷⁸

71 Advisory Committee on the FCNM, Fourth Opinion on Poland, adopted on 6 November 2019, ACFC/OP/IV(2019)003, para. 78, Advisory Committee on the FCNM, Fifth Opinion on Czechia, adopted on 31 May 2021, ACFC/OP/V(2021)3, paras. 7, 80.

72 Advisory Committee on the FCNM, Fourth Opinion on Poland, adopted on 6 November 2019, ACFC/OP/IV(2019)003, para. 127; Advisory Committee on the FCNM, Fifth Opinion on Romania, adopted on 3 April 2023, ACFC/OP/V(2022)5, para. 168, Advisory Committee on the FCNM, Fifth Opinion on Czechia, adopted on 31 May 2021, ACFC/OP/V(2021)3, para. 29.

73 Treaty on European Union of 13 December 2007 – consolidated version, Official Journal of the European Union C/202 of 7 June 2016.

74 Lock, 2019c, p. 2169.

75 Lock, 2019a, p. 2129.

76 ECJ, *Bundesrepublik Deutschland v Y and Z*, Judgment of 5 September 2012, joined cases C-71/11 and C-99/11, para. 57.

77 Lock, 2019d, p. 2174.

78 Lock, 2019b, p. 2135.

4. The Right to Culturally Adequate Food as a Religious Right of Minority and Indigenous Children

The importance of children's religious rights can be seen through the prism of various domains, belonging either to the public sphere or falling within the scope of private and family life, which are inherent to children's everyday life. They include, for example, wearing traditional pieces of clothing in public schools in accordance with religious requirements — such as a headscarf or hijab — or attending religious education in schools. Less commonly discussed in the context of religious rights, but equally relevant, is the right to culturally adequate food, as well as the issue of children's dietary customs or choices.

As the Human Rights Committee notes, the observance and practice of religion or belief, protected under Article 18 of the ICCPR, may include not only ceremonial acts but also such customs as dietary regulations.⁷⁹ Aside from religious guarantees stemming from such provisions as Article 18 of the ICCPR, Article 9 of the ECHR or Article 14 of the CRC, the protection of religiously appropriate alimentation is linked to the right to food, recognised in Article 11 para. 1 of the ICESCR. The normative content of the latter highlights that food cannot be understood in a narrow sense as a minimum intake of calories, proteins and other specific nutrients, but should be understood as the right to *adequate* food. Several factors need to be taken into account while determining whether particular foods or diets can be considered appropriate. The meaning of “adequacy” is largely determined, *inter alia*, by prevailing social and cultural, as well as climatic, ecological and other conditions.⁸⁰ According to the Committee on Economic, Social and Cultural Rights, the core content of the right to adequate food implies ‘the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and *acceptable within a given culture*.’⁸¹ The importance of availability of adequate food for children has also been highlighted in the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, which requires that in every detention facility every juvenile receive food that is suitably prepared and [...] satisfies the standards of dietetics, hygiene and health and, as far as possible, religious and cultural requirements.⁸²

The respect of dietary customs, as a prerequisite to a religiously and culturally adequate food, is an inherent element of safeguarding cultural identity of adults and children belonging to indigenous peoples or national minorities. Some authors go as far as to assert that national minorities’ have right to their own “culinary identity”.⁸³

79 Human Rights Committee, General Comment No. 22, para. 4.

80 Committee on Economic, Social and Cultural Rights, General Comment No. 12: The Right to Adequate Food (Art. 11), 12 May 1999, E/C.12/1999/5, para. 6.

81 *Ibid.*, paras. 7–8.

82 United Nations Rules for the Protection of Juveniles Deprived of their Liberty, General Assembly resolution No. 45/113, 14 December 1990, para. 37.

