March 2017
This factsheet does not bind the Court and is not exhaustive

Protection of minors

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

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

Corporal punishment

Tyrer v. the United Kingdom

25 April 1978

In the Isle of Man, a 15-year-old boy was subjected to judicial corporal punishment for assault causing actual bodily harm of a senior pupil at his school. He was required to take off his trousers and underpants and bend over a table. He was then held down by two police officers while a third police officer struck him three times with a birch.

The European Court of Human Rights considered such punishment to be "institutionalised violence", in **violation of Article 3** (prohibition of inhuman or degrading treatment or punishment) of the European Convention on Human Rights.

A. v. the United Kingdom (application no. 25599/94)

23 September 1998

A supposedly "difficult" nine-year-old was caned several times and with considerable force by his step-father, causing bruising and suffering. His step-father was tried for assault causing actual bodily harm, but acquitted, as English law at the time allowed for a defence of "reasonable punishment".

The Court considered that children and other vulnerable individuals in particular were entitled to protection, in the form of effective deterrence, from such forms of ill-treatment. It found a **violation of Article 3** (prohibition of inhuman or degrading treatment or punishment) of the Convention, as English law did not adequately protect the boy.

Covert filming of minors

Söderman v. Sweden

12 November 2013 (Grand Chamber)

The case concerned the attempted covert filming of a 14-year old girl by her stepfather while she was naked, and her complaint that the Swedish legal system, which at the time did not prohibit filming without someone's consent, had not protected her against the violation of her personal integrity.

The Court held that there had been a **violation of Article 8** (right to respect for private life) of the Convention. It found in particular that Swedish law in force at the time had not ensured protection of the applicant's right to respect for private life – whether by providing a criminal or a civil remedy – in a manner that complied with the Convention. The act committed by her stepfather had violated her integrity and had been aggravated

by the fact that she was a minor, that the incident took place in her home, and that the offender was a person whom she was entitled and expected to trust.

Domestic violence / abuse

Z. and Others v. the United Kingdom (no. 29392/95)

10 May 2001 (Grand Chamber)

Four very young children/babies were only taken into care four-and-a-half years after concerns about their family were reported to social services. The children were subjected to appalling long-term neglect and emotional abuse by their parents during that time and suffered physical and psychological injury. They were variously found, for example, locked in their rooms smearing excrement on the walls and stealing food from bins.

The Court found that the system in place had failed to protect the children and that there had been no effective remedy, in **violation of Articles 3** (prohibition of inhuman or degrading treatment) **and 13** (right to an effective remedy) of the Convention.

E. and Others v. the United Kingdom (no. 33218/96)

26 November 2002

Three sisters and their brother were for many years abused physically (all four children) and sexually (the girls) by their mother's boyfriend, including after his conviction for assaulting two of the girls, when he came back to live with the family, in breach of his probation conditions. The man forced the children, among other things, to hit each other with chains and whips in front of and sometimes with him. The girls all suffered severe post-traumatic stress disorder and the boy had personality problems as a result.

The Court found that social services had failed to protect the children, in **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, and that there had been no effective remedy, in **violation of Article 13** (right to an effective remedy) of the Convention.

Kontrovà v. Slovakia

31 May 2007

On 2 November 2002 the applicant lodged a criminal complaint against her husband, accusing him of having assaulted and beaten her with an electric cable. She subsequently returned to the police station with her husband to withdraw the complaint, and the police cooperated. On 31 December 2002 the husband killed their daughter and son, born in 1997 and 2001 respectively.

The Court found a **violation of Article 2** (right to life) of the Convention, because of the authorities' failure to protect the children's lives, and a **violation of Article 13** (right to an effective remedy) of the Convention, because the mother had been denied the possibility of seeking compensation.

Juppala v. Finlande

2 December 2008

This case concerned a grandmother's conviction for defamation of her son-in-law after she had taken her three-year-old grandson to a doctor and voiced a suspicion that he might have been hit by his father.

The Court found a **violation of Article 10** (freedom of expression) of the Convention. In its view, people should be free to voice a suspicion of child abuse, formed in good faith, in the context of an appropriate reporting procedure without fear of a criminal conviction or an obligation to pay compensation for harm suffered or costs incurred. There had been no suggestion that the applicant had acted recklessly: on the contrary, even a health care professional had decided that the case should be reported to the child welfare authorities. In sum, it was only in exceptional cases that restriction of the right to freedom of expression in this sphere could be accepted as necessary in a democratic society. In the applicant's case, sufficient reasons for the interference with her right to

freedom of expression had not been provided and the interference had therefore failed to answer any "pressing social need".

