



CONSIDERATION BY THE EUROPEAN COURT OF HUMAN RIGHTS OF THE UN CONVENTION ON THE RIGHTS OF THE CHILD 1989

**Prepared for the Immigration Law Practitioners'
Association (ILPA) by Jamie Moloney, Steve Symonds
and Elinor Harper.**

Copyright ILPA July 2008 ©

ILPA, 40-42 Charterhouse Street London EC1M 6JN, www.ilpa.org.uk

Telephone: 0207 251 8383, facsimile 0207251 8384, email info@ilpa.org.uk

Company Registration number 2350422, registered office Acre House. 11-15 William Street,
London, NW1 3ER

INTRODUCTION

The document provides short notes on all cases revealed by searches on 17 November 2008 and on 26 May 2009 on the HUDOC, the case law database of the European Court on Human Rights for the term 'rights of the child'. The purpose of this exercise was to see what could be learned about the way in which the European Court on Human Rights had interpreted and applied the UN Convention on the Rights of the Child, in light of the withdrawal of the UK's reservation last year.

As will be seen, the Strasbourg Court has not made a great deal of use in these cases of the UN Convention on the Rights of the Child, although there are some notable exceptions.

This series of notes is made available to assist practitioners in preparing cases where the UN Convention on the Rights of the Child may be of relevance, before making detailed searches of the case law of the Strasbourg Court. Cases have been arranged in chronological order.

The UN Convention on the Rights of the Child

Some examples of extracts of articles of the UN Convention on the Rights of the Child relevant in immigration cases are given below. The list is not exhaustive.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability birth or other status.

Article 3

1. In all actions concerning children . . . the best interests of the child shall be a primary consideration.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status . . . whether unaccompanied or accompanied . . . receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

Article 37

States Parties shall ensure that . . . (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.

Article 51

...

2. A reservation incompatible with the object and purpose of the present Convention shall

not be permitted.

The UK's reservation to the UN Convention on the Rights of the Child: a brief overview

On ratification of the UN Convention on the Rights of the Child on 16 December 1991 the UK entered a reservation in relation to Article 22 in the following terms:

(c) The United Kingdom reserves the right to apply such legislation, in so far as it relates to the entry into, stay in and departure from the United Kingdom of those who do not have the right under the law of the United Kingdom to enter and remain in the United Kingdom, and to the acquisition and possession of citizenship, as it may deem necessary from time to time.

In 1995, when considering the UK's initial report under Article 44, the UN Committee on the Rights of the Child raised its concerns regarding the reservation stating that, "it does not appear to be compatible with the principles and provisions of the Convention."¹

In 2002 the UN Committee on the Rights of the Child reiterated this view in stronger terms, arguing that the reservation was "against the object and purpose of the convention."²

Mirroring the opinion of the UN Committee, the UK parliament's Joint Committee on Human Rights (JCHR) on two separate occasions expressed the opinion that the reservation was invalid and recommended its withdrawal.³

Despite such criticism, the then Home Office Minister Lord Filkin did not shy away from emphasising the intended purpose of the reservation stating in evidence to the JCHR that,

"The UN CRC is not binding on the UK in so far as a matter falls within the reservation and there is therefore no requirement to make the best interests of the child a primary consideration or to adhere to any other principles set out in it."⁴

The UK Government argued the necessity of the reservation on the grounds that it preserved the integrity of the UK's immigration laws.⁵

¹ CRC/C/15/Add.34 15 February 1995, *Concluding observations of the Committee on the Rights of the Child: United Kingdom of Great Britain and Northern Ireland.*

² CRC/C/15/Add.188 9 October 2002, *Concluding observations of the Committee on the Rights of the Child: United Kingdom of Great Britain and Northern Ireland.*

³ Joint Committee on Human Rights, Seventeenth Report of Session 2001-2002, *Nationality, Immigration and Asylum Bill*, HL Paper 132/HC 961 paragraph 17 and Joint Committee on Human Rights, Tenth Report of Session 2002-2003, *The UN Convention on the Rights of the Child*, HL Paper 117/HC 81 p.37

⁴ Joint Committee on Human Rights, Tenth Report of Session 2002-2003, *The UN Convention on the Rights of the Child*, HL Paper 117/HC 81 p.38

⁵ Home Office memorandum, Seventeenth Report of the Joint Committee on Human Rights, Session 2001-02, *Nationality, Immigration and Asylum Bill*, HL Paper 132/HC 961, Ev 3, paragraph 13.

In 2007 the UK Government submitted its consolidated Third and Fourth Periodic reports to the Committee on the Rights of the Child. Again, the Government maintained its position that the general reservation was necessary in the interests of effective immigration control.⁶ However, in September 2008 upon examination of its consolidated report, the UK Government took the opportunity to announce that it would withdraw the reservation. On 4 December 2008, the Secretary General of the United Nations gave notice of having received from the UK a communication dated 18 November 2008 lifting the UK's reservation to the UN Convention on the Rights of the Child in respect of Article 22.

CASES

Cases are presented in reverse chronological order.

2009

CASE OF İPEK AND OTHERS v. TURKEY ; Court (Second Section); 03/02/2009

(Applications nos. 17019/02 and 30070/02)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=846503&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns arrest and detention of children on suspicion of involvement in terrorist offences. In finding violations of Article 5, the Court does not engage in any consideration of the UN Convention on the Rights of the Child in its reasons, although it earlier referred to Article 37 of the UN Convention on the Rights of the Child.

CASE OF GÜVEÇ v. TURKEY ; Court (Second Chamber) ; 20/01/2009

(Application no. 70337/01)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=845674&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

The Court found violations of Articles 3, 5 & 6 in the treatment of a child who was prosecuted and punished as an adult, despite his age being known, with significant consequences for his mental health which the authorities further did insufficient to alleviate. In the domestic proceedings, it is clear that the child's lawyer made considerable reference to the UN Convention on the Rights of the Child and the Court referred to Articles 1, 3, 37 & 40. However, the reasons given for the Court's judgment do not refer back to the UN Convention on the Rights of the Child.

CASE OF KUIMOV v. RUSSIA ; Court (First Section) ; 08/01/2009

(Application no. 32147/04)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=845118&portal>

⁶ The Consolidated 3rd and 4th Periodic Report to UN Committee on the Rights of the Child, para 1.8, p.10

[=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649](http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=844453&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649)

Concerns the separation of a child from adopted parents. The Court found there to be no violation of Article 8 and did not refer to the UN Convention on the Rights of the Child.