83 See e.g.: Banaszak, 2014.

Certain food-related regulations, such as those related to the shechita and halal slaughter, are intrinsically related to spiritual beliefs in a given religion (in case of ritual slaughter, to Jewish and Islamic religions).⁸⁴ The jurisprudence of the international tribunals (ECtHR,⁸⁵ the European Court of Justice⁸⁶) connected to the shechita and halal slaughter, which revolve around the issue of the ban on ritual slaughter without prior stunning, highlights the challenges in balancing the right to religious freedom, minority rights and animal protection concerns (public interest). The debate on the religious adequacy of food is highly relevant also in the Central European context, as demonstrated by the 2012 and 2014 decisions of the Polish Constitutional Tribunal,⁸⁷ connected to the restrictions on ritual slaughter and the interpretation of the provisions of the Act of 21 August 1997 on Animal Protection.⁸⁸ In Poland, ritual slaughter is observed by members of the Tatar ethnic minority, as well as by the members of Jewish national minority, who, together with other recognised national and ethnic minorities in Poland, enjoy the constitutionally guaranteed freedom to maintain customs and traditions, and to develop their own culture.⁸⁹ The ritual slaughter of animals without stunning is permitted for religious purposes in several Central European countries, including Croatia, Czechia, Hungary and Romania, under the derogation to the relevant EU regulation.⁹⁰

The availability of culturally acceptable food, strictly related to the free access to natural resources and traditional territories, is the essence of preserving cultural and religious identity of children belonging to indigenous peoples. As the UN High Commissioner for Human Rights has noted, indigenous peoples have their own concepts of what constitutes adequate food, which concepts depart from conventional economic criteria. Food and its procurement and consumption are often an important part of their culture, as well as of social, economic and political organisation, and are grounded in their sociocultural traditions and their special relationship to ancestral land and resources.⁹¹ Since long ago, the Human Rights Committee has associated

84 For a brilliant account on the spiritual, ethical and legal aspects surrounding the halal and shechita ritual slaughter, see: Marinkás, 2021.

85 See e.g. ECtHR, *Cha'are Shalom Ve Tsedek v. France*, Judgement of 27 June 2000, application no. 27417/95.

86 See e.g. ECJ, *Centraal Israëlitisch Consistorie van België and Others*, Judgement of 17 December 2020, C-336/19.

87 Constitutional Tribunal of the Republic of Poland, Judgement of 27 November 2012, case no. U 4/12; Constitutional Tribunal of the Republic of Poland, Judgement of 10 December 2014, case no. K 52/13. More on the decisions of the Polish Constitutional Tribunal on ritual slaughter, see: Kuczma, 2016; Skóra, 2019; Marinkás, 2021, pp. 73–75.

88 Act of 21 August 1997 on Animal Protection [Ustawa z dnia 21 sierpnia 1997 r. o ochronie zwierząt], Journal of Laws [Dz.U.] of 1997, No. 111, item 724.

89 Constitution of the Republic of Poland of 2 April 1997, Journal of Laws [Dz.U.] of 1997, No. 78, item 483, Art. 35 para. 1.

90 Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing, Official Journal of the European Union, 18.11.2009, L 303/1. Data on domestic legislation concerning ritual slaughter after: Vinci, Pasikowska-Schnass and Rojek, 2023, pp. 27–30.

91 United Nations High Commissioner for Human Rights, 2010b, pp. 12–13.

the preservation of cultural identity with the traditional way of life connected to the territory and use of natural resources.⁹² Similarly, the Inter-American Court of Human Rights (IACtHR), which over the years has become the principal guardian of indigenous rights, considers that food should be understood as one of the cultural characteristics of a given social group, and as such it enjoys protection under the right to cultural identity.⁹³

The dietary customs and convictions of vegan and vegetarian children, albeit not strictly connected to the religious rights of minority and indigenous children, might also give rise to issues related to the protection of a child's right to freedom of thought, conscience and religion. It was already the European Commission on Human Rights that accepted that veganism enjoys protection under Article 9 para. 1 of the ECHR.⁹⁴ The protection of children's ethical beliefs underlying their vegan or vegetarian dietary choices can be anchored in the principle of non-discrimination (Article 2 of the CRC) and the right to freedom of thought, conscience and religion (Article 14 of the CRC), and can also be perceived in relation to the child's right to be protected from all forms of physical and psychological violence and from exposure to violence, such as violence inflicted on animals (Article 19 of the CRC).⁹⁵

5. Conclusions

The protection of religious rights of children whose cultural and religious background is different from the majority society is vitally important for both their harmonious development, and for the preservation of their own cultural identity and that of their entire community. Religion is one of the essential elements that make up the identity of national minorities and indigenous peoples, aside from their language, traditions, and cultural heritage. Therefore, the enjoyment of the right to freedom of religion for such groups is crucial to safeguarding their common spiritual and cultural consciousness.

