January 2018
This factsheet does not bind the Court and is not exhaustive

Children's rights

See also the factsheets on "International child abductions", "Parental rights", and "Protection of minors", "Accompanied migrant children in detention" and "Unaccompanied migrant minors in detention".

Article 1 (obligation to respect human rights) of the European Convention on Human Rights ("the Convention"):

"The High Contracting Parties shall secure to ***everyone*** within their jurisdiction the rights and freedoms defined in … this Convention".

Right of access to a court (Article 6 of the Convention)

Stagno v. Belgium

7 July 2009

When their father died, the two applicants, who were minors at the time, and several other descendants were paid a sum of money by an insurance company as the beneficiaries of their father's life insurance. Their mother, being the statutory administrator of her children's property, deposited the money in savings accounts that were emptied within less than a year. On coming of age, the applicants each brought an action against their mother and against the insurance company. They later dropped the claim against their mother after entering into an agreement. Before the European Court of Human Rights the applicants complained of a violation of their right of access to a court, alleging that the Belgian courts had deprived them of any effective remedy before a court by rejecting their action as statute-barred, given that the statutory limitation period had not been suspended while they were minors even though they had been unable to bring legal proceedings during that period.

The European Court of Human Rights held that there had been a **violation of Article 6 § 1** (right to a fair trial – access to court) of the European Convention on Human Rights, noting in particular that, by holding that the limitation period also ran against minors, the Belgian courts had put the interests of the insurance companies first. However, it had been practically impossible for the applicants to defend their property rights against the company before reaching their majority, and by the time they did come of age, their claim against the company had become time-barred. The strict application of a statutory limitation period, without taking into account the particular circumstances of the case, had thus prevented the applicants from using a remedy that in principle was available to them.

Right to respect for private and family life (Article 8)

Adoption

Chbihi Loudoudi and Others v. Belgium

16 December 2014

This case concerned the procedure in Belgium for the adoption by the applicants of their

Moroccan niece, who had been entrusted to their care by "kafala"[1]. The applicants complained in particular of the Belgian authorities' refusal to recognise the kafala agreement and approve the adoption of their niece, to the detriment of the child's best interests, and of the uncertain nature of her residence status.
The Court held that there had been **no violation of Article 8** (right to respect for private and family life) of the Convention concerning the refusal to grant the adoption, and **no violation of Article 8** (right to respect for private and family life) concerning the child's residence status. It found in particular that the refusal to grant adoption was based on a law which sought to ensure, in accordance with the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption, that international adoptions took place in the best interests of the child and with respect for the child's private and family life, and that the Belgian authorities could legitimately consider that such a refusal was in the child's best interests, by ensuring the maintaining of a single parent-child relationship in both Morocco and Belgium (i.e. the legal parent-child relationship with the genetic parents). In addition, reiterating that the Convention did not guarantee a right to a particular residence status, the Court observed that the only real obstacle encountered by the girl had been her inability to take part in a school trip. That difficulty, owing to the absence of a residence permit between May 2010 and February 2011, did not suffice for Belgium to be required to grant her unlimited leave to remain in order to protect her private life.

Zaieţ v. Romania

24 March 2015

This case concerned the annulment of a woman's adoption, at the instigation of her adoptive sister, 31 years after it had been approved and 18 years after the death of their adoptive mother. The applicant alleged in particular that the annulment of her adoption had been an arbitrary and disproportionate intrusion into her family life, submitting that she had lived with her adoptive mother since the age of nine and that their relationship had been based on affection, responsibility and mutual support. She also complained that, after the annulment of her adoption, she lost title to the five hectares of forest she inherited from her adoptive mother.
This was the first occasion on which the Court had to consider the annulment of an adoption order in a context where the adoptive parent was dead and the adopted child had long reached adulthood. In the applicant's case, the Court, finding that the annulment decision was vague and lacking in justification for the taking of such a radical measure, concluded that the interference in her family life had not been supported by relevant and sufficient reasons, in **violation of Article 8** (right to respect for private and family life) of the Convention. The Court noted in particular that, in any event, the annulment of an adoption should not even be envisaged as a measure against an adopted child and underlined that in legal provisions and decisions on adoption matters, the interests of the child had to remain paramount. The Court also held that there had been a **violation of Article 1 of Protocol No. 1** (protection of property) to the Convention, on the account of the disproportionate interference with the applicant's property right over the disputed land.

Family reunification rights

Sen v. the Netherlands

21 December 2001

The applicants are a couple of Turkish nationals and their daughter, who had been born in Turkey in 1983 and who her mother left in her aunt's custody when she joined her husband in the Netherlands in 1986. The parents complained of an infringement of their

[1]. In Islamic law, adoption, which creates family bonds comparable to those created by biological filiation, is prohibited. Instead, Islamic law provides for a form of guardianship called "kafala". In Muslim States, with the exception of Turkey, Indonesia and Tunisia, kafala is defined as a voluntary undertaking to provide for a child and take care of his or her welfare and education.

right to respect for their family life, on account of the rejection of their application for a residence permit for their daughter, a decision which prevented her from joining them in the Netherlands. They had two other children, who were born in 1990 and 1994 respectively in the Netherlands and have always lived there with their parents.
Being required to determine whether the Dutch authorities had a positive obligation to authorise the third applicant to live with her parents in the Netherlands, having regard, among other things, to her young age when the application was made, the Court noted that she had spent her whole life in Turkey and had strong links with the linguistic and cultural environment of her country in which she still had relatives. However, there was a major obstacle to the rest of the family's return to Turkey. The first two applicants had settled as a couple in the Netherlands, where they had been legally resident for many years, and two of their three children had always lived in the Netherlands and went to school there. Concluding that the Netherlands had failed to strike a fair balance between the applicants' interest and their own interest in controlling immigration, the Court held that there had been a **violation of Article 8** (right to respect for family life) of the Convention.

See also: **Tuquabo-Tekle and Others v. the Netherlands**, judgment of 1 December 2005.