2008

CASE OF SAVINY v. UKRAINE ; Court (Fifth Section) ; 18/12/2008

(Application no. 39948/06)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=844453&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns separation of children from parents on taking of the children into care. Reference is made to the UN Convention on the Rights of the Child but this is not returned to in the reasons given for finding a violation of Article 8.

CASE OF S. AND MARPER v. THE UNITED KINGDOM ; Court (Grand Chamber) ; 04/12/2008

(Applications nos. 30562/04 and 30566/04)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=843941&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Case of S concerned the retention of fingerprints and DNA samples held on police records in the course of investigation and prosecution for attempted robbery. S was 11 years old at the time, and was acquitted. The Court found a violation of Article 8, holding,

'124. The Court further considers that the retention of the unconvicted persons' data may be especially harmful in the case of minors such as the first applicant, given their special situation and the importance of their development and integration in society. The Court has already emphasised, drawing on the provisions of Article 40 of the UN Convention on the Rights of the Child of 1989, the special position of minors in the criminal-justice sphere and has noted in particular the need for the protection of their privacy at criminal trials (see T. v. the United Kingdom [GC], no. 24724/94, §§ 75 and 85, 16 December 1999). In the same way, the Court considers that particular attention should be paid to the protection of juveniles from any detriment that may result from the retention by the authorities of their private data following acquittals of a criminal offence. The Court shares the view of the Nuffield Council as to the impact on young persons of the indefinite retention of their DNA material and notes the Council's concerns that the policies applied have led to the over-representation in the database of young persons and ethnic minorities, who have not been convicted of any crime (see paragraphs 38-40 above).'

CASE OF JUPPALA v. FINLAND ; Court (Fourth Section) ; 02/12/2008

(Application no. 18620/03)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=843776&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

[98649](#)

Concerns the case of a grandmother who took her granddaughter to see a doctor and told the doctor of an allegation made by the granddaughter of an assault by the granddaughter's father. The grandmother was ultimately prosecuted for defamation. The Court found this to have been a violation with Article 10. There is consideration given to the general concerns surrounding child protection and child welfare, in which discussion reference is made to the UN Convention on the Rights of the Child.

CASE OF SALDUZ v. TURKEY ; Court (Grand Chamber) ; 27/11/2008

(Application no. 36391/02)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=843647&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

This case concerns the police interview of a child, without legal representation, and subsequent conviction of the child largely on the basis of the interview and the statement alleged to have been volunteered by the child as a result of it. The Court found there to be a breach of Article 6.3. The Court made reference to the UN Convention on the Rights of the Child and observations and comment by the Committee on the Rights of the Child (at paragraphs 33-36 of its judgment), and later held:

'Finally, the Court notes that one of the specific elements of the instant case was the applicant's age. Having regard to a significant number of relevant international law materials concerning legal assistance to minors in police custody (see paragraphs 32-36 above), the Court stresses the fundamental importance of providing access to a lawyer where the person in custody is a minor.'

CASE OF JUCIUS AND JUCIUVIENĖ v. LITHUANIA ; Court (Second Section) ; 25/11/2008

(Application no. 14414/03)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=843512&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns a contested adoption and an alleged violation of Article 8. There is no consideration of the UN Convention on the Rights of the Child in the reasons given by the Court.

CASE OF DEMIR & BAYKARA v. TURKEY; Court (Second Section); 21/11/2006 AND Court (Grand Chamber); 12/11/2008

(Application no. 34503/97)

Link to Second Section stage of case:

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=810738&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Link to Grand Chamber stage of the case:

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=843050&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns the applicants' claims to a right to form trade unions as well as to engage in collective bargaining and agreement. UN Convention on the Rights of the Child

referred to in the background of the case, referring to the relevance of the UN Convention on the Rights of the Child in establishing a State's positive obligation in cases of slavery (paragraphs 69 and 70). Violation of Article 11 of the European Convention on Human Rights, no mention of the UN Convention on the Rights of the Child in the Court's judgment.

CASE OF SOLDANEKO v. UKRAINE; Court (Fifth Section); 23/10/2008

(Application no. 2440/07)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=842467&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

The applicant alleged that his extradition to Turkmenistan would violate his rights under the European Convention on Human Rights. The Court found that, if the applicant were to be extradited, there would be a violation of Articles 3, 5 § 1, 5 § 4, 13 of the Convention. No reference to the UN Convention on the Rights of the Child.

CASE OF K.T. v. NORWAY; Court (First Section); 25/09/2008

(Application no. 26664/03)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=841225&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Not an immigration matter. Article 8 in connection with whether a child protection investigation constituted an interference with parent carer's private life. The UN Convention on the Rights of the Child is relevant to Court's assessment of Article 8, *'As to the further question whether the impugned interference was "necessary", the Court notes by way of preliminary observation that it fell within the range of measures envisaged in Article 19 of the UN Convention on the Rights of the Child for States to take in order to prevent abuse and neglect of children (see paragraph 46 above). This is an important consideration to be borne in mind in the assessment of the necessity of the interference. Indeed, the parties were in agreement before the Court that, as pointed out by the Supreme Court, the threshold for commencing a section 4-3 investigation should be low.'*

CASE OF X v. CROATIA; Court (First Section); 17/07/2008

(Application no. 11223/04)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=837982&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns the giving up for adoption of a child taken into care without the consent of the parent whose mental health had led the national courts to declare her without capacity to act. Brief reference to Articles 9 & 21 of UN Convention on the Rights of the Child.

CASE OF MASLOV v. AUSTRIA; Court (Grand Chamber); 23/06/2008

(Application no. 1638/03)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=837025&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Deportation case where Article 8 is expressly considered in the context of UN

Convention on the Rights of the Child. See the following from the judgment,

'Moreover, the obligation to have regard to the best interests of the child is enshrined in Article 3 of the United Nations Convention on the Rights of the Child (see paragraph 36 above). 1. The Court considers that, where expulsion measures against a juvenile offender are concerned, the obligation to take the best interests of the child into account includes an obligation to facilitate his or her reintegration. In this connection the Court notes that Article 40 of the Convention on the Rights of the Child makes reintegration an aim to be pursued by the juvenile justice system (see paragraphs 36-38 above). In the Court's view this aim will not be achieved by severing family or social ties through expulsion, which must remain a means of last resort in the case of a juvenile offender. It finds that these considerations were not sufficiently taken into account by the Austrian authorities.'