The relevant legal standards applicable for protecting the religious rights of children from national minorities or indigenous peoples can be found in general human

92 Human Rights Committee, General comment No. 23, para. 3.2. See also: Human Rights Committee, *Ominayak (Lubicon Lake Band) v. Canada*, decision of 26 Mar 1990, communication no. 167/1984; Human Rights Committee, *Ivan Kitok v. Sweden*, decision of 27 July 1988, communication no. 197/1985; Human Rights Committee, *Billy and others v. Australia*, para. 8.10.

93 IACtHR, *Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina*, Merits, Reparations and Costs. Judgment of February 6, 2020. Series C No. 400, para. 274. The facts of the case provided the IACtHR with an opportunity to reflect on the relationship between the cultural rights and the right to a healthy environment, and equally on the interplay among the rights to adequate food, water, and cultural identity. On the significance of the judgement in for the protection of cultural identity, see: Zombory, 2023a.

94 European Commission of Human Rights, *W. v. The United Kingdom*, decision on admissibility of 10 February 1993, application no. 18187/91.

95 Committee on the Rights of the Child, General comment No. 26, para. 35.

rights instruments at the universal and European level (ICCPR, ICESCR, ECHR, Charter of the Fundamental Rights of the EU), as well as in categorical human rights regimes, dedicated specifically to the protection of children (CRC), and to the protection of national minorities and indigenous peoples (Article 27 of the ICCPR, Article 30 of the CRC, FCNM). Some of these standards emphasise the child's autonomous right to freedom of religion, as opposed to the child automatically following his or her parents' religion (Article 14 of the CRC), while some of them support the child's right to acquire and uphold the religious identity of his or her parents (e.g. Article 30 of the CRC).

The practical implementation of children's religious rights can be observed in various contexts and in various domains, most notably in connection with wearing traditional pieces of clothing (e.g. headscarf) in public schools or attending religious education. It is equally relevant in respect to the child's right to religiously and culturally adequate food, in the context of ritual slaughter (certain national minorities) or the access to natural resources (indigenous peoples).