E.S. and Others v. Slovakia (no. 8227/04)

15 September 2009

In 2001 the applicant left her husband and lodged a criminal complaint against him for ill-treating her and her children (born in 1986, 1988 and 1989) and sexually abusing one of their daughters. He was convicted of violence and sexual abuse two years later. Her request for her husband to be ordered to leave their home was dismissed, however; the court finding that it did not have the power to restrict her husband's access to the property (she could only end the tenancy when divorced). The applicant and her children were therefore forced to move away from their friends and family and two of the children had to change schools.

The Court found that Slovakia had failed to provide the applicant and her children with the immediate protection required against her husband's violence, in **violation of Article 3** (prohibition of inhuman or degrading treatment) **and Article 8** (right to private and family life) of the Convention.

M. and M. v. Croatia (no. 10161/13)

3 September 2015

This case concerned a custody dispute, including allegations of child abuse by the father. The applicants, the child and her mother, complained in particular that the Croatian authorities had failed to remove the child from the father's care and to thus prevent further domestic abuse.

The Court held that there had been **a violation of Article 3** (prohibition of inhuman and degrading treatment) of the Convention as concerned the State's failure to investigate promptly the allegations of ill-treatment brought by the mother and child, and that there had been **no violation of Article 3** as concerned the child and the State's duty to protect her from further ill-treatment. It further found that there had been **no violation of Article 8** (right to private and family life) of the Convention as concerned the mother and the State's duty to protect her daughter from further ill-treatment, and that there had been **two violations of Article 8** on account of the excessive length of the custody proceedings in respect of both mother and daughter and on account of the daughter's lack of involvement in the custody decision-making process. The Court noted in particular substantial delays in both the criminal proceedings brought against the father as well as in the custody proceedings, both still pending after more than four years without the child ever having been interviewed in either set of proceedings. The Court was particularly struck by the fact that the child, now 13 and a half, has still not yet been heard in the custody proceedings and has thus not been given the chance to express her view before the courts about which parent she wants to live with. The protracted nature of those proceedings has exacerbated the plight of a traumatised child who, if for nothing else than her parents' conflicting relationship, has suffered great mental anguish, culminating in self-injuring behaviour.

Talpis v. Italy

2 March 2017[1]

This case concerned the conjugal violence suffered by the applicant, which resulted in the murder of her son and her own attempted murder.

The Court held that there had been a **violation of Article 2** (right to life) of the Convention on account of the murder of the applicant's son and her own attempted murder. It found, in particular, that by failing to take prompt action on the complaint lodged by the applicant, the Italian authorities had deprived that complaint of any effect, creating a situation of impunity conducive to the recurrence of the acts of violence, which had then led to the attempted murder of the applicant and the death of her son.

[1]. This judgment will become final in the circumstances set out in Article 44 § 2 (final judgments) of the European Convention on Human Rights.

The authorities had therefore failed in their obligation to protect the lives of the persons concerned. The Court also held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention on account of the failure of the authorities in their obligation to protect the applicant against acts of domestic violence. In this respect, it noted in particular that the applicant had lived with her children in a climate of violence serious enough to qualify as ill-treatment, and that the manner in which the authorities had conducted the criminal proceedings pointed to judicial passivity, which was incompatible with Article 3. Lastly, the Court held that there had been a **violation of Article 14** (prohibition of discrimination) of the Convention **in conjunction with Articles 2 and 3**, finding that the applicant had been the victim of discrimination as a woman on account of the inaction of the authorities, which had underestimated the violence in question and thus essentially endorsed it.

Exclusion from an official witness protection programme

R.R. and Others v. Hungary (no. 19400/11)

4 December 2012

The case concerned the exclusion of a family (a Serbian national living in Hungary, his common-law, a Hungarian national, and their three minor children) from an official witness protection programme on the ground that the father, in prison, had remained in contact with criminal groups. The family alleged in particular that their exclusion from the witness programme had put their lives at risk from mafia retribution.