CASE OF NART v. TURKEY; Court (Second Section); 06/05/2008

(Application no. 20817/04)

<http://cmiskp.echr.coe.int/tkpl97/view.asp?action=html&documentId=835079&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

No strong link to the UN Convention on the Rights of the Child but the Court regarded the UN Convention on the Rights of the Child as relevant to its consideration of Articles 5 & 6.

CASE OF ROSCA, SECAREANU AND OTHERS v. MOLDOVA; Court (Fourth Section); 27/03/2008

(Application nos. 25230/02, 25203/02 and 25234/02)

<http://cmiskp.echr.coe.int/tkpl97/view.asp?action=html&documentId=830271&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

All application numbers lead to the same case file. The case concerns allegations made by the applicants that their rights to free assembly had been violated by the Moldavian authorities. UN Convention on the Rights of the Child appears in the domestic background of the case in that it is referred to in the reasoning behind banning Christian Democratic People's Party (CDPP) activities – i.e. the use of minors in demonstrations contradicted Article 15 of the UN Convention on the Rights of the Child. Violation of Article 11 of the European Convention on Human Rights.

CASE OF KARPOW v. POLAND; Court (Fourth Section); 26/02/2008

(Application no. 3429/03)

<http://cmiskp.echr.coe.int/tkpl97/view.asp?action=html&documentId=829422&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns allegations made by the applicant that the Polish legal procedure was too protracted in length. The Court found there to be a violation of Article 6 § 1. No reference to the UN Convention on the Rights of the Child in the Court's judgment.

CASE OF E.B. v. FRANCE; Court (Grand Chamber); 22/01/2008

(Application no. 43546/02)

<http://cmiskp.echr.coe.int/tkpl97/view.asp?action=html&documentId=827961&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

[98649](#)

Violation of Article 14 in conjunction with Art 8. Several references to UN Convention on the Rights of the Child indicate that the Court regarded it as of significance in its own assessment; but no express link is made between the UN Convention on the Rights of the Child and the European Convention on Human Rights. Case concerned French nationals' desire to adopt a child from overseas.

CASE OF KEARNS v. France; Court (Third Section); 10/01/2008

(Application no. 35991/04)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=827646&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

UN Convention on the Rights of the Child referred to only when setting out the general framework of law but not in the Court's consideration of the case, which concerned Article 8 in relation to a mother's request to have returned the child to whom she had given birth and consented to be adopted.

2007

CASE OF PHINIKARIDOU v. CYPRUS; Court (First Section); 20/12/2007

(Application no. 23890/02)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=827239&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns the claim to recognition of paternity. Violation of Article 8 of the European Convention on Human Rights. No mention of the UN Convention on the Rights of the Child in the Court's judgment.

CASE OF EMONET AND OTHERS v. SWITZERLAND; Court (First

Section); 13/12/2007

(Application no. 39051/03)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=827023&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns the Swiss authorities' position on a proposed adoption. The UN Convention on the Rights of the Child is alluded to in the Court's deliberation over the interpretation of Article 8 of the Convention:

'1. *The Court reiterates that the Convention must be applied in accordance with the general principles of international law, in particular those concerning the international protection of human rights...As regards, more specifically, the obligations under which Article 8 of the Convention places the Contracting States in respect of adoption, they must be interpreted in the light of the United Nations Convention on the Rights of the Child, of 20 November 1989, and the European Convention on the Adoption of Children, of 24 April 1967 (see Pini and Others, cited above, § 139), especially as Switzerland is party to both instruments.'*

Violation of Article 8 of the European Convention on Human Rights.

CASE OF DICKSON v. UK; Court (Fourth Section); 18/04/2006 AND Court

(Grand Chamber); 04/12/2007

(Application no. 44362/04)

Link to Fourth Section stage of case:

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=794377&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Link to Grand Chamber stage of case:

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=826595&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns the refusal of artificial insemination for a UK couple. Violation of Article 8 of the Convention. No reference to the UN Convention on the Rights of the Child.

CASE OF D.H. AND OTHERS v. THE CZECH REPUBLIC; Court (Grand Chamber); 13/11/2007

(Application no. 57325/00)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=825443&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns Roma children and 'special schools' in the Czech Republic. Brief reference to Articles 28 & 30 of UN Convention on the Rights of the Child.

CASE OF FOLGERO v. NORWAY; Court (Grand Chamber); 29/06/2007

(Application no. 15472/02)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=819532&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns the right of secular parents to refuse religious education for their children provided by the State. Violation of Article 2 of Protocol No. 1. No reference to the UN Convention on the Rights of the Child.

CASE OF BerecoVA v. SLOVAKIA; Court (Fourth Section); 24/04/2007

(Application no. 74400/01)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=815821&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns the applicant's children being taken into care by the Slovakian authorities. UN Convention on the Rights of the Child appears in the section on 'Domestic Law and Practice in the examination of Slovakian family law. Violation of Article 8 of the European Convention on Human Rights.

CASE OF ESKI v. AUSTRIA; Court (First Section); 25/01/2007

(Application no. 21949/03)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=813160&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

The applicant's complaint concerned the Austrian authorities' decision to allow the adoption of his daughter without the applicant's consent. No violations found. The UN Convention on the Rights of the Child referred to in the Court's decision.

2006

CASE OF BAJRAMI v. ALBANIA; Court (Fourth Section); 12/12/2006

(Application no. 35853/04)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=811318&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

This is of interest because Albania at the time of judgment had not yet implemented the UN Convention on the Rights of the Child and was not a party to the Hague Convention on Adoption. The Court, in finding a violation of Article 8 of the European Convention on Human Rights held that:

'The Court recalls that the European Convention on Human Rights does not impose on States the obligation to ratify international conventions. However, it does require them to take all necessary measures of their choosing to secure the individual's rights guaranteed by Article 8 of the Convention and in particular to secure the reunion of parents with their children in accordance with a final judgement of a domestic court.

Irrespective of the non-ratification by Albania of relevant international instruments in this area, the Court finds that the Albanian legal system, as it stands, has not provided any alternative framework affording the applicant the practical and effective protection that is required by the State's positive obligation enshrined in Article 8 of the Convention.'