Bibliography

- Act of 6 January 2005 on national and ethnic minorities and on the regional languages, Journal of Laws [Dz. U.] of 2005, No. 17, item 141.
- Act of 21 August 1997 on Animal Protection [Ustawa z dnia 21 sierpnia 1997 r. o ochronie zwierząt], Journal of Laws [Dz.U.] of 1997, No. 111, item 724.
- Advisory Committee on the FCNM, Fifth Opinion on Czechia, adopted on 31 May 2021, ACFC/OP/V(2021)3.
- Advisory Committee on the FCNM, Fourth Opinion on Poland, adopted on 6 November 2019, ACFC/OP/IV(2019)003.
- Advisory Committee on the FCNM, Fifth Opinion on Romania, adopted on 3 April 2023, ACFC/OP/V(2022)5.
- African Charter on Human and Peoples' Rights, adopted on 27 June 1981 under the auspices of the Organisation of African Unity, OAU Doc. CAB/LEG/67/3 rev. 5 (the Banjul Charter).
- American Convention on Human Rights, adopted in San José on 22 November 1969 under the auspices of the Organization of American States, UN Treaty Series No. 17955.
- Antonowicz-Bauer, L. (1984) 'The Tatars in Poland', *Institute of Muslim Minority Affairs Journal*, 5(2), pp. 345–359. Available at: <https://doi.org/10.1080/02666958408715905>.
- Appendix 1 to the Act No. 179 of 2011 on the Rights of National Minorities.
- Banaszak, B. (2014) 'Prawo mniejszości narodowych do kultywowania własnej tożsamości kulinarnej', *Gdańskie Studia Prawnicze*, 2014/31, pp. 19–26.
- Borit, C. (2006) *The identity conflict of the Csango minority from Romania* [Online]. Available at: <https://munin.uit.no/handle/10037/20109> (Accessed: 21 April 2024).
- Brems, E. (2006) 'Article. 14 The Right to Freedom of Thought, Conscience and Religion' in Alen, A., Vande Lanotte, J., Verhellen, E., Ang, F., Berghmans, F. and Verheyde, M. (eds.) *A Commentary on the United Nations Convention on the Rights of the Child*. Leiden: Martinus Nijhoff Publishers.
- Brems, E., Desmet, E., and Vandehole, W. (2017) 'Children's rights law and human rights law: analysing present and possible future interactions' in Brems, E., Desmet, E., and Vandehole, W, *Children's rights law in the global human rights landscape: isolation, inspiration, integration?* New York: Routledge.
- Capotorti, F. (1979) *Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities*, UN Doc. E/CN.4/Sub.2/384/Rev.1 [Online]. Available at: <https://digitallibrary.un.org/record/10387?v=pdf>.
- CCPR, *Billy and others v. Australia*, decision of 21 July 2022, communication no. 3624/2019.
- Children's Rights Committee, General Comment No. 11 (2009): Indigenous children and their rights under the Convention on the Rights of the Child.
- Committee on Economic, Social and Cultural Rights, General Comment No. 12: The Right to Adequate Food (Art. 11), 12 May 1999, E/C.12/1999/5.

- Committee on Economic, Social and Cultural Rights, General comment no. 21, Right of everyone to take part in cultural life (Art. 15, para. 1a of the Covenant on Economic, Social and Cultural Rights).
- Committee on Economic, Social and Cultural Rights, General Comment No. 26 on Land and Economic, Social and Cultural Rights, adopted by the CESCR at its seventy-second session (26 September – 14 October 2022), E/C.12/GC/26.
- Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention. Concluding observations: Armenia, 26 February 2004, CRC/C/15/Add. 225.
- Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention. Concluding observations of the Committee on the Rights of the Child: China, 7 June 1996, CRC/C/15/Add. 56.
- Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention. Concluding observations of the Committee on the Rights of the Child: Greece, 2 April 2002, CRC/C/15/Add.170.
- Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention. Concluding observations: Norway, 21 September 2005, CRC/C/15/Add.263.
- Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention. Concluding observations of the Committee on the Rights of the Child: Tunisia, 13 June 2002, CRC/C/15/Add.181.
- Committee on the Rights of the Child, General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), 29 May 2013, CRC/C/GC/14.
- Committee on Children's Rights, General comment No. 26 (2023) on children's rights and the environment with a special focus on climate change, 22 August 2023, CRC/C/GC/26.
- Committee on the Rights of the Child, General Guidelines Regarding the Form and Contents of Periodic Reports to be Submitted by States Parties under Article 44, Paragraph 1 (b), of the Convention (Revised), 20 November 1996, CRC/C/58.
- Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, ECHR), adopted under the auspices of Council of Europe in Rome on 4 November 1950, ETS No. 005.
- Constitution of the Republic of Croatia, consolidated text of 6 July 2010.
- Constitution of the Republic of Poland of 2 April 1997, Journal of Laws [Dz.U.] of 1997, No. 78, item 483.
- Constitutional Tribunal of the Republic of Poland, Judgement of 27 November 2012, case no. U 4/12.
- Constitutional Tribunal of the Republic of Poland, Judgement of 10 December 2014, case no. K 52/13.
- Convention on the Rights of the Child, adopted in New York on 20 November 1989 by General Assembly resolution 44/25, UN Treaty Series no. 27531.