The Court held that there had been a **violation of Article 2** (right to life) of the Convention as regards the children and their mother. It found that the applicants had been excluded from the programme in which they had initially been enrolled without the Hungarian Government having shown that the risks had ceased to exist and without having taken the necessary measures to protect their lives. The Court concluded that the Hungarian authorities had potentially exposed the children and their mother to life-threatening vengeance from criminal circles. It further held **under Article 46** (binding force and execution) that adequate measures had to be taken to protect the family, including proper cover identities if necessary.

Minors in care

Scozzari and Giunta v. Italy

13 July 2000 (Grand Chamber)

In September 1997 the applicants' two sons/grandsons, born in 1987 and 1994, were placed by court order in the "Il Forteto" children's home, where – as the national court was aware – two of the principal leaders and co-founders had been convicted of sexual abuse of three handicapped people in their care. Prior to his placement in the home, the eldest boy had been a victim of sexual abuse by a paedophile social worker.

The Court held, notably, that there had been a **violation of Article 8** (right to respect for family life) of the Convention, concerning the uninterrupted placement of the boys in "Il Forteto". It noted in particular that the absence of any time-limit on the care order, the negative influence of the people responsible for the children at "Il Forteto", coupled with the attitude and conduct of social services, were in the process of driving the first applicant's children towards an irreversible separation from their mother and long-term integration within "Il Forteto".

Nencheva and Others v. Bulgaria

18 June 2013

Fifteen children and young adults died between December 1996 and March 1997 in a home for physically and mentally disabled young people in the village of Dzhurkovo, from the effects of cold and shortages of food, medicines and basic necessities. The manager of the home, observing the problems, had tried without success on several

occasions to alert all the public institutions which had direct responsibility for funding the home and which could have been expected to act.
The Court found a **violation of Article 2** (right to life) of the Convention in that the authorities had failed in their duty to protect the lives of the vulnerable children placed in their care from a serious and immediate threat. The authorities had also failed to conduct an effective official investigation into the deaths, occurring in highly exceptional circumstances.

Mistreatment by teachers

V.K. v. Russia (no. 68059/13)

7 March 2017[2]

This case concerned the mistreatment of a four year old boy by teachers at his public nursery school which resulted in him developing a neurological disorder. The applicant claimed in particular that his teachers: had forcibly given him antibiotic eyedrops without a medical prescription or his parents' consent; had locked him in the dark in the toilets, telling him that he would be eaten by rats; had forced him to stand in the nursery lobby in his underwear with his arms up for prolonged periods; and, on one occasion, had sellotaped his mouth shut. He also alleged that the ensuing investigation into his allegations had been ineffective.
The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention as regards both the young boy's ill-treatment by his teachers and the authorities' failure to effectively investigate his allegations. It observed in particular that the applicant's account of the abuse had been detailed, consistent and corroborated by an assistant teacher, certain parents of other pupils at the school and a report by a panel of experts. It further found that the abuse had been sufficiently serious to be considered inhuman and degrading. The Court bore in mind the applicant's extremely young age at the time, the type of punishments he had been subjected to over a period of at least several weeks, the fact that those punishments, by teachers who were in a position of authority and control over him, had been aimed at educating him by humiliating and debasing him, and the long-lasting consequences for him in the form of a post-traumatic neurological disorder. Furthermore, the Court noted, that ill-treatment had occurred while the applicant had been in the exclusive custody of a public nursery school which, under State regulation and supervision, fulfilled the public service of general interest of caring for and educating young children. Consequently, the State bore direct responsibility for the teachers' abuse of the applicant. Lastly, a three-year delay in opening a criminal investigation into the applicant's allegations of ill-treatment had had a significant adverse impact on the investigation's effectiveness, the most serious consequence of which had been that the prosecution of the teachers had become time-barred.

Protection from being targeted by paedophiles via the Internet

K.U. v. Finland (no. 2872/02)

2 December 2008

In March 1999 an advertisement was posted on an Internet dating site in the name of a 12-year-old boy, with a link to the boy's web page, stating that he was looking for an intimate relationship with a boy of his age or older "to show him the way". The boy only found out about the ad when he received an e-mail from an interested man. The service provider refused to identify the person responsible, claiming it would constitute a breach of confidentiality. The Finnish courts held that the service provider could not be legally obliged to disclose the information in question.

[2]. This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention.

The Court held that there had been a **violation of Article 8** (right to respect for private and family life) of the Convention. It considered that posting the ad was a criminal act which made a minor a target for paedophiles. The legislature should have provided a framework for reconciling the confidentiality of Internet services with the prevention of disorder or crime and the protection of the rights and freedoms of others, and in particular children and other vulnerable individuals.