CASE OF UNER v. NETHERLANDS; Court (Second Section); 05/07/2005
AND Court (Grand Chamber); 18/10/2006

(Application no. 46410/99)

Link to Second Section Stage of case:

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=778678&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Link to Grand Chamber Stage of case:

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=809633&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns the refusal by the Dutch authorities to allow the applicant access to the country based upon the applicant's criminal conviction. No violations found. UN Convention on the Rights of the Child referred to in passing by joint dissenting judges.

CASE OF MUBILANZILA MAYEKA AND KANIKI MITUNGA v. BELGIUM; Court (First Section); 12/10/2006

(Application no. 13178/03)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=809283&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns the attempt by a refugee in Canada to be reunited with her daughter from the Democratic Republic of Congo. The Belgian authorities (signatories to UN Convention on the Rights of the Child in 1991) deported the child back to the

Democratic Republic of Congo. The Court refers to Articles 3, 10, 22, 37 of the UN Convention on the Rights of the Child in the background of the case; in Paragraph 39 in its outlining of: 'Relevant International Law and Practice'; and in Paragraph 40 when it refers to a report by the Commission on the Rights of the Child that found that Belgium had unsuitable facilities for child refugees. The European Court of Human Rights found there to be violations of Article 3, 8, 5 § 1 and 5 § 4 of the European Convention on the Rights of the Child. The Court referring to Article 3 of UN Convention on the Rights of the Child in its decision of a violation of Article 8 of the European Convention on Human Rights,

'81...the Contracting States are under a duty to maintain public order, in particular by exercising their right, as a matter of well-established international law, to control the entry and residence of aliens. In this connection, detention in centres used for aliens awaiting deportation will be acceptable only where it is intended to enable the States to combat illegal immigration while at the same time complying with their international obligations, including those arising under the Convention for the Rights of the Child signed in New York in 1989 (and by Belgium in 1991)', and here: '83...in the absence of any risk of the second applicant's seeking to evade the supervision of the Belgian authorities, her detention in a closed centre for adults was unnecessary. Other measures could have been taken that would have been more conducive to the higher interest of the child guaranteed by Article 3 of the Convention on the Rights of the Child. These included her placement in a specialised centre or with foster parents. Indeed, these alternatives had in fact been proposed by the second applicant's counsel.'

CASE OF R v. FINLAND; Court (Fourth Section); 30/05/2006

(Application no. 34141/96)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=805326&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Applicant alleged that the Finnish authorities obstructed his access to his child, and that the legal proceedings took an excessive time. Violation of Article 8 of the European Convention on Human Rights, but no reference to the UN Convention on the Rights of the Child in the Court's judgment.

CASE OF C v. FINLAND; Court (Fourth Section); 09/05/2006

(Application no. 18249/02)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=802711&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

The applicant's complaint concerned the Finnish Supreme Court's reversal of a custody award. Violations of Article 8 of the European Convention on Human Rights, no reference to the UN Convention on the Rights of the Child in the Court's judgment.

CASE OF CHRISTIAN DEMOCRATIC PEOPLE'S PARTY v. MOLDOVA;

Court (Fourth Section); 14/02/2006

(Application no. 28793/02)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=792349&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns the Christian Democratic People's Party's right to assembly. In the background of the case, it is described how the Moldovan Ministry of Justice took the decision that, *inter alia*, the Christian Democratic People's Party were acting illegally because: '2. *The participation of minors in the CDPP demonstrations had been in breach of Article 15 of the International Convention on the Rights of the Child...section 13(3) of the Protection of Children Act...and section 56(g) of the Education Act (see paragraph 40 below)*' a decision upheld by the Court of Appeal. Article 15 of the UN Convention on the Rights of the Child is identified by the Court as part of the 'Relevant Law'. Violation of Article 11 of the European Convention on Human Rights, no reference to the UN Convention on the Rights of the Child in the Court's judgment.

CASE OF SELCUK v. TURKEY; Court (Fourth Section); 10/01/2006
(Application no. 21768/02)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=791445&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns the length of detention of a minor. The domestic background of the case describes the applicant's then lawyer invoking Article 37 (b) of the UN Convention on the Rights of the Child in connection with the length of detention of the applicant (a minor). The Court observes at paragraph 35:

'3. Finally, the Court observes that the applicant's lawyer repeatedly brought to the attention of the authorities the fact that the applicant was a minor and invoking Article 37 (b) of the United Nations Convention on the Rights of the Child, she requested the court to release the applicant (see paragraph 16 above). It appears from the case-file that the authorities never took the applicant's age into consideration when deciding on his continued detention.'

The Court found a violation of Article 5§ 3 of the European Convention on Human Rights.

2005

CASE OF TIMISHEV v. RUSSIA; Court (Second Section); 13/12/2005
(Application nos. 55762/00 and 55974/00)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=790924&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Both Application numbers pertain to the same case file. The case concerns the denial of the applicant's entry to Kabardino-Balkaria because of his Chechen ethnic origin, which was alleged to have resulted in a violation of his children's right to education. Article 28 of the UN Convention on the Rights of the Child referred to in the Court's consideration of the right to education in its finding of a violation of Article 2 of Protocol No. 1,

'4. Article 2 of Protocol No. 1 prohibits the denial of the right to education. This provision has no stated exceptions and its structure is similar to that of Articles 2 and 3, Article 4 § 1 and Article 7 of the Convention ("No one shall ..."), which together enshrine the most fundamental values of the democratic societies making up the Council of Europe. In a democratic society, the right to education, which is

indispensable to the furtherance of human rights, plays such a fundamental role that a restrictive interpretation of the first sentence of Article 2 of Protocol No. 1 would not be consistent with the aim or purpose of that provision (see Leyla Şahin v. Turkey [GC], no. 44774/98, § 137, ECHR 2005-XI). This right is also to be found in similar terms in other international instruments such as the Universal Declaration of Human Rights (Article 26), the International Covenant on Economic, Social and Cultural Rights (Article 13), the International Convention on the Elimination of All Forms of Racial Discrimination (Article 5 (e) (v)), and the Convention on the Rights of the Child (Article 28). There is no doubt that the right to education guarantees access to elementary education which is of primordial importance for a child's development.'

Violations of Article 2 of Protocol No. 4 to the European Convention on Human Rights; of Article 14 in conjunction with Article 2 of Protocol No. 4; and of Article 2 of Protocol No. 1.