- Council of Europe Parliamentary Assembly, Recommendation 1521 (2001); on Csango minority culture in Romania.
- Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing, Official Journal of the European Union, 18.11.2009, L 303/1.
- Council of Europe Parliamentary Assembly, Resolution 1171 (1998) on Endangered uralic minority cultures, 25 September 1998.
- Cultural Survival (2023) *Observations on the State of Indigenous Rights in the Russian Federation, prepared for the 44th Session of the Universal Periodic Review of the Human Rights Council* [Online]. Available at: https://www.culturalsurvival.org/sites/default/files/Russia_UPR_2023_Final_2.pdf (Accessed: 21 April 2024).
- Declaration on the Rights of Indigenous Peoples, UN General Assembly resolution of 13 September 2007, Articles A/RES/61/295.
- Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted on 18 December 1992 by General Assembly resolution No. 47/135.
- Dooek, J.E. (2019) 'The Human Rights of Children: An Introduction' in Kilkelly, U., Liefaard T. (eds.) *International Human Rights of Children*. Singapore: Springer, pp. 3–29. Available at: https://doi.org/10.1007/978-981-10-4184-6_21.
- ECJ, *Bundesrepublik Deutschland v Y and Z*, Judgment of 5 September 2012, joined cases C-71/11 and C-99/11.
- ECJ, *Centraal Israëlitisch Consistorie van België and Others*, Judgement of 17 December 2020, C-336/19.
- ECtHR, *Abdi Ibrahim v. Norway*, judgement of 10 December 2021 (Grand Chamber), Application no. 15379/16.
- ECtHR, *Cha'are Shalom Ve Tsedek v. France*, Judgement of 27 June 2000, application no. 27417/95.
- ECtHR, *Folgerø and Others v. Norway*, Judgement of 29 June 2007, appl. no. 15472/02.
- ECtHR, *Gorzelik and Others v. Poland*, 17 February 2004, Application no. 44158/98.
- ECtHR, *Hasan and Eylem Zengin v. Turkey*, Judgement of 9 October 2007, appl. no. 1448/04.
- ECtHR, *Metropolitan Church of Bessarabia and Others v. Moldova*, judgement of 13 December 2001, application no. 45701/99.
- Espejo-Yaksic, N. (2019) 'International Laws on the Rights of Indigenous Children' in Kilkelly, U., Liefaard T. (eds.) *International Human Rights of Children*. Singapore: Springer, pp. 587–616. Available at: https://doi.org/10.1007/978-981-10-4184-6_21.
- European Commission of Human Rights, *W. v. The United Kingdom*, decision on admissibility of 10 February 1993, application no. 18187/91.
- Explanatory Report to the Framework Convention for the Protection of National Minorities, Strasbourg, 1 February 1995, European Treaty Series No. 157.
- Framework Convention for the Protection of National Minorities, adopted in Strasbourg, on 1 February 1995, under the auspices of the Council of Europe, ETS no. 157.