Regulation of marriage

Z. H. and R. H. v. Switzerland (no. 60119/12)

8 December 2015

The applicants, who had had a religious marriage in Iran at the ages of 14 and 18, had complained of the refusal by the Swiss authorities to recognise their marriage as valid and to take it into account for their asylum application.

The Court held that there had been **no violation of Article 8** (right to respect for private and family life) of the Convention, finding in particular that the Convention could not be interpreted as requiring a State to recognise a marriage entered into by a child of 14.

Servitude and forced or compulsory labour[3]

Siliadin v. France

26 July 2005

The applicant, a Togolese national having arrived in France in 1994 with the intention to study, was made to work instead as a domestic servant in a private household in Paris. Her passport confiscated, she worked without pay, 15 hours a day, without a day off, for several years. The applicant complained about having been a domestic slave.

The Court found that the applicant had not been enslaved because her employers, although exercising control over her, had not had "a genuine right of legal ownership over her reducing her to the status of an "object". It held, however, that the criminal law in force at the time had not protected her sufficiently, and that although the law had been changed subsequently, it had not been applicable to her situation. The Court concluded that the applicant had been held in servitude, in **violation of Article 4** (prohibition of slavery, servitude, forced or compulsory labour) of the Convention.

C.N. and V. v. France (application no. 67724/09)

11 October 2012

The case concerned allegations of servitude or forced or compulsory labour (unremunerated domestic chores in their aunt and uncle's home) by two orphaned Burundi sisters aged 16 and ten years.

The Court held that there had been a **violation of Article 4** (prohibition of slavery and forced labour) of the Convention under its substantive limb, in respect of the first applicant, as the State had not put in place a legislative and administrative framework making it possible to fight effectively against servitude and forced labour. It further found that there had been **no violation of Article 4** under its procedural limb in respect of the first applicant, with regard to the State's obligation to conduct an effective investigation into instances of servitude and forced labour. It lastly found that there had been **no violation of Article 4** in respect of the second applicant.

The Court concluded, in particular, that the first applicant had been subjected to forced or compulsory labour, as she had had to perform, under threat of being returned to Burundi, activities that would have been described as work if performed by a remunerated professional – "forced labour" was to be distinguished from activities related to mutual family assistance or cohabitation, particular regard being had to the

[3] See also the factsheet on "Slavery, servitude and forced labour".

nature and volume of the activity in question. The Court also considered that the first applicant had been held in servitude, since she had felt that her situation was unchanging and unlikely to alter. Finally, the Court found that France had failed to meet its obligations under Article 4 of the Convention to combat forced labour.

Sexual abuse

X and Y v. the Netherlands (no. 8978/80)

26 March 1985

A girl with a mental handicap (the second applicant) was raped, in the home for children with mental disabilities where she lived, the day after her sixteenth birthday (which was the age of consent for sexual intercourse in the Netherlands) by a relative of the person in charge. She was traumatised by the experience but deemed unfit to sign an official complaint given her low mental age. Her father (the first applicant) signed in her place, but proceedings were not brought against the perpetrator because the girl had to make the complaint herself. The domestic courts recognised that there was a gap in the law.

The Court recalled that although the object of Article 8 (right to respect for private and family life) of the Convention is essentially that of protecting the individual against arbitrary interference by the public authorities, it does not merely compel the State to abstain from such interference: in addition to this primarily negative undertaking, there may be positive obligations inherent in an effective respect for private or family life. In the present case, the Court found that the protection afforded by the civil law in the case of wrongdoing of the kind inflicted on the second applicant was insufficient. This was a case where fundamental values and essential aspects of private life were at stake. Effective deterrence was indispensable in this area and it could be achieved only by criminal-law provisions. Observing that the Dutch Criminal Code had not provided her with practical and effective protection, the Court therefore concluded, taking account of the nature of the wrongdoing in question, that the second applicant had been the victim of a **violation of Article 8** of the Convention.

D.P. and J.C. v. the United Kingdom (no. 38719/97)

10 October 2002

A sister and brother were both sexually abused by their step-father from the age of around eight and ten respectively. They claimed they informed the local authority social services of the abuse, but that the authorities failed to protect them. The girl also attempted to commit suicide after being raped by her stepfather. She developed a personality disorder and the boy later suffered from epilepsy. Both experienced long-term depression and trauma.