Osman v. Denmark

14 June 2011
At the age of fifteen the applicant, a Somali national who had been living with her parents and siblings in Denmark since the age of seven, was sent against her will to a refugee camp in Kenya by her father to take care of her paternal grandmother. Two years later, when still a minor, she applied to be reunited with her family in Denmark, but her application was turned down by Danish immigration on the grounds that her residence permit had lapsed as she had been absent from Denmark for more than twelve consecutive months. She was not entitled to a new residence permit as, following a change in the law that had been introduced to deter immigrant parents from sending their adolescent children to their countries of origin to receive a more traditional upbringing, only children below the age of fifteen could apply for family reunification.
The Court held that there had been a **violation of Article 8** (right to respect for private and family life) of the Convention, finding in particular that the applicant could be considered a settled migrant who had lawfully spent all or the major part of her childhood and youth in the host country so that very serious reasons would be required to justify the refusal to renew her residence permit. Although the aim pursued by the law on which that refusal was based was legitimate – discouraging immigrant parents from sending their children to their countries of origin to be "re-educated" in a manner their parents considered more consistent with their ethnic origins – the children's right to respect for private and family life could not be ignored. In the circumstances of the case, it could not be said that the applicant's interests had been sufficiently taken into account or balanced fairly against the State's interest in controlling immigration.

Berisha v. Switzerland

30 July 2013
This case concerned the Swiss authorities' refusal to grant residence permits to the applicants' three children, who were born in Kosovo and entered Switzerland illegally, and the authorities' decision to expel the children to Kosovo.
The Court held that there had been **no violation of Article 8** (right to respect of family life) of the Convention, considering in particular that the applicants were living in Switzerland because of their conscious decision to settle there rather than in Kosovo, and that their three children had not lived in Switzerland for long enough to have completely lost their ties with their country of birth, where they grew up and were educated for many years. Moreover the children still had family ties in Kosovo, the older two children, 17 and 19 years old, were of an age that they could be supported at a distance, and there was nothing to prevent the applicants traveling to, or staying with

the youngest child, 10 years old, in Kosovo to safeguard her best interests as a child. Also taking into account the at times untruthful conduct of the applicants in the domestic proceedings, the Court concluded that the Swiss authorities had not overstepped their margin of appreciation under Article 8 of the Convention in refusing to grant residence permits to their children.

Mugenzi v. France, Tanda-Muzinga v. France and Senigo Longue and Others v. France

10 July 2014

These cases concerned the difficulties encountered by the applicants – who were either granted refugee status or lawfully residing in France – in obtaining visas for their children so that their families could be reunited. The applicants alleged that the refusal by the consular authorities to issue visas to their children for the purpose of family reunification had infringed their right to respect for their family life.

The Court observed in particular that the procedure for examining applications for family reunification had to contain a number of elements, having regard to the applicants' refugee status on the one hand and the best interests of the children on the other, so that their interests as guaranteed by Article 8 (right to respect for private and family life) of the Convention from the point of view of procedural requirements were safeguarded.

In all three cases, the Court held that there had been a **violation of Article 8** of the Convention. Since the national authorities had not given due consideration to the applicants' specific circumstances, it concluded that the family reunification procedure had not offered the requisite guarantees of flexibility, promptness and effectiveness to ensure compliance with their right to respect for their family life. For that reason, the French State had not struck a fair balance between the applicants' interests on the one hand, and its own interest in controlling immigration on the other.

See also, raising similar questions: **Ly v. France**, decision on the admissibility of 17 June 2014 (the Court declared the application in question inadmissible as manifestly ill-founded, considering that the decision-making process, taken as a whole, had enabled the applicant to be sufficiently involved to ensure his interests were defended).

I.A.A. and Others v. the United Kingdom (application no. 25960/13)

31 March 2016

This case concerned the complaint by five Somali nationals, the applicants, about the UK authorities' refusal to grant them entry into the United Kingdom to be reunited with their mother. The applicants' mother had joined her second husband in the UK in 2004 and the applicants were left in the care of their mother's sister in Somalia. They moved in 2006 to Ethiopia where the applicants had been living ever since.

The Court declared the application **inadmissible** as being manifestly ill-founded, finding that, in refusing the application to join their mother, the national courts had struck a fair balance between the applicants' interest in developing a family life in the UK and the State's interest in controlling immigration. While the applicants' situation was certainly unenviable, they were no longer young children (they are currently 21, 20, 19, 14 and 13) and had grown up in the cultural and linguistic environment of their country of origin before living together as a family unit in Ethiopia for the last nine years. Indeed, they had never been to the UK and had not lived together with their mother for more than 11 years. As concerned the applicants' mother, who had apparently made a conscious decision to leave her children in Somalia in order to join her new husband in the UK, there was no evidence to suggest that there would be any insurmountable obstacles to her relocating either to Ethiopia or to Somalia.

Legal recognition for children born as a result of surrogacy treatment

Mennesson and Others v. France and Labassee v. France

26 June 2014

These cases concerned the refusal to grant legal recognition in France to parent-child relationships that had been legally established in the United States between children born as a result of surrogacy treatment and the couples who had had the treatment. The applicants complained in particular of the fact that, to the detriment of the children's best interests, they were unable to obtain recognition in France of parent-child relationships that had been legally established abroad.

In both cases the Court held that there had been **no violation of Article 8** (right to respect for private and family life) of the Convention concerning the applicants' right to respect for their family life. It further held in both cases that there had been a **violation of Article 8** concerning the children's right to respect for their private life. The Court observed that the French authorities, despite being aware that the children had been identified in the United States as the children of Mr and Mrs Mennesson and Mr and Mrs Labassee, had nevertheless denied them that status under French law. It considered that this contradiction undermined the children's identity within French society. The Court further noted that the case-law completely precluded the establishment of a legal relationship between children born as a result of – lawful – surrogacy treatment abroad and their biological father. This overstepped the wide margin of appreciation left to States in the sphere of decisions relating to surrogacy.

See also: **Foulon and Bouvet v. France**, judgment of 21 July 2016; **Laborie v. France**, judgment of 19 January 2017.

D. and Others v. Belgium (no. 29176/13)

8 July 2014 (decision – partly struck out of the list of cases; partly inadmissible)

This case concerned the Belgian authorities' initial refusal to authorise the arrival on its national territory of a child who had been born in Ukraine from a surrogate pregnancy, as resorted to by the applicants, two Belgian nationals. The applicants relied in particular on Articles 3 (prohibition of inhuman or degrading treatment) and 8 (right to respect for private and family life) of the Convention.

In view of developments in the case since the application was lodged, namely the granting of a laissez-passer for the child and his arrival in Belgium, where he has since lived with the applicants, the Court considered this part of the dispute to be resolved and struck out of its list the complaint concerning the Belgian authorities' refusal to issue travel documents for the child. The Court further declared **inadmissible** the remainder of the application. While the authorities' refusal, maintained until the applicants had submitted sufficient evidence to permit confirmation of a family relationship with the child, had resulted in the child effectively being separated from the applicants, and amounted to interference in their right to respect for their family life, nonetheless, Belgium had acted within its broad discretion ("wide margin of appreciation") to decide on such matters. The Court also considered that there was no reason to conclude that the child had been subjected to treatment contrary to Article 3 of the Convention during the period of his separation from the applicants.