- Gawecki, M. (1989) 'Ethno-cultural status of the Polish Tatars', *Central Asian Survey*, 8(3), pp. 53–60. Available at: <https://doi.org/10.1080/02634938908400673>.
- Greco-Bulgarian "Communities" / Question des "Communautés" Gréco-Bulgares, Publications de la Cour permanente de justice internationale, Recueil des avis consultatifs, série B, no. 17, Leiden 1930.
- Hanson, J., Weller, M. (2018) *The UN Declaration on the Rights of Indigenous Peoples. A Commentary*. Oxford: Oxford University Press.
- Hodgkin, R., Newell, P. (2007) *Implementation Handbook for the Convention for the Convention on the Rights of the Child*. 3 edn. Geneva: UNICEF Regional Office for Europe.
- Human Rights Committee, General Comment No. 22 on Article 18 (Freedom of Thought, Conscience or Religion), 30 July 1993, CCPR/C/21/Rev.1/Add.4.
- Human Rights Committee, General Comment No. 23 (50) (art. 27), 26 April 1994, CCPR/C/21/Rev.1/Add.5.
- Human Rights Committee, *Ivan Kitok v. Sweden*, decision of 27 July 1988, communication no. 197/1985.
- Human Rights Committee, *Ominayak (Lubicon Lake Band) v. Canada*, decision of 26 Mar 1990, communication no. 167/1984.
- IAcTtHR, *Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina*, Merits, Reparations and Costs. Judgment of February 6, 2020. Series C No. 400.
- Indigenous and Tribal Peoples Convention (ILO Convention No. 169), adopted in Geneva on 27 June 1989, UN Treaty Series vol. 1650, no. 28383.
- Interim report of the UN Special Rapporteur on freedom of religion or belief, focusing on focuses on the rights of the child and his or her parents in the area of freedom of religion or belief, 5 August 2015, A/70/286.
- International Covenant on Civil and Political Rights, adopted in New York on 16 December 1966, UN Treaty Series No. 14668.
- International Covenant on Economic, Social and Cultural Rights, adopted in New York on 16 December 1966, UN Treaty Series No. 14531.
- Korhecz, T. (2022) 'National Minorities – Constitutional Status, Rights and Protection' in Csink, L., Trócsányi, L. (eds.) *Comparative Constitutionalism in Central Europe: Analysis on Certain Central and Eastern European Countries*. 1st edn. Budapest–Miskolc: Central European Academic Publishing, pp. 401–421.
- Kuczma, P. (2016) 'Ubój rytualny jako prawo mniejszości narodowych w Polsce', *Przegląd Prawa Konstytucyjnego*, 2016/5, pp. 181–201. Available: <https://doi.org/10.15804/ppk.2016.05.11>.
- Lock, T. (2019a) 'Article 10 CFR, Freedom of thought, conscience and religion' in Kellerbauer, M., Klamert, M., Tomkin, J. (eds.) *The EU Treaties and the Charter of Fundamental Rights. A Commentary*. 1st edn. Oxford: Oxford University Press, pp. 2129–2131.
- Lock, T. (2019b) 'Article 11. CFR. Freedom of expression and information' in Kellerbauer, M., Klamert, M., Tomkin, J. (eds.) *The EU Treaties and the Charter of Fundamental Rights. A Commentary*. 1st edn. Oxford: Oxford University Press, pp. 2132–2136.

- Lock, T. (2019c) 'Article 22 CFR. Cultural, religious and linguistic diversity' in Kellerbauer, M., Klamert, M., Tomkin, J. (eds.) *The EU Treaties and the Charter of Fundamental Rights. A Commentary*. 1st edn. Oxford: Oxford University Press, pp. 2168–2169.
- Lock, T. (2019d) 'Article 24 CFR. The rights of the child' in Kellerbauer, M., Klamert, M., Tomkin, J. (eds.) *The EU Treaties and the Charter of Fundamental Rights. A Commentary*, 1st edn. Oxford: Oxford University Press, pp. 2173–2175.
- Luca, A.M. (2019) *Romania's Csangos Hear First Hungarian Mass in Decades* [Online]. Available at: <https://balkaninsight.com/2019/02/01/hungarian-speaking-csanga-hold-first-mass-in-mother-tongue-in-eastern-romania-01-28-2019> (Accessed: 21 April 2024).
- Machnyikova, Z. (2005) 'Article 7' in Weller, M. (ed) *The Rights of Minorities: A Commentary on the European Framework Convention for the Protection of National Minorities*. Oxford: Oxford University Press.
- Marinkás, Gy. (2016) 'Cultural Rights as a Tool of Protecting the Rights of Indigenous Peoples' in Szabó, M., Varga, R., Lángos, P.L. (eds.) *Hungarian Yearbook of International Law and European Law 2015*. The Hague: Eleven International Publishing, pp. 15–38.
- Marinkás, Gy. (2018) *Az őslakos népek védelmének aktuális jogi kihívásai*. Miskolc: Miskolci Egyetem Állam- és Jogtudományi Kar.
- Marinkás, Gy. (2021) 'Some Remarks on the “Shechita Case” of the ECJ', *Law, Identity and Values*, 1(2), pp. 53–90. Available at: <https://doi.org/10.55073/2021.2.53-90>.
- Martínez Cobo, J.R. (1972) *Study of the problem of discrimination against indigenous populations*, 29 June 1972, E/CN.4/Sub.2/L.566. [Online]. Available at: <https://digitallibrary.un.org/record/768953?v=pdf>.
- Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocol No. 11, Paris, 20.III.1952, ETS no. 009.
- Raisz, A. (2008) 'Indigenous Communities before the Inter-American Court of Human Rights – New Century, New Era?', *Miskolc Journal of International Law*, 5(2), pp. 35–51.
- Raisz, A. (2010) 'Az emberi jogok amerikaiközi védelme', *Publicationes Universitatis Miskolcensis. Sectio Juridica et Politica*, 2010/28, pp. 281–295.
- Roosevelt, F.D. (1941) *Four Freedoms speech*, delivered on 6 January 1941 (the 1941 State of the Union address) [Online]. Available at: <https://www.americanrhetoric.com/speeches/fdrthefourfreedoms.htm> (Accessed: 21 April 2024).
- Schabas, W.A. (2015) *The European Convention on Human Rights. A Commentary*, 1 edn. Oxford: Oxford University Press.
- Skóra, A. (2019) 'Religious slaughter of animals in light of the EU and in the Polish law', *Studia Prawnoustrojowe*, 2019/43, pp. 283–296.
- Treaty on European Union of 13 December 2007 – consolidated version, Official Journal of the European Union C/202 of 7 June 2016.