The Court found in particular that there had been no effective remedy or access to compensation available to the children concerning their allegations, in **violation of Article 13** (right to an effective remedy) of the Convention.

E. and Others v. the United Kingdom (no. 33218/96)

26 November 2002

See above, under "Domestic violence / abuse".

M.C. v. Bulgaria (no. 39272/98)

4 December 2003

The applicant, aged 14 (which was the age of consent for sexual intercourse in Bulgaria), was raped by two men; she cried during and after being raped and was later taken to hospital by her mother, where it was found that her hymen had been torn. Because it could not be established that she had resisted or called for help, the perpetrators were not prosecuted.

The Court found a **violation of Article 3** (prohibition of degrading treatment) **and Article 8** (right to respect for private life) of the Convention, noting in particular the universal trend towards recognising lack of consent as the essential element in

determining rape and sexual abuse. Victims of sexual abuse, especially young girls, often failed to resist for psychological reasons (either submitting passively or dissociating themselves from the rape) or for fear of further violence. Stressing that States had an obligation to prosecute any non-consensual sexual act, even where the victim had not resisted physically, the Court found both the investigation in the case and Bulgaria law to be defective.

E.S. and Others v. Slovakia (no. 8227/04)

15 September 2009

See above, under "Domestic violence / abuse".

P.M. v. Bulgaria (no. 49669/07)

24 January 2012

This case concerned the applicant's complaint that, raped at the age of thirteen, the Bulgarian authorities took more than fifteen years to complete the ensuing investigation and she had no remedies against their reluctance to prosecute her aggressors.

The Court, finding that the investigation into the applicant's rape complaint had been ineffective, even though the facts of the case and the identity of the offenders had been established, held that there had been a **violation of Article 3** (prohibition of inhuman and degrading treatment) of the Convention under its procedural limb.

C.A.S. and C.S. v. Romania (no. 26692/05)

20 March 2012

This case concerned a seven-year-old and his father's complaint that it had taken the authorities five years to investigate the first applicant's repeated rape by a man, eventually acquitted, who had forced his way into the family flat when the boy had come home alone from school in a period from January to April 1998.

The Court, finding that the authorities had failed to carry out an effective investigation into the allegations of violent sexual abuse of the first applicant and to ensure adequate protection of his private and family life, held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) **and of Article 8** (right to respect for private and family life) of the Convention. In this judgment, the Court clearly recognised that States had an obligation under Articles 3 and 8 of the Convention to ensure the effective criminal investigation of cases involving violence against children. It, moreover, specifically referred to the international obligations Romania had undertaken for the protection of children against any form of abuse[4], including helping recovery and social reintegration of victims, and particularly regretted that the first applicant had never been provided with counselling or been accompanied by a qualified psychologist during the proceedings concerning his rape or afterwards.

R.I.P. and D.L.P. v. Romania (no. 27782/10)

10 May 2012

The applicants, a brother and sister, complained about the lack of an effective investigation into the accusation of rape made by their mother against their paternal grandfather in 2004, when the girl was seven years old and her brother three and, in particular, about the length of the investigation, which was still pending in 2011, in spite of evidence confirming the allegation of sexual aggression.

The Court held that there had been a **violation of** the respondent State's positive obligations under the procedural limb of **Article 3** (prohibition of inhuman or degrading treatment) of the Convention.

I.G. v. the Republic of Moldova (no. 53519/07)

15 May 2012

The applicant alleged that, at the age of fourteen, she had been raped by an acquaintance (a twenty-three-year-old man who lived in the same neighbourhood as the

[4] In 1990 Romania ratified the United Nations Convention on the Rights of the Child and in 2001 the Council of Europe's Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

applicant's grandmother, whom she visited often). She complained in particular that the authorities had not investigated her allegations effectively.
The Court held that the investigation of the applicant's case had fallen short of the requirements inherent in the State's positive obligations to effectively investigate and punish all forms of rape and sexual abuse, in **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention.