Paradiso and Campanelli v. Italy

24 January 2017 (Grand Chamber)

This case concerned the placement in social-service care of a nine-month-old child who had been born in Russia following a gestational surrogacy contract entered into with a Russian woman by an Italian couple (the applicants); it subsequently transpired that they had no biological relationship with the child. The applicants complained, in particular, about the child's removal from them, and about the refusal to acknowledge the parent-child relationship established abroad by registering the child's birth certificate in Italy.

The Grand Chamber found, by eleven votes to six, that there had been **no violation of Article 8** (right to respect for private and family life) of the Convention in the applicants' case. Having regard to the absence of any biological tie between the child and the applicants, the short duration of their relationship with the child and the uncertainty of the ties between them from a legal perspective, and in spite of the existence of a parental project and the quality of the emotional bonds, the Grand Chamber held that a family life did not exist between the applicants and the child. It found, however, that the contested measures fell within the scope of the applicants' private life. The Grand Chamber further considered that the contested measures had pursued the legitimate aims of preventing disorder and protecting the rights and freedoms of others. On this last point, it regarded as legitimate the Italian authorities' wish to reaffirm the State's exclusive competence to recognise a legal parent-child relationship – and this solely in the case of a biological tie or lawful adoption – with a view to protecting children. The Grand Chamber also accepted that the Italian courts, having concluded in particular that the child would not suffer grave or irreparable harm as a result of the separation, had struck a fair balance between the different interests at stake, while remaining within the room for manoeuvre ("margin of appreciation") available to them.

Parental authority, child custody and access rights

N.Ts.v. Georgia (no. 71776/12)

2 February 2016

This case concerned proceedings for the return of three young boys – who had been living with their maternal family since their mother's death – to their father. The first applicant maintained in particular that the national authorities had failed to thoroughly assess the best interests of her nephews and that the proceedings had been procedurally flawed.

The Court held that there had been a **violation of Article 8** (right to respect for private and family life) of the Convention. It found in particular that the boys had not been adequately represented before the domestic courts, in particular as the functions and powers of the domestic authority designated to represent them had not been clearly defined and the courts had not considered hearing the oldest of the boys in person. Moreover, the courts had made an inadequate assessment of the boys' best interests, which did not take their emotional state of mind into consideration.

Right to know one's origins

Mikulić v. Croatia

7 February 2002

This case concerned a child born out of wedlock who, together with her mother, filed a paternity suit. The applicant complained that Croatian law did not oblige men against whom paternity suits were brought to comply with court orders to undergo DNA tests, and that the failure of the domestic courts to decide her paternity claim had left her uncertain as to her personal identity. She also complained about the length of the proceedings and the lack of an effective remedy to speed the process up.

The Court held that there had been a **violation of Article 8** (right to respect for private and family life) of the Convention. It observed in particular that, in determining an application to have paternity established, the courts were required to have regard to the basic principle of the child's interests. In the present case, it found that the procedure available did not strike a fair balance between the right of the applicant to have her uncertainty as to her personal identity eliminated without unnecessary delay and that of her supposed father not to undergo DNA tests. Accordingly, the inefficiency of the courts had left the applicant in a state of prolonged uncertainty as to her personal identity. The Court further held that there had been a **violation of Articles 6 § 1** (right to a fair hearing within a reasonable time) and a **violation of Article 13** (right to an effective remedy) of the Convention.

See also, among others: **Gaskin v. the United Kingdom**, judgment of 7 July 1989; **Ebru and Tayfun Engin Çolak v. Turkey**, judgment of 30 May 2006; **Phinikaridou v. Cyprus**, judgment of 20 December 2007; **Kalacheva v. Russia**, judgment of 7 May 2009; **Grönmark v. Finland** and **Backlund v. Finland**, judgments of 6 July 2010; **Pascaud v. France**, judgment of 16 June 2011; **Laakso v. Finland**, judgment of 15 January 2013; and **Röman v. Finland**, judgment of 29 January 2013; **Konstantinidis v. Greece**, judgment of 3 April 2014; **Călin and Others v. Romania**, judgment of 19 July 2016.

Odièvre v. France

13 February 2003 (Grand Chamber)

The applicant was abandoned by her natural mother at birth and left with the Health and Social Security Department. Her mother requested that her identity be kept secret from the applicant, who was placed in State care and later adopted under a full adoption order. The applicant subsequently tried to find out the identity of her natural parents and brothers. Her request was rejected because she had been born under a special procedure which allowed mothers to remain anonymous. The applicant complained that she had been unable to obtain details identifying her natural family and said that her inability to do so was highly damaging to her as it deprived her of the chance of reconstituting her life history. She further submitted that the French rules on confidentiality governing birth amounted to discrimination on the ground of birth.

In its Grand Chamber judgment, the Court noted that birth, and in particular the circumstances in which a child was born, formed part of a child's, and subsequently the adult's, private life guaranteed by Article 8 of the Convention. In the instant case, it held that there had been **no violation of Article 8** (right to respect for private life), observing in particular that the applicant had been given access to non-identifying information about her mother and natural family that enabled her to trace some of her roots, while ensuring the protection of third-party interests. In addition, recent legislation enacted in 2002 enabled confidentiality to be waived and set up a special body to facilitate searches for information about biological origins. The applicant could now use that legislation to request disclosure of her mother's identity, subject to the latter's consent being obtained to ensure that the mother's need for protection and the applicant's legitimate request were fairly reconciled. The French legislation thus sought to strike a balance and to ensure sufficient proportion between the competing interests. The Court further held that there had been **no violation of Article 14** (prohibition of discrimination) **taken in conjunction with Article 8** of the Convention, finding that the applicant had suffered no discrimination with regard to her filiation, as she had parental ties with her adoptive parents and a prospective interest in their property and estate and, furthermore, could not claim that her situation with regard to her natural mother was comparable to that of children who enjoyed established parental ties with their natural mother.

Jäggi v. Switzerland

13 July 2006

The applicant was not allowed to have DNA tests performed on the body of a deceased man whom he believed to be his biological father. He was therefore unable to establish paternity.