- United Nations High Commissioner for Human Rights (2010a) *Minority Rights: International Standards and Guidance for Implementation*. [Online]. Available at: https://www.ohchr.org/sites/default/files/Documents/Publications/MinorityRights_en.pdf (Accessed: 21 April 2024).
- UNICEF (2003) *Ensuring the Rights of Indigenous Children*. Innocenti Digest No. 11. Florence: UNICEF Innocenti Research Center.
- United Nations High Commissioner for Human Rights (2010b) *The Right to Adequate Food. Fact Sheet No. 34* [Online]. Available at: <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet34en.pdf> (Accessed: 21 April 2024).
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty, General Assembly resolution No. 45/113, 14 December 1990.
- Vinci, C., Pasikowska-Schnass, M. and Rojek, B. (2023) *Religious slaughter. Reconciling animal welfare with freedom of religion or belief* [Online]. Available at: [https://www.europarl.europa.eu/RegData/etudes/IDAN/2023/751418/EPRS_IDA\(2023\)751418_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2023/751418/EPRS_IDA(2023)751418_EN.pdf) (Accessed: 21 April 2024).
- Walasek, H. (2019) 'Cultural heritage and memory after ethnic cleansing in post-conflict Bosnia-Herzegovina', *International Review of the Red Cross*, 101(1), pp. 273–294. Available at: <https://doi.org/10.1017/S1816383119000237>.
- Wedel-Domaradzka, A. (2022) 'On the Need To Protect Cemeteries and Memorials in Europe: The Perspective of the Convention on the Protection of the World Cultural and Natural Heritage and Hungarian and Polish Regulations', *Central European Journal of Comparative Law*, 3(2), 201–216. Available at: <https://doi.org/10.47078/2022.2.201-216>.
- Weller, M. (2005) *The Rights of Minorities in Europe. A Commentary on the European Framework Convention for the Protection of National Minorities*. Oxford: Oxford University Press.
- Weller, M. (2007) *Universal Minority Rights: A Commentary on the Jurisprudence of International Courts and Treaty Bodies*. Oxford: Oxford University Press.
- Zombory, K. (2023a) 'The Right to Cultural Identity in the Case Law of the Inter-American Court of Human Rights: A New Global Standard for the Protection of Indigenous Rights and Future Generations?', *Journal of Agricultural and Environmental Law*, 18 (34), pp. 171–191. Available at: <https://doi.org/10.21029/JAEL.2023.34.171>.
- Zombory, K. (2023b) *Prawnomiędzynarodowa ochrona praw kulturalnych mniejszości narodowych: wybrane zagadnienia*. Warszawa: Instytut Wymiaru Sprawiedliwości.