P. and S. v. Poland (no. 57375/08)

30 October 2012
The applicants were a daughter and her mother. In 2008, at the age of fourteen, the first applicant became pregnant after being raped. The applicants complained in particular about the absence of a comprehensive legal framework guaranteeing the first applicant's timely and unhindered access to abortion under the conditions set out by the applicable laws, and about the disclosure of information about the case to the public. They further complained that the first applicant's removal from the custody of her mother and placement in a juvenile shelter and later in a hospital had been unlawful, and submitted that the circumstances of the case had amounted to an inhuman or degrading treatment.
The Court held that there been a **violation of Article 8** (right to respect for private and family life) of the Convention, as regards the determination of access to lawful abortion, in respect of both applicants, and as regards the disclosure of the applicants' personal data. It further held that there had been a **violation of Article 5 § 1** (right to liberty and security) of the Convention, finding in particular that the essential purpose of the first applicant's placement in the juvenile shelter had been to separate her from her parents and to prevent the abortion. Lastly, the first applicant had been treated by the authorities in a deplorable manner and her suffering had reached the minimum threshold of severity under **Article 3** (prohibition of inhuman treatment) of the Convention, in **violation** of that provision.

O'Keeffe v. Ireland

28 January 2014 (Grand Chamber)
The case concerned the question of the responsibility of the State for the sexual abuse of a schoolgirl, aged nine, by a lay teacher in an Irish National School in 1973. The applicant complained in particular that the Irish State had failed both to structure the primary education system so as to protect her from abuse as well as to investigate or provide an appropriate judicial response to her ill-treatment. She also claimed that she had not been able to obtain recognition of, and compensation for, the State's failure to protect her.
The Court held that there had been a **violation of Article 3** (prohibition of inhuman and degrading treatment) and of **Article 13** (right to an effective remedy) of the Convention concerning the Irish State's failure to protect the applicant from sexual abuse and her inability to obtain recognition at national level of that failure. It further held that there had been **no violation of Article 3** of the Convention as regards the investigation into the complaints of sexual abuse at the applicant's school.
The Court found in particular that it was an inherent obligation of a Government to protect children from ill-treatment, especially in a primary education context. That obligation had not been met when the Irish State, which had to have been aware of the sexual abuse of children by adults prior to the 1970s through, among other things, its prosecution of such crimes at a significant rate, nevertheless continued to entrust the management of the primary education of the vast majority of young Irish children to National Schools, without putting in place any mechanism of effective State control against the risks of such abuse occurring. On the contrary, potential complainants had been directed away from the State authorities and towards the managers (generally the local priest) of the National Schools. Indeed, any system of detection and reporting of abuse which allowed over 400 incidents of abuse to occur in the applicant's school for such a long time had to be considered ineffective.

Manuello and Nevi v. Italy

20 January 2015

Criminal proceedings were instituted against the applicants' son in June 2002, after his almost five-year-old daughter's headmistress had reported him to the police on suspicion of sexually interfering with the child. On 1 August 2002 the child's mother requested a youth court to withdraw parental responsibility from her husband. The applicants have not seen their grand-daughter again since that date. They complained in particular of the excessive length of the proceedings for authorisation to meet with the child and of the failure by social services to enforce the court's decision of February 2006 authorising contact.

The Court held that there had been a **violation** of the applicants' right to respect for their family life under **Article 8** (right to respect for private and family life) of the Convention. It observed in particular that forbidding meetings between the grandparents and their granddaughter, on grounds that the child associated her grandparents with her father and the suffering she had undergone as a result of alleged sexual interference, was a measure that the authorities were entitled to take in cases of maltreatment. However, whilst great care was necessary in situations of this type and measures for the child's protection could involve restricting contact with members of the family, the Court considered that the authorities had not made the necessary efforts to protect the family ties between the grandparents and their granddaughter, who had not seen each other for about twelve years.

M.G.C. v. Romania (no. 61495/11)

15 March 2016

The applicant, 11 years old at the time, alleged that she had been raped between August 2008 and February 2009 at a neighbouring family's house where she often went to play with two girls of the same age. In her application she maintained in particular that Romanian law and practice did not provide effective protection of children against rape and sexual abuse. In particular, in Romania the crime of rape requires a lack of consent on the victim's part, which was impossible for her to prove because there were no signs of violence on her body. Furthermore, the authorities, ignoring the results of her psychiatric examination, had refused to take into consideration that her young age and vulnerability had been factors contributing to her attitude towards the abuse.

In this case the Court held that there had been a **violation of** Romania's **positive obligations under** both **Articles 3** (prohibition of inhuman or degrading treatment) **and 8** (right to respect for private and family life) of the Convention.