CASE OF HN v. POLAND; Court (Fourth Section); 13/09/2005

(Application no. 77710/01)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=786577&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns an attempt to apply the final return order of the Hague Convention by the applicant, with the refusal of its application by Poland alleged to be an infringement of his rights. Violation of Articles 6 § 1 and 8 of the European Convention on Human Rights. No reference to the UN Convention on the Rights of the Child.

CASE OF SIEMIANOWSKI v. POLAND; Court (Second Section); 06/09/2005

(Application no. 45972/99)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=786369&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns allegations made by the applicant that the Polish legal system had not provided him with the proper means for legal recourse pertaining to access to his daughter. The Court found a violation of Art 6 § 1 of the European Convention on Human Rights. No reference to the UN Convention on the Rights of the Child.

CASE OF SILIADIN v. FRANCE; Court (Second Section); 26/07/2005

(Application no. 73316/01)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=782169&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns domestic slavery. Articles 19, 32 and 36 of the UN Convention on the Rights of the Child (ratified by France in 1990) seen as part of the 'Relevant Law'. Furthermore, in deliberating the positive responsibilities of States in such cases, the Court cites its previous judgments as follows:

'85... "Children and other vulnerable individuals, in particular, are entitled to State protection, in the form of effective deterrence, against such serious breaches of personal integrity." (see mutatis mutandis, X and Y v. the Netherlands, cited above, pp. 11-13, §§ 21-27; Stubbings and Others v. the United Kingdom, 22 October 1996, Reports 1996-IV, p. 1505, §§ 62-64; and A. v. the United Kingdom, cited above, as well as the United Nations Convention on the Rights of the Child, Articles

19 and 37).

The Court goes on to cite Articles 19 § 1 and 32 in the same section (Paragraph 87), finding that the State is liable in such cases, and, moreover, repeats the statement regarding State protection under the UN Convention on the Rights of the Child as seen in Paragraph 81 quoted above when finding a violation of Article 4 of the European Convention on Human Rights.

CASE OF MONORY v. ROMANIA & HUNGARY; Court (Second Section); 05/04/2005

(Application no. 71099/01)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=725054&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

The applicant alleges that the Romanian authorities obstructed his access to, and did not provide the necessary means for the recovery of, his child who he alleged was wrongfully removed from the country by his wife. Violation of Articles 6 § 1 and 8 of the European Convention on Human Rights, but no mention of the UN Convention on the Rights of the Child in the judgment.

2004

CASE OF KONEČNÝ v. CZECH REPUBLIC; Court (Second Section); 26/10/2004

(Application nos. 47269/99, 64656/01 and 65002/01)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=706333&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

All application numbers lead to the same case file. The applicant alleges that a delay in the domestic legal proceedings and the lack of legal recourse gave rise to a number of violations of his and his son's rights. UN Convention on the Rights of the Child invoked by the applicant when alleging a violation of his son's right to express his view in court. The Court dismissed this, however, as the applicant had not put this forward to the domestic courts and had thus not exhausted the domestic legal process. Violation of Articles 6 § 1 and 13. No other mention of the UN Convention on the Rights of the Child in the Court's judgment.

CASE OF VO v. France; Court (Grand Chamber); 08/07/2004

(Application no. 53924/00)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=699763&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns the causing of death of a child *in utero* by a doctor due to malpractice. UN Convention on the Rights of the Child referred to in the background of the case:

'...on signing the Convention on the Rights of the Child in New York on 26 January 1990, France made a declaration concerning interpretation in which it stated that the convention could not be interpreted as constituting any obstacle to the implementation of the provisions of French legislation on the voluntary termination of pregnancy'

In the 'Relevant Law' section, the UN Committee on the Rights of the Child is cited as having expressed, in its comments on Article 6, concern about the difficulties of adolescent girls in having their pregnancies terminated in safe conditions and had expressed its fears as to the impact of punitive legislation on maternal mortality rates. No violation of the European Convention on Human Rights was found (application was made for Article 2). UN Convention on the Rights of the Child not mentioned in the Court's judgment.

CASE OF PINI & BERTANI & MANERA & ATRIPALDI v. ROMANIA;

Court (Second Section); 22/06/2004

(Application nos. 78028/01 and 78030/01)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=699713&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

The case originated as the above two application numbers but was assessed by the Court as one case. The case itself concerns a claim regarding interference in family life following disruption in adoption procedures. Article 21 of the UN Convention on the Rights of the Child seen as constituting part of the 'Relevant international law'. UN Convention on the Rights of the Child cited by the third party intervenors in support of the argument that inter-country adoption should take place '*only where the child could not be adopted or cared for in a suitable manner in his or her own country*'. In its assessment of a possible violation of Article 8 of the Convention, the Court holds that the article '*must be interpreted in the light of*' the UN Convention on the Rights of the Child amongst other relevant international conventions (Paragraph 139). Violation of Article 6 § 1 of the European Convention on Human Rights, no violation of Article 8.

CASE OF EO & VP v. SLOVAKIA; Court (Forth Section); 27/04/2004

(Application nos. 56193/00 and 57581/00)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=699623&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Both application numbers lead to the same case file. It concerns the right to education of the second applicant's child. The UN Convention on the Rights of the Child appears in the domestic law of Slovakia where it was used in an earlier judgment in conjunction with the country's constitution (Paragraph 63). Violation of Articles 6 § 1 and 13 found, but with no reference to the UN Convention on the Rights of the Child.

CASE OF GORZELIK v. POLAND; Court (Fourth Section); 20/12/01 AND

Court (Grand Chamber); 17/02/2004

(Application no. 44158/98)

Link to Fourth Section stage of case:

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=697880&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Link to Grand Chamber Stage of case:

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=699514&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns allegations that the Silesian people of Poland were not allowed to form a union based on their ethno-national ties. In the Grand Chamber stage case file records : UN Convention on the Rights of the Child alluded to briefly, in passing, in the background of the case. No violations found.