The Court held that there had been a **violation Article 8** (right to respect for private life) of the Convention, on account of the fact that it had been impossible for the applicant to obtain a DNA analysis of the mortal remains of his putative biological father. It observed in particular that the DNA test was not particularly intrusive, the family had cited no philosophical or religious objections and, if the applicant had not renewed the lease on the deceased man's tomb, his body would already have been exhumed.

A. M. M. v. Romania (no. 2151/10)

14 February 2012

This case concerned proceedings to establish paternity of a minor who was born in 2001 outside marriage and who has a number of disabilities. He had been registered in his birth certificate as having a father of unknown identity. Before the European Court, the applicant was first represented by his mother and subsequently, since his mother suffered from a serious disability, by his maternal grandmother.

The Court held that there had been a **violation of Article 8** (right to respect for private and family life) of the Convention, finding that the domestic courts did not strike a fair balance between the child's right to have his interests safeguarded in the proceedings and the right of his putative father not to undergo a paternity test or take part in the proceedings.

Godelli v. Italy

25 September 2012

This case concerned the confidentiality of information concerning a child's birth and the inability of a person abandoned by her mother to find out about her origins. The applicant maintained that she had suffered severe damage as a result of not knowing her personal history, having been unable to trace any of her roots while ensuring the protection of third-party interests.

The Court held that there had been a **violation of Article 8** (right to respect for private life) of the Convention, considering in particular that a fair balance had not been struck between the interests at stake since the Italian legislation, in cases where the mother had opted not to disclose her identity, did not allow a child who had not been formally recognised at birth and was subsequently adopted to request either non-identifying information about his or her origins or the disclosure of the birth mother's identity with the latter's consent.

Canonne v. France

2 June 2015 (decision on the admissibility)

In this case, the applicant complained about the fact that the domestic courts had inferred his paternity of a young woman from his refusal to submit to the genetic tests ordered by them. He emphasised in particular that under French law individuals who were the respondents in paternity actions were obliged to submit to a DNA test in order to establish that they were not the fathers. He alleged a breach of the principle of the inviolability of the human body which, in his view, prohibited any enforcement of genetic tests in civil cases.

The Court declared **inadmissible** as manifestly ill-founded the applicant's complaints under Article 8 (right to respect for private and family life) of the Convention. It found that the domestic courts had not exceeded the room for manoeuvre ("wide margin of appreciation") available to them when they took into account the applicant's refusal to submit to court-ordered genetic testing and declared him the father of the young woman, and in giving priority to the latter's right to respect for private life over that of the applicant.

Mandet v. France

14 January 2016

This case concerned the quashing of the formal recognition of paternity made by the mother's husband at the request of the child's biological father. The applicants – the mother, her husband and the child – complained about the quashing of the recognition of paternity and about the annulation of the child's legitimation. In particular, they considered these measures to be disproportionate, having regard to the best interests of the child which, they submitted, required that the legal parent-child relationship, established for several years, be maintained, and that his emotional stability be preserved.

The Court held that there had been **no violation of Article 8** (right to respect for private and family life) of the Convention. It noted in particular that the reasoning in the

French courts' decisions showed that the child's best interests had been duly placed at the heart of their considerations. In taking this approach, they had found that, although the child considered that his mother's husband was his father, his interests lay primarily in knowing the truth about his origins. These decisions did not amount to unduly favouring the biological father's interests over those of the child, but in holding that the interests of the child and of the biological father partly overlapped. It was also to be noted that, having conferred parental responsibility to the mother, the French courts' decisions had not prevented the child from continuing to live as part of the Mandet family, in accordance with his wishes.

Sex education in State schools

A.R. and L.R. v. Switzerland (no. 22338/15)

19 December 2017 (decision on the admissibility)

This case concerned the refusal by a Basle primary school to grant the first applicant's request that her daughter (the second applicant), then aged seven and about to move up to the second year of primary school, be exempted from sex education lessons. Both applicants, who stated that they were not against sex education as such in State schools but were merely calling into question its usefulness at the kindergarten and early primary school stages, alleged that there had been a violation of the first applicant's right to respect for her private and family life. They also argued that the second applicant had been subjected to an unjustified interference with the exercise of her right to respect for her private life.

As regards the applicants' victim status, the Court began by finding that, under Article 34 (right of individual application) of the Convention, the application was manifestly ill-founded in respect of the second applicant, who had never actually attended sex education classes before the end of her second year at primary school. The Court also declared **inadmissible**, as being manifestly ill-founded, the first applicant's complaints under Article 8 (right to respect for private and family life) of the Convention, finding that the Swiss authorities had not overstepped the room for manoeuvre ("margin of appreciation") accorded to them by the Convention. The Court noted in particular that one of the aims of sex education was the prevention of sexual violence and exploitation, which posed a real threat to the physical and mental health of children and against which they had to be protected at all ages. It also stressed that one of the objectives of State education was to prepare children for social realities, and this tended to justify the sexual education of very young children attending kindergarten or primary school. The Court thus found that school sex education, as practised in the canton of Basel-Urban, pursued legitimate aims. As to the proportionality of the refusal to grant exemption from such classes, the Court observed in particular that the national authorities had recognised the paramount importance of the parents' right to provide for the sexual education of their children. Moreover, sex education at a kindergarten and in the first years of primary school was complementary in nature and not systematic; the teachers merely had to "react to the children's questions and actions".

Freedom of thought, conscience and religion (Article 9)

Dogru v. France and Kervanci v. France

4 December 2008

The applicants, both Muslims, were enrolled in the first year of a state secondary school in 1998-1999. On numerous occasions they attended physical education classes wearing their headscarves and refused to take them off, despite repeated requests to do so by their teacher. The school's discipline committee decided to expel them from school for breaching the duty of assiduity by failing to participate actively in those classes, a decision that was upheld by the courts.

The Court held that there had been **no violation of Article 9** (freedom of religion) of the Convention in both cases, finding in particular that the conclusion reached by the national authorities that the wearing of a veil, such as the Islamic headscarf, was incompatible with sports classes for reasons of health or safety was not unreasonable. It accepted that the penalty imposed was the consequence of the applicants' refusal to comply with the rules applicable on the school premises – of which they had been properly informed – and not of their religious convictions, as they alleged.

Aktas v. France, Bayrak v. France, Gamaleddyn v. France, Ghazal v. France, J. Singh v. France and R. Singh v. France

30 June 2009 (decisions on the admissibility)

These applications concerned the expulsion of six pupils from school for wearing conspicuous symbols of religious affiliation. They were enrolled in various state schools for the year 2004-2005. On the first day of school, the girls, who are Muslims, arrived wearing a headscarf or kerchief. The boys were wearing a "keski", an under-turban worn by Sikhs. As they refused to remove the offending headwear, they were denied access to the classroom and, after a period of dialogue with the families, expelled from school for failure to comply with the Education Code. Before the Court, they complained of the ban on headwear imposed by their schools, relying in particular on Article 9 of the Convention.