I.C. v. Romania (no. 36934/08)

24 May 2016

This case concerned the applicant's alleged rape when she was fourteen years old and the ensuing investigation. The applicant complained that, there having been no physical evidence of assault, the criminal justice system in Romania had been more inclined to believe the men involved in the abuse, rather than her. Furthermore, the authorities, refusing to take into consideration her young age and physical/psychological vulnerability, had shown no concern for the need to protect her as a minor.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman and degrading treatment) of the Convention, finding that the investigation of the case had been deficient, notably on account of the Romanian State's failure to effectively apply the criminal-law system for punishing all forms of rape and sexual abuse. The Court considered in particular that the Romanian authorities had put undue emphasis on the lack of proof that the applicant had shown resistance during the incident, basing their conclusions only on the statements given by the alleged rapists in which they claimed that the girl had consented to having sexual intercourse, taken together with the fact that her body had shown no signs of violence. Furthermore, neither the prosecutors nor the judges deciding on the case had taken a context-sensitive approach, failing to take into account her young age, her slight intellectual disability and the fact that the alleged

rape, involving three men, had taken place at night in cold weather – all factors which had heightened her vulnerability. Indeed, particular attention should have been focused on analysing the validity of the applicant's consent to the sexual acts in the light of her slight intellectual disability. In that context, the nature of the alleged sexual abuse against the applicant had been such that the existence of useful detection and reporting mechanisms had been fundamental to the effective implementation of the relevant criminal laws and to her access to appropriate remedies.

G.U. v. Turkey (no. 16143/10)

18 October 2016

The case concerned a complaint by a young woman (G.U.), a minor at the relevant time, alleging that she had been raped and sexually assaulted by her step-father (M.S.), then aged 62. The applicant complained in particular of the lack of an effective procedure. She also alleged that she had been the victim of a crime that had remained unpunished, and criticised the facts that she was obliged to give evidence in open court and that the report by the Institute of Forensic Medicine suggested that she might have consented to the acts of which she complained.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment/lack of an effective investigation) **and Article 8** (right to respect for private and family life) of the Convention. Without expressing an opinion on the step-father's guilt, it found in particular that the competent authorities failed to explore the available possibilities for establishing all the surrounding circumstances, and did not taken into consideration the applicant's particular vulnerability and the special psychological factors involved in the rape of minors committed in a family setting.

M.P. v. Finland (no. 36487/12)

15 December 2016[5]

This case concerned the applicant's conviction for defamation for expressing concerns to a social worker that her daughter might have been sexually abused by her (the child's) father. This was the second time the applicant had raised such concerns and came after a police investigation into the allegations had concluded that there was no evidence of any crime.

The Court held that there had been a **violation of Article 10** (freedom of expression) of the Convention. It found in particular that the Finnish authorities had not struck a fair balance between the need to protect the applicant's daughter against the risk of potentially serious harm and the need to protect the father against being wrongly suspected of child abuse. Indeed, it had been disproportionate to pursue criminal charges against the applicant and convict her of defamation in the context of her case, namely a confidential telephone conversation between her and a social worker.

Violence in school premises

Kayak v. Turkey

10 July 2012

This case concerned the murder of the applicants' 15-year-old son and brother, who had been stabbed in front of a school by a pupil. The applicants alleged in particular that the boy had died as a result of negligence on the part of the school administration, and they also complained about the length of the administrative compensation proceedings.

The Court reiterated in this case that school authorities had an essential role to play in the protection of the health and well-being of pupils – having regard to their particular vulnerability due to their age – and a primary duty to protect them against any form of violence to which they might be subjected while placed under the school's supervision. Whilst the teaching staff could not be expected to watch each pupil all the time, movements inside and outside the school required heightened surveillance. In the

[5]. This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention.

instant case, the Court noted in particular that the school's administration had unsuccessfully reported security issues to the competent authorities, even calling for police assistance. It held that there had been a **violation of Article 2** (right to life) of the Convention, finding that, in the circumstances of the case, the Turkish authorities had failed in their duty to ensure supervision of the school's premises. The Court further held that there had been a **violation of Article 6 § 1** (right to a fair hearing within a reasonable time) of the Convention, on account of the excessive length of the compensation proceedings which had lasted for five years and three months.

Further readings

See in particular:

- 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"**.

Media Contact:
Tel.: +33 (0)3 90 21 42 08