2003

CASE OF SAHIN v. GERMANY; Court (Grand Chamber); 08/07/2003

(Application no. 30943/96)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=699071&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Not an immigration matter. Article 8 in connection with rights of access:

'In determining whether the refusal of access was "necessary in a democratic society", the Court has to consider whether, in the light of the case as a whole, the reasons adduced to justify this measure were relevant and sufficient for the purposes of paragraph 2 of Article 8 of the Convention. Undoubtedly, consideration of what is in the best interests of the child is of crucial importance in every case of this kind. Moreover, it must be borne in mind that the national authorities have the benefit of direct contact with all the persons concerned. It follows from these considerations that the Court's task is not to substitute itself for the domestic authorities in the exercise of their responsibilities regarding custody and access issues, but rather to review, in the light of the Convention, the decisions taken by those authorities in the exercise of their power of appreciation (see Hokkanen v. Finland, judgement of 23 September 1994, Series A no. 299-A, p. 20, § 55, and Kutzner v. Germany, no. 46544/99, §§ 65-66, ECHR 2002-I; see also the Convention on the Rights of the Child – paragraphs 39-41 above).'

CASE OF SOMMERFELD v. GERMANY; Court (Grand Chamber); 08/07/2003

(Application no. 31871/96)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=699072&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

This case concerns custody of a child and parental access, considered under Article 8. Brief reference was made to the UN Convention on the Rights of the Child, but no more than in case of *Sahin* (08/07/2003 (Application no. 30943/96)).

CASE OF MAIRE v. PORTUGAL; Court (Third Section); 26/06/2003

(Application no. 48206/99)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=699061&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns a transnational custody case. Article 11 of the UN Convention on the Rights of the Child (ratified by France and Portugal in 1990) seen as being part of the 'Relevant Law'. The Court's assessment of a possible violation of Article 8 of the Convention includes a statement that the obligations imposed upon States by Article 8 in matters involving reuniting parents with their children should be 'interpreted in the light of' the UN Convention on the Rights of the Child. Violation of Article 8.

CASE OF IGLESIAS GIL AND A.U.I. v. SPAIN; Court (Fourth Section);
29/04/2003

(Application no. 56673/00)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=698946&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns the abduction of A.U. and I. by their father. Brief mention of UN Convention on the Rights of the Child (Spain ratified the UN Convention on the Rights of the Child in 1990) in the background of the case, particularly Article 11. Violation of Article 8 of the European Convention on Human Rights. No other mention of the UN Convention on the Rights of the Child in the Court's judgment.

CASE OF ODIEVRE v. FRANCE; Court (Grand Chamber); 13/02/2003

(Application no. 42326/98)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=698812&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns an adopted applicant requesting information about her biological family. No violation of European Convention on Human Rights. UN Convention on the Rights of the Child Article 7 referred to in the dissenting judge's summary when making a point about building consensus, but otherwise no mention.

2002

CASE OF YOUSEF v. NETHERLANDS; Court (Second Section); 05/11/2002

(Application no. 33711/96)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=698600&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns an allegation made against the Dutch authorities who were said to have prevented the recognition of the applicant as the biological father of a child. No violations found. No mention of the UN Convention on the Rights of the Child.

CASE OF P, C & S v. UK; Court (Second Section); 16/07/2002

(Application no. 56547/00)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=698487&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

The applicants alleged that the UK authorities had infringed upon their rights when they took their child into care and subsequently placed her up for adoption. Violations of Articles 6 § 1 and 8 of the European Convention on Human Rights, no mention of the UN Convention on the Rights of the Child in the Court's judgment.

CASE OF DG v. IRELAND; Court (Third Section); 16/05/2002

(Application no. 39474/98)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=698334&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

[98649](#)

Concerns the applicant's case against the Irish authorities for illegal detention within a penal institution. Gives rise to violations of Articles 5 § 1 and 5 § 5 of the European Convention on Human Rights, no mention of the UN Convention on the Rights of the Child in the Court's judgment.

CASE OF FRETTE v. FRANCE; Court (Third Section); 26/02/2002

(Application no. 36515/97)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=698045&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns a homosexual male being refused the right to adopt. Violations of Articles 6, as well as Article 14 in conjunction with Article 8. UN Convention on the Rights of the Child referred to in the closing comments of a 'partly concurring' judge who states

'the Convention does not guarantee a right to adopt...Nor are any rights of this sort to be found in any of the other international instruments which, although not binding on our Court, may provide it with guidance, such as the United Nations Convention on the Rights of the Child'.

CASE OF KUTZNER v. GERMANY; Court (Fourth Section); 26/02/2002

(Application no. 46544/99)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=698040&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Case concerns applicants' appeal against having their parental rights withdrawn by domestic authorities. Violation of Article 8 of the Convention, no reference to the UN Convention on the Rights of the Child.

2001

CASE OF K & T v. FINLAND; Court (Fourth Section); 24/07/2000 AND Court (Grand Chamber); 12/07/2001

(Application no. 25702/94 x 2 case files)

A) <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=696453&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649> AND

B) <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=697464&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Both cases hold the same application number, with A being the case at an earlier stage in the legal process. Concerns the splitting of a family when children taken into care. The Chamber found on April 2000 that there had been a violation of Article 8 of the Convention (case file A). The government of Finland appealed and had the case referred to the Grand Chamber for a review of the Article 8 decision (case file B). UN Convention on the Rights of the Child briefly referred to in the background

of the case. The Grand Chamber reiterates the previous judgment, finding a violation of Article 8 of the European Convention on Human Rights. No mention of the UN Convention on the Rights of the Child in the Court's decision.

CASE OF TP & KM v. UK; Court (Grand Chamber); 10/05/2001

(Application no. 28945/95)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=697333&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns a claim that KM had been unjustifiably removed from the care of her mother, TP, and that there was insufficient access to a legal procedure to rectify this. Violations of Articles 8 and 13 of the European Convention on Human Rights, no mention of UN Convention on the Rights of the Child in the Court's judgment.

CASE OF Z AND OTHERS v. UK; Court (Grand Chamber); 10/05/2001

(Application no. 29392/95)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=697332&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Applicants are four children who alleged that they were mistreated by their parents and that the UK did not have 'adequate protective measures' in place to curb the abuse that they were experiencing. Violations of Articles 3 and 13 of the European Convention on Human Rights. No mention of the UN Convention on the Rights of the Child in the Court's judgment.