The Court declared the applications **inadmissible** (manifestly ill-founded), holding in particular that the interference with the pupils' freedom to manifest their religion was prescribed by law and pursued the legitimate aim of protecting the rights and freedoms of others and of public order. It further underlined the State's role as a neutral organiser of the exercise of various religions, faiths and beliefs. As to the punishment of definitive expulsion, it was not disproportionate to the aims pursued as the pupils still had the possibility of continuing their schooling by correspondence courses.

Grzelak v. Poland

15 June 2010

The first two applicants, who are declared agnostics, are parents of the third applicant. In conformity with the wishes of his parents, the latter did not attend religious instruction during his schooling. His parents systematically requested the school authorities to organise a class in ethics for him. However, no such class was provided throughout his entire schooling at primary and secondary level because there were not enough pupils interested. His school reports and certificates contained a straight line instead of a mark for "religion/ethics".

The Court declared the application **inadmissible** (incompatible *ratione personae*) with respect to the parents and held that there had been a **violation of Article 14** (prohibition of discrimination) **taken in conjunction with Article 9** (freedom of religion) of the Convention with respect to their child, finding in particular that the absence of a mark for "religion/ethics" on his school certificates throughout the entire period of his schooling had amounted to his unwarranted stigmatisation, in breach of his right not to manifest his religion or convictions.

Freedom of expression (Article 10)

Cyprus v. Turkey

10 May 2001 (Grand Chamber)

In this case, which related to the situation that has existed in northern Cyprus since the conduct of military operations there by Turkey in July and August 1974 and the continuing division of the territory of Cyprus, Cyprus alleged, among other things, a violation of Article 10 (freedom of expression) of the Convention, as regards the Karpas Greek Cypriots, because of the excessive censorship of school-books.

The Court held that there had been a violation of A**rticle 10** (freedom of expression) of the Convention in respect of Greek Cypriots living in northern Cyprus in so far as

school-books destined for use in their primary school had been subject to excessive measures of censorship.

Prohibition of discrimination (Article 14)

Affiliation- and inheritance-related rights

Marckx v. Belgium

13 June 1979

An unmarried Belgian mother complained that she and her daughter were denied rights accorded to married mothers and their children: among other things, she had to recognise her child (or bring legal proceedings) to establish affiliation (married mothers could rely on the birth certificate); recognition restricted her ability to bequeath property to her child and did not create a legal bond between the child and mother's family, her grandmother and aunt. Only by marrying and then adopting her own daughter (or going through a legitimation process) would she have ensured that she had the same rights as a legitimate child.

The Court held in particular that there had been a **violation of Article 8** (right to respect for private and family life) of the Convention taken alone, and a **violation of Article 14** (prohibition of discrimination) of the Convention **taken in conjunction with Article 8**, regarding both applicants, concerning the establishment of the second applicant's maternal affiliation, the lack of a legal bond with her mother's family and her inheritance rights and her mother's freedom to choose how to dispose of her property. A bill to erase differences in treatment between children of married and unmarried parents was going through the Belgian Parliament at the time of the judgment.

Inze v. Austria

28 October 1987

The applicant was not legally entitled to inherit his mother's farm when she died intestate because he was born out of wedlock. Although he had worked on the farm until he was 23, his younger half-brother inherited the entire farm. By a subsequent judicial settlement, the applicant ultimately obtained a piece of land which had been promised to him by his mother during her lifetime.

The Court held that there had been a **violation of Article 14** (prohibition of discrimination) of the Convention **taken in conjunction with Article 1 of Protocol No. 1** (right to the peaceful enjoyment of one's possessions) to the Convention. Having recalled that the Convention is a living instrument, to be interpreted in the light of present-day conditions, and that the question of equality between children born in and children born out of wedlock as regards their civil rights is today given importance in the member States of the Council of Europe, it found in particular that very weighty reasons would accordingly have to be advanced before a difference of treatment on the ground of birth out of wedlock could be regarded as compatible with the Convention.

Mazurek v. France

1 February 2000

The applicant, born of an adulterous relationship, had his entitlement to inherit reduced by half because a legitimated child also had a claim to their mother's estate, according to the law in force at that time (1990). He complained in particular of an infringement of his right to the peaceful enjoyment of his possessions.

The Court held that there had been a **violation of Article 14** (prohibition of discrimination) of the Convention **in conjunction with Article 1 of Protocol No. 1** (right to the peaceful enjoyment of one's possessions) to the Convention. With regard to the situation in the other member States of the Council of Europe, it noted in particular, contrary to the French Government's assertions, a clear trend towards the abolition of discrimination in relation to adulterine children. The Court could not disregard such developments in its interpretation – which was necessarily evolutive – of the relevant

provisions of the Convention. The Court further found in the present case that there was no good reason for discrimination based on adulterine birth. In any event, the adulterine child could not be reproached with events which were not his fault. Yet because the applicant was the child of an adulterous union he had been penalised as regards the division of the estate. The Court therefore concluded that there had been no reasonable relationship of proportionality between the means employed and the aim pursued.

See also: **Merger and Cros v. France**, judgment of 22 December 2004.

Camp and Bourimi v. the Netherlands

3 October 2000

The first applicant and her baby son (the second applicant) had to move out of their family home after the first applicant's partner died intestate, before marrying her and recognising the child (as had been his stated intention). Under Dutch law at the time the deceased's parents and siblings inherited his estate. They then moved into his house. The child was later declared legitimate, but as the decision was not retroactive, he was not made his father's heir.

The Court held that there had been a **violation of Article 14** (prohibition of discrimination) **in conjunction with Article 8** (right to respect for family life) of the Convention with respect to the second applicant. It observed that the child, who had not obtained legally-recognised family ties with his father until he had been declared legitimate two years after his birth, had been unable to inherit from his father unlike children who did have such ties either because they were born in wedlock or had been recognised by their father. This had undoubtedly constituted a difference in treatment between persons in similar situations, based on birth. According to the Court's case-law, very weighty reasons need to be put forward before a difference in treatment on the ground of birth out of wedlock can be regarded as compatible with the Convention. The Court observed in this respect that there had been no conscious decision on the part of the deceased not to recognise the child the first applicant was carrying. On the contrary, he had intended to marry her and the child had been declared legitimate precisely because his untimely death had precluded that marriage. The Court could therefore not accept the Dutch Government's arguments as to how the deceased might have prevented his son's present predicament and considered the child's exclusion from his father's inheritance disproportionate.

Pla and Puncernau v. Andorra

13 July 2004

The first applicant, an adopted child, was disinherited and his mother, the second applicant, consequently lost her right to the life tenancy of the family estate after the Andorran courts interpreted a clause in a will – stipulating that the heir must be born of a "legitimate and canonical marriage" – as referring only to biological children.

The Court held that there had been a **violation of Article 14** (prohibition of discrimination) **in conjunction with Article 8** (right to respect for private and family life) of the Convention. It noted that the first applicant's parents had a "legitimate and canonical marriage" and there was nothing in the will in question to suggest that adopted children were excluded. The domestic courts' decision had amounted to "judicial deprivation of an adopted child's inheritance rights" which was "blatantly inconsistent with the prohibition of discrimination" (paragraph 59 of the judgment).

Brauer v. Germany

28 May 2009

The applicant was unable to inherit from her father who had recognised her under a law affecting children born outside marriage before 1 July 1949. The equal inheritance rights available under the law of the former German Democratic Republic (where she had lived for much of her life) did not apply because her father had lived in the Federal Republic of Germany when Germany was unified. The applicant complained that, following her father's death, her exclusion from any entitlement to his estate had amounted to discriminatory treatment and had been wholly disproportionate.

The Court held that there had been a **violation of Article 14** (prohibition of discrimination) **in conjunction with Article 8** (right to respect for private and family life) of the Convention. It could not find any ground on which such discrimination based on birth outside marriage could be justified today, particularly as the applicant's exclusion from any statutory entitlement to inherit penalised her to an even greater extent than the applicants in other similar cases brought before it.

Fabris v. France

7 February 2013 (Grand Chamber)

The applicant was born in 1943 of a liaison between his father and a married woman who was already the mother of two children born of her marriage. At the age of 40, he was judicially declared the latter's "illegitimate" child. Following his mother's death in 1994, he sought an abatement of the *inter vivos* division, claiming a reserved portion of the estate equal to that of the donees, namely, his mother's legitimate children. In a judgment of September 2004, the *tribunal de grande instance* declared the action brought by the applicant admissible and upheld his claim on the merits. Following an appeal by the legitimate children, the court of appeal set aside the lower court's judgment. The applicant unsuccessfully appealed on points of law. Before the Court, the applicant complained that he had been unable to benefit from a law introduced in 2001 granting children "born of adultery" identical inheritance rights to those of legitimate children, passed following delivery of the Court's judgment in *Mazurek v. France* of 1 February 2000 (see above).

The Court held that there had been a **violation of Article 14** (prohibition of discrimination) **taken in conjunction with Article 1** (protection of property) **of Protocol No. 1** to the Convention. It found in particular that the legitimate aim of protecting the inheritance rights of the applicant's half-brother and half-sister did not outweigh the applicant's claim to a share of his mother's estate and that the difference of treatment in his regard was discriminatory, as it had no objective and reasonable justification[2].

Mitzinger v. Germany

9 February 2017

The applicant in this case complained that she could not assert her inheritance rights after her father's death in 2009, as she had been born out of wedlock and before a cut-off point provided for by legislation in force at the time. Notably, children born outside marriage before 1 July 1949 were excluded from any statutory entitlement to inherit and from the right to financial compensation.

The Court held that there had been a **violation of Article 14** (prohibition of discrimination) **in conjunction with Article 8** (right to respect for private and family life) of the Convention. It found that the aims pursued by the applicant's difference in treatment, namely the preservation of legal certainty and the protection of the deceased and his family, had been legitimate. However, the Court was not satisfied that excluding children born out of wedlock before a certain cut-off point provided for by legislation had been a proportionate means to achieving the aims sought to be achieved. Decisive for that conclusion was the fact that the applicant's father had recognised her. Furthermore, she had regularly visited him and his wife. The latter's awareness of the applicant's existence, as well as of the fact that the legislation allowed children born inside marriage and outside marriage after the cut-off date to inherit, had therefore to have had a bearing on her expectations to her husband's estate. In any case, the Court noted, European case-law and national legislative reforms had shown a clear tendency towards eliminating all discrimination regarding the inheritance rights of children born outside marriage.

[2]. See also, with regard to the same case, the Grand Chamber judgment of 28 June 2013 on the question of just satisfaction. In this judgment, the Court took formal note of the friendly settlement reached between the French Government and the applicant and decided to strike the remainder of the case out of its list of cases, pursuant to Article 39 of the Convention.

Denial of citizenship to a child born out of wedlock

Genovese v. Malta

11 October 2011

The applicant was born out of wedlock of a British mother and a Maltese father. After the latter's paternity had been established judicially, the applicant's mother filed a request for her son to be granted Maltese citizenship. Her application was rejected on the basis that Maltese citizenship could not be granted to an illegitimate child whose mother was not Maltese.

The Court held that there had been a **violation of Article 14** (prohibition of discrimination) **taken in conjunction with Article 8** (right to respect for private life) of the Convention. It noted in particular that the 1975 European Convention on the Legal Status of Children Born out of Wedlock was in force in more than 20 European countries and reiterated that very weighty reasons would have had to be advanced to justify an arbitrary difference in treatment on the ground of birth. The applicant was in an analogous situation to other children with a father of Maltese nationality and a mother of foreign nationality. The only distinguishing factor, which had rendered him ineligible to acquire citizenship, was the fact that he had been born out of wedlock. The Court was not convinced by the Maltese Government's argument that children born in wedlock had a link with their parents resulting from their parents' marriage, which did not exist in cases of children born out of wedlock. It was precisely a distinction in treatment based on such a link which Article 14 of the Convention prohibited, unless it was otherwise objectively justified. Furthermore, the Court could not accept the argument that, while the mother was always certain, a father was not. In the applicant's case, his father was known and was registered in his birth certificate, yet the distinction arising from the Citizenship Act had persisted. Accordingly, no reasonable or objective grounds had been given to justify that difference in treatment.

Placement of Roma children in "special" schools

D.H. and Others v. the Czech Republic

13 November 2007 (Grand Chamber)

This case concerned 18 Roma children, all Czech nationals, who were placed in schools for children with special needs, including those with a mental or social handicap, from 1996 to 1999. The applicants claimed that a two-tier educational system was in place in which the segregation of Roma children into such schools – which followed a simplified curriculum – was quasi-automatic.