2000

CASE OF WLOCH v. POLAND; Court (Fourth Section); 19/10/2000

(Application no. 27785/95)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=696770&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns the applicant's complaints about his treatment by domestic authorities when accused of trading in children. Article 35 of UN Convention on the Rights of the Child invoked by Polish prosecutor in the background of the case (Paragraph 13), with the domestic court suggesting its decision 'should be interpreted in the light of the UN Convention on the Rights of the Child - ratified by Poland in 1991 - and, moreover, the domestic court *'further agreed with the prosecutor's conclusion that in many cases the applicant's remuneration was improperly high, which seemed to contravene Article 21 of the United Nations Convention on the Rights of the Child'* (Paragraph 14). The European Court of Human Rights saw Articles 8 and 21 of UN Convention on the Rights of the Child as being part of the 'Relevant Domestic Law and Practice'. Violation of Article 5 § 4 of the European Convention on Human Rights. No reference to the UN Convention on the Rights of the Child in the Court's judgment.

CASE OF NUUTINEN v. FINLAND; Court (First Chamber); 27/06/2000

(Application no. 32842/96)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=696613&portal>

[=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649](http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=696660&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649)

Concerns the applicant's case that Finnish authorities delayed and obstructed access to his daughter. UN Convention on the Rights of the Child alluded to by the domestic court of appeal in which it invoked the UN Convention on the Rights of the Child Article 9 § 3, to make the point that the best interests of the child ought to be put first in cases of custody deliberations (Paragraph 76). Violation of Article 6 § 1 of the European Convention on Human Rights.

CASE OF L v. FINLAND; Court (Fourth Section); 27/04/2000

(Application no. 25651/94)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=696660&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns the Finnish authorities' refusal to allow the applicants access to their children. UN Convention on the Rights of the Child Articles 9 and 10.2 are referred to in the 'Domestic Law and Practice' section (Paragraph 56) regarding situations where children do not live with their parents and how their 'best interests' ought to be considered. Violation of Article 6 § 1 of the European Convention on Human Rights, no reference to the UN Convention on the Rights of the Child in the Court's judgment.

CASE OF MAZUREK v. FRANCE; Court (Third Section); 01/02/2000

(Application no. 34406/97)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=696333&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns the dissemination of the applicant's deceased mother's estate, the applicant being the child born out of wedlock who alleged disadvantage by comparison with siblings born in wedlock. UN Convention on the Rights of the Child referred to in the reasons for the applicant's appeal to the European Court of Human Rights. The Court considered Article 2 of the UN Convention on the Rights of the Child to be part of the 'Relevant Domestic and International Law' regarding the case, with the UN Convention on the Rights of the Child also alluded to in a domestic reform proposal that was cited:

'19. In a report entitled "Status and Protection of Children", adopted in May 1990, the Conseil d'Etat referred to the issue of equal treatment of children regardless of descent in the following terms: "The restriction of adulterine children's inheritance rights is the subject of much criticism. It appears to be in direct conflict with the principle that children should be treated equally regardless of descent and constitutes an infringement of the principles enshrined in the Civil Code according to which children born out of wedlock have, in general, the same rights as children born in wedlock. Such discrimination, based on descent, also appears to be contrary to the European Convention on Human Rights and to the Convention on the Rights of the Child. It should therefore be abolished."

Violation of Article 1 of Protocol 1 in conjunction with Article 14 of the European Convention on Human Rights, but no reference to the UN Convention on the Rights of the Child in the Court's judgment.

CASE OF IGNACCOLO-ZENIDE v. ROMANIA; Court (First Section);

25/01/2000

(Application no. 31679/96)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=696325&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns a mother's case against Romania for not enforcing the legally established conditions of custody of her children. Violation of Article 8 of the European Convention on Human Rights found, with the partly dissenting judge employing the UN Convention on the Rights of the Child, particularly Article 4, to explain his view:

'Having regard to the United Nations Convention on the Rights of the Child and in particular Article 4, which requires States Parties to undertake all appropriate measures for the implementation of the rights recognised in the said Convention, the rights and best interests of children should be promoted. To that end, children should have the opportunity to exercise their rights, in particular in family proceedings affecting them...Consequently, where parents' interests conflict, the views and preferences of children must be properly heard and taken into account in proceedings and in the making of decisions concerning them.'

1999

CASE OF SALGUEIRO DA SILVA MOUTA v. PORTUGAL; Court (Fourth Section); 21/12/1999

(Application no. 33290/96)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=696281&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns a battle for custody, with the father's homosexuality being of issue. UN Convention on the Rights of the Child referred to briefly in the background of the case. Violation of Article 8 of the European Convention on Human Rights taken in conjunction with Article 14, no mention of the UN Convention on the Rights of the Child in the Court's judgment.

CASE OF T v. THE UNITED KINGDOM; Court (Grand Chamber);

16/12/1999

(Application no. 24724/94)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=696470&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

This is the other 'Jamie Bulger' case, see note on *V v The United Kingdom* below.

CASE OF V v. THE UNITED KINGDOM; Court (Grand Chamber);

16/12/1999

(Application no. 24888/94)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=696471&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

This concerns the 'Jamie Bulger' case. The strongest link to the UN Convention on the Rights of the Child is in a concurring judgment by the Lord Reed:

'In considering whether the length of the original tariff, and the length of time already served by the applicant, are compatible with Article 3, it is appropriate to have regard to the United Nations Convention on the Rights of the Child, which is accepted by all of the member States, including the United Kingdom. Article 3 § 1 of that Convention requires that in all actions concerning children the best interests of the child shall be a primary consideration. Article 40 § 1 requires the child offender to be treated in a manner which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society. These general requirements are reflected in Article 37(b) of the United Nations Convention, which requires that the imprisonment of a child be used only as a measure of last resort and for the shortest appropriate period of time.'

1998

CASE OF A. v. THE UNITED KINGDOM; Court (Chamber); 23/09/1998

(Application no. 25599/94)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=696109&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns the defence of “reasonable chastisement” in respect of the caning of a child by his stepfather. Court found a violation of Article 3. Brief reference to Articles 19 & 37 of UN Convention on the Rights of the Child.

1997

CASE OF X, Y & Z v. UK; Court (Grand Chamber); 22/04/1997

(Application no. 21830/93)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=695909&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns the application of a female-to-male transsexual for recognition of fatherhood for her partner's biological child that was denied by the UK authorities. No violations found. UN Convention on the Rights of the Child referred to by concurring Judge Pettiti who states that it should have been taken into consideration, but does not provide reasons why.