The Court noted that, at the relevant time, the majority of children in special schools in the Czech Republic were of Roma origin. Roma children of average/above average intellect were often placed in those schools on the basis of psychological tests which were not adapted to people of their ethnic origin. The Court concluded that the law at that time had a disproportionately prejudicial effect on Roma children, in **violation of Article 14** (prohibition of discrimination) of the Convention **taken in conjunction with Article 2** (right to education) **of Protocol No. 1** to the Convention.

Oršuš and Others v. Croatia

16 March 2010 (Grand Chamber)

This case concerned fifteen Croatians national of Roma origin who complained that they had been victims of racial discrimination during their school years in that they had been segregated into Roma-only classes and consequently suffered educational, psychological and emotional damage.

Even though the present case differed from *D.H. and Others v. the Czech Republic* (see above) in that it had not been a general policy in both schools to automatically place Roma pupils in separate classes, it was common ground that a number of European States encountered serious difficulties in providing adequate schooling for Roma children. In the instant case, the Court observed that only Roma children had been

placed in the special classes in the schools concerned. The Croatian Government attributed the separation to the pupils' lack of proficiency in Croatian; however, the tests determining their placement in such classes did not focus specifically on language skills, the educational programme subsequently followed did not target language problems and the children's progress was not clearly monitored. The placement of the applicants in Roma-only classes had therefore been unjustified, in **violation of Article 14** (prohibition of discrimination) of the Convention **taken in conjunction with Article 2** (right to education) **of Protocol No. 1** to the Convention.

See also: **Sampanis and Others v. Greece**, judgment of 5 June 2008; **Horvàth and Vadàzi v. Hungary**, decision on the admissibility of 9 November 2010; **Sampani and Others v. Greece**, judgment of 11 December 2012; **Horváth et Kiss c. Hongrie**, judgment of 29 January 2013; **Lavida and Others v. Greece**, judgment of 28 May 2013; and the factsheet on **"Roma and Travellers"**.

Use of languages in education

Case "relating to certain aspects of the laws on the use of languages in education in Belgium" v. Belgium (Belgian Linguistic Case)

23 July 1968

The applicants, parents of more than 800 Francophone children, living in certain (mostly Dutch-speaking) parts of Belgium, complained that their children were denied access to an education in French.

The Court found that, denying certain children access to the French-language schools with a special status in the six communes on the outskirts of Brussels because their parents lived outside those communes was in **violation of Article 14** (prohibition of discrimination) of the Convention **taken in conjunction with Article 2** (right to education) of Protocol No. 1 to the Convention. However, the Court also held that the Convention did not guarantee a child the right to state or state-subsidised education in the language of her/his parents.

Protection of property (Article 1 of Protocol No. 1 to the Convention)

S.L. and J.L. v. Croatia (no. 13712/11)

7 May 2015

This case concerned a deal to swap a seaside villa for a less valuable flat. The Social Welfare Centre had to give its consent to the deal as the owners of the villa – the two applicants – were minors. The Social Welfare Centre agreed to the proposed swap without rigorously examining the particular circumstances of the case or the family. The lawyer acting on behalf of the children's parents also happened to be the son-in-law of the original owner of the flat. The subsequent efforts by the girls and the second applicant's father – both girls' legal guardian – to challenge the legality of the deal in court was rejected as they had not challenged the decision during the administrative proceedings even though at the time the girls had been minors, the second applicant's father had been in detention, the mother was a drug-addict with financial difficulties, and their lawyer had a conflict of interests. Before the Court, the applicants complained that the Croatian State, through the Social Welfare Centre, had failed to properly protect their interests as the owners of a villa which was of significantly greater value than the flat they had been given in exchange.

The central question in this case was whether the State took the best interests of the children into account in accepting the property swap. As minors their interests were supposed to be safeguarded by the State, in particular through the Social Welfare Centre and it was incumbent on the civil courts to examine the allegations concerning the swap agreement which raised the issue of compliance with the constitutional obligation of the State to protect children. The Court held that in the applicants' case there had been a

violation of Article 1 (protection of property) **of Protocol 1** to the Convention, finding that the domestic authorities had failed to take the necessary measures to safeguard the proprietary interests of the children in the real estate swap agreement or to give them a reasonable opportunity to effectively challenge the agreement.

Right to education (Article 2 of Protocol No. 1 to the Convention)

Timishev v. Russia

13 December 2005

The applicant's children, aged seven and nine, were excluded from a school they had attended for two years because their father, a Chechen, was not registered as a resident of the city (Nalchik, in the Kabardino-Balkaria Republic of Russia) where they lived and no longer had a migrant's card, which he had been obliged to surrender in exchange for compensation for property he had lost in Chechnya.

The Court observed that the applicant's children had been refused admission to the school which they had attended for the previous two years. The Russian Government had not contested the submission that the true reason for the refusal had been that the applicant had surrendered his migrant's card and had thereby forfeited his registration as a resident in the town of Nalchik. The Government had confirmed however that Russian law did not allow children's right to education to be made conditional on the registration of their parents' residence. The applicant's children were therefore denied the right to education provided for by domestic law. As Russian law did not allow children's access to education to be made conditional on the registration of their parent's place of residence, the Court held that there had been a **violation of Article 2** (right to education) **of Protocol No. 1** to the Convention.

Folgerø and Others v. Norway

29 June 2007 (Grand Chamber)

In 1997 the Norwegian primary school curriculum was changed, with two separate subjects – Christianity and philosophy of life – being replaced by a single subject covering Christianity, religion and philosophy, known as KRL. Members of the Norwegian Humanist Association, the applicants attempted unsuccessfully to have their children entirely exempted from attending KRL. Before the Court, they complained in particular that the authorities' refusal to grant them full exemption prevented them from ensuring that their children received an education in conformity with their religious and philosophical convictions.

The Court held that there had been a **violation of Article 2** (right to education) **of Protocol No. 1** to the Convention. It found in particular that the curriculum of KRL gave preponderant weight to Christianity by stating that the object of primary and lower secondary education was to give pupils a Christian and moral upbringing. The option of having children exempted from certain parts of the curriculum was capable of subjecting the parents concerned to a heavy burden with a risk of undue exposure of their private life, and the potential for conflict was likely to deter them from making such requests. At the same time, the Court pointed out that the intention behind the introduction of the new subject that by teaching Christianity, other religions and philosophies together, it would be possible to ensure an open and inclusive school environment, was in principle consistent with the principles of pluralism and objectivity embodied in Article 2 of Protocol No. 1.

Hasan and Eylem Zengin v. Turkey

9 October 2007

Pointing out that his family followed the Alevist branch of Islam (an unorthodox minority branch of Islam), the applicant in 2001 requested for his daughter to be exempted from attending classes in religious culture and ethics at the State school in Istanbul where she was a pupil. His requests were dismissed, lastly on appeal before the Supreme

Administrative Court. The applicants complained, in particular, of the way in which religious culture and ethics were taught at the State school, namely from a perspective which praised the Sunni interpretation of the Islamic faith and tradition and without providing detailed information about other religions.

The Court held that there had been a **violation of Article 2** (right to education) **of Protocol No. 1** to the Convention. Having examined the Turkish Ministry of Education's guidelines for lessons in religious culture and ethics and school textbooks, it found in particular that the syllabus gave greater priority to knowledge of Islam than to that of other religions and philosophies and provided specific instruction in the major principles of the Muslim faith, including its cultural rites. While it was possible for Christian or Jewish children to be exempted from religious culture and ethics lessons, the lessons were compulsory for Muslim children, including those following the Alevist branch.

Under **Article 46** (binding force and execution of judgments) of the Convention, the Court further concluded that the violation found originated in a problem related to implementation of the syllabus for religious instruction in Turkey and the absence of appropriate methods for ensuring respect for parents' convictions. In consequence, it considered that bringing the Turkish educational system and domestic legislation into conformity with Article 2 of Protocol No. 1 to the Convention would represent an appropriate form of compensation.

Ali v. the United Kingdom

11 January 2011

The applicant was excluded from school during a police investigation into a fire at his school, because he had been in the vicinity at the relevant time. He was offered alternative schooling and, after the criminal proceedings against him were discontinued, his parents were invited to a meeting with the school to discuss his reintegration. They failed to attend and also delayed deciding on whether they wanted him to return to the school. His place was given to another child.

The Court noted that the right to education under the Convention comprised access to an educational institution as well as the right to obtain, in conformity with the rules in each State, official recognition of the studies completed. Any restriction imposed on it had to be foreseeable for those concerned and pursue a legitimate aim. At the same time, the right to education did not necessarily entail the right of access to a particular educational institution and it did not in principle exclude disciplinary measures such as suspension or expulsion in order to comply with internal rules. In the instant case, the Court found that the exclusion of the applicant had not amounted to a denial of the right to education. In particular, it had been the result of an ongoing criminal investigation and as such had pursued a legitimate aim. It had also been done in accordance with the 1998 Act and had thus been foreseeable. In addition, the applicant had only been excluded temporarily, until the termination of the criminal investigation into the fire. His parents had been invited to a meeting with a view to facilitating his reintegration, yet they had not attended. Had they done so, their son's reintegration would have been likely. Further, the applicant had been offered alternative education during the exclusion period, but did not take up the offer. Accordingly, the Court was satisfied that his exclusion had been proportionate to the legitimate aim pursued and had not interfered with his right to education. There had, therefore, been **no violation of Article 2** (right to education) **of Protocol No. 1** to the Convention.

Catan and Others v. the Republic of Moldova and Russia

19 October 2012 (Grand Chamber)

This case concerned the complaint by children and parents from the Moldovan community in Transdniestria about the effects of a language policy adopted in 1992 and 1994 by the separatist regime forbidding the use of the Latin alphabet in schools and the subsequent measures taken to enforce the policy. Those measures included the forcible eviction of pupils and teachers from Moldovan/Romanian-language schools as well as forcing the schools to close down and reopen in different premises.

The Court held that there had been **no violation of Article 2** (right to education) of **Protocol No. 1** to the Convention in respect of ***the Republic of Moldova*** and a **violation of Article 2 of Protocol No. 1** in respect of the ***Russian Federation***. It found in particular that the separatist regime could not survive without Russia's continued military, economic and political support and that the closure of the schools therefore fell within Russia's jurisdiction under the Convention. The Republic of Moldova, on the other hand, had not only refrained from supporting the regime but had made considerable efforts to support the applicants themselves by paying for the rent and refurbishment of the new school premises as well as for all equipment, teachers' salaries and transport costs.

Mansur Yalçın and Others v. Turkey

16 September 2014

In this case, the applicants, who are adherents of the Alevi faith, an unorthodox minority branch of Islam, complained that the content of the compulsory classes in religion and ethics in schools was based on the Sunni understanding of Islam.

The Court held that there had been a **violation of Article 2** (right to education) **of Protocol No. 1** to the Convention with respect to three of the applicants, whose children were at secondary school at the relevant time. It observed in particular that in the field of religious instruction, the Turkish education system was still inadequately equipped to ensure respect for parents' convictions.

Under **Article 46** (binding force and execution of judgments) of the Convention, observing that the violation of Article 2 of Protocol No. 1 found had arisen out of a structural problem already identified in the case of *Hasan and Eylem Zengin* (see above), the Court held that Turkey was to implement appropriate measures to remedy the situation without delay, in particular by introducing a system whereby pupils could be exempted from religion and ethics classes without their parents having to disclose their own religious or philosophical convictions.

Memlika v. Greece

6 October 2015

This case concerned the exclusion of children aged 7 and 11 from school after they were wrongly diagnosed with leprosy. The applicants – the two children in question and their parents – alleged in particular that the exclusion of the children from school had infringed their right to education.

The Court held that there had been a **violation of Article 2** (right to education) **of Protocol No. 1** to the Convention. It accepted that the children's exclusion from school had pursued the legitimate aim of preventing any risk of contamination. Nevertheless, it considered that the delay in setting up the panel responsible for deciding on the children's return to school had not been proportionate to the legitimate aim pursued. As the children had been prevented from attending classes for over three months, the Court therefore found that their exclusion had breached their right to education.

C.P. v. the United Kingdom (no. 300/11)

6 September 2016 (decision on the admissibility)

The applicant, a minor, complained that his temporary exclusion from school from 7 February 2007 to 20 April 2007 had breached his right to education.

The Court declared the application **inadmissible** pursuant to Article 35 (admissibility criteria) of the Convention, finding that, in the circumstances of the case, the applicant could not be said to have suffered a significant disadvantage in the sense of important adverse consequences.

Texts and documents

See in particular:

- **Handbook on European law relating to the rights of the child**, European Union Agency for Fundamental Rights and Council of Europe, June 2015
- Internet site of the Council of Europe programme for the promotion of Children's Rights and the protection of Children from violence: **"Building a Europe for and with Children"**

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