1996

CASE OF STUBBINGS AND OTHERS v. UK; Court (Chamber); 22/10/1996

(Application nos. 22083/93 and 22095/93)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=695956&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Both application numbers pertain to the same case. Concerns a number of applicants who make the case that the Limitation Act 1980, which places a temporal limitation

upon how long after an alleged criminal event has taken place an applicant may apply to the courts, unjustly prevents prosecution of the persons who subjected them to sexual abuse when they were children. No violations found; no reference to the UN Convention on the Rights of the Child.

CASE OF JOHANSEN v. NORWAY; Court (Chamber); 07/08/1996

(Application no. 17383/90)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=695936&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

The applicant argued that the decision made by the Norwegian authorities to take her daughter into care gave rise to a number of violations of the European Convention on Human Rights. Norwegian government invokes the UN Convention on the Rights of the Child in making its case to the Court. The latter found there to be a violation of Article 8 of the European Convention on Human Rights, but does not refer to the UN Convention on the Rights of the Child in its judgment.

CASE OF GÜL v. SWITZERLAND; Court (Chamber); 19/02/1996

(Application no. 23218/94)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=695852&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns a Turkish Kurd's application to the Court regarding the rejection of family reunion by Swiss authorities. UN Convention on the Rights of the Child relied upon by applicant in the initial domestic stages of the case. No violations found.

1994

CASE OF KROON & OTHERS v. NETHERLANDS; Court (Chamber); 27/10/1994

(Application no. 18535/91)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=695781&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns a mother's attempts to have an estranged partner removed as the certified father of her child, and for these details to then be changed to her new partner's details, which was refused by the courts in the Netherlands. Violation of Article 8, no mention of the UN Convention on the Rights of the Child.

CASE OF HOKKANEN v. FINLAND; Court (Chamber); 23/09/1994

(Application no. 19823/92)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=695788&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns a father's battle for custody with the child's grandparents, with the father suggesting that the Finnish government mishandled the legal proceedings. UN Convention on the Rights of the Child invoked by the government in support of its

case to the Court, referring to Article 3 to make the point that custody rights should be employed in the interests of the child, not the parent. Violation of Article 8 of the European Convention on Human Rights, no reference to the UN Convention on the Rights of the Child in the Court's decision.

CASE OF KEEGAN v. IRELAND; Court (Chamber); 26/05/1994

(Application no. 16969/90)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=695758&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

The sole reference to the UN Convention on the Rights of the Child in the judgment is:

'According to the principles set out by the Court in its case-law, where the existence of a family tie with a child has been established, the State must act in a manner calculated to enable that tie to be developed and legal safeguards must be created that render possible as from the moment of birth the child's integration in his family (see, mutatis mutandis, the Marckx v. Belgium judgement of 13 June 1979, Series A no. 31, p. 15, para. 31, and the above-mentioned Johnston and Others judgment, p. 29, para. 72). In this context reference may be made to the principle laid down in Article 7 of the United Nations Convention on the Rights of the Child of 20 November 1989 that a child has, as far as possible, the right to be cared for by his or her parents.'

CASE OF BURGHARTZ v. SWITZERLAND; Court (Chamber); 22/02/1994

(Application no. 16213/90)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=695742&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

The sole reference to UN Convention on the Rights of the Child is:

'Unlike some other international instruments, such as the International Covenant on Civil and Political Rights (Article 24 para. 2), the Convention on the Rights of the Child of 20 November 1989 (Articles 7 and 8) or the American Convention on Human Rights (Article 18), Article 8 (art. 8) of the Convention does not contain any explicit provisions on names. As a means of personal identification and of linking to a family, a person's name none the less concerns his or her private and family life. The fact that society and the State have an interest in regulating the use of names does not exclude this, since these public-law aspects are compatible with private life conceived of as including, to a certain degree, the right to establish and develop relationships with other human beings, in professional or business contexts as in others (see, mutatis mutandis, the Niemietz v. Germany judgement of 16 December 1992, Series A no. 251-B, p. 33, para. 29).

In the instant case, the applicant's retention of the surname by which, according to him, he has become known in academic circles may significantly affect his career. Article 8 (art. 8) therefore applies.'

1993

CASE OF NORTIER v. NETHERLANDS; Court (Chamber); 24/08/1993

(Application no. 13924/88)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=695712&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns a minor's allegation that he had not received a fair trial. No violation of the European Convention on Human Rights. UN Convention on the Rights of the Child referred to briefly in a concurring Judge's opinion, where a short quote is taken from its preamble.

CASE OF COSTELLO-ROBERTS v. THE UNITED KINGDOM; Court (Chamber); 25/03/1993

(Application no. 13134/87)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=695681&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

This case concerned the use of corporal punishment in a private school and whether a 'slipping' of a child was in breach of his Article 8 right to respect of his private life (moral and physical integrity). The UN Convention on the Rights of the Child was significant here in respect of what it had to say about a child's right to education and the responsibility of the State in that.

1992

CASE OF OLSEN v. SWEDEN; Court (Chamber); 27/11/1992

(Application no. 13441/87)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=695665&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

The applicants allege that the Swedish authorities restricted their access to their children and that there was insufficient legal recourse. The Court held there to be a violation of Articles 6 § 1 and 8 of the European Convention on Human Rights, with the dissenting judge making a brief reference to the UN Convention on the Rights of the Child in that it was 'regretted' that it was not employed so to 'permit the intervention of the children assisted by their lawyers'.

1986

CASE OF JOHNSTON AND OTHERS v. IRELAND; Court (Plenary); 18/12/1986

(Application no. 9697/82)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=695385&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns the applicants' family status, with it being argued that the Irish government had not provided the proper legal provisions for their circumstances, concerning divorce procedure and recognition of family life outside of wedlock. Violation of Article 8 of the European Convention on Human Rights, no mention of the UN

Convention on the Rights of the Child in the Court's judgment.

1979

CASE OF MARCKX v. BELGIUM: Court (Plenary); 13/06/1979

(Application no. 6833/74)

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=695411&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Concerns Belgian law regarding the legal classification of 'legitimate' and 'illegitimate' children. Violations of Articles 8, 14 and Art I of Protocol No. 1 to the European Convention on Human Rights in several configurations - e.g. Article 14 in conjunction with Article I of Protocol No. 1, Article 8 in conjunction with Article 14, etc. No mention of the UN Convention on the Rights of the Child at any point.