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Child Protection

Corporal punishment

Tyrer v. United Kingdom (application no. 5856/72)

25.4.1978

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. [Measures](#) taken following the judgment.

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

23.9.1998

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, as English law did not adequately protect the boy. [Measures](#) taken following the judgment.

Following these and a series of other judgments and decisions, corporal punishment was banned in all United Kingdom schools.

Internet

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

2.12.2008

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.

The Court considered that posting the ad was a criminal act which made a minor a target for paedophiles. The Finnish State had failed in its duty to put in place a system to protect children and other vulnerable individuals in such circumstances, in violation of Article 8. (A legal framework had been introduced by the time of the Court's judgment under the Exercise of Freedom of Expression in Mass Media Act.).

Child care

Scozzari and Giunta v. Italy (nos 39221/98 & 41963/98)

13.7.2000

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 found that the two leaders played a "very active role" in the care of the two children and that there had been a violation of Article 8 (right to respect for private and family life) of the Convention, concerning, among other things, the uninterrupted placement of the boys in "Il Forteto". Measures taken following the judgment.

PENDING CASES

Nencheva and Others v. Bulgaria (no. 48609/06)

Communicated 08.09.2009

Center for Legal Resources on behalf of Valentin Campeanu (no. 47848/08)

Communicated 07.06.2011

Domestic violence – abuse

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

10.5.2001

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 failed to protect the children and that there was no effective remedy, in violation of Articles 3 and 13 (right to an effective remedy). Measures taken following the judgment.

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

10.10.2002

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 there was no effective remedy or access to compensation available to the children concerning their allegations, in violation of Article 13. Measures taken following the judgment.

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

26.11.2002

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 failed to protect the children, in violation of Article 3, and that there was no effective remedy, in violation of Article 13. [Measures](#) taken following the judgment.

Siliadin v. France (no. 73316/01)

26.7.2005

A 15-year-old Togolese girl was made to work as a slave; she had her passport removed and was forced to work 15-hour days doing housework and childcare without pay or holidays.

The Court found that French criminal law did not provide the girl with sufficiently specific or effective protection, in violation of Article 4 (prohibition of servitude). [Measures](#) taken following the judgment.

Kontrovà v. Slovakia (no. 7510/04)

31.5.2007

On 2 November 2002 the applicant filed a criminal complaint against her husband for assaulting her and beating her with an electric cable. The police later assisted her in withdrawing her complaint when she returned to the police station accompanied by her husband. On 31 December 2002 her husband shot dead their daughter and son, born in 1997 and 2001.

The Court found a violation of Article 2 (right to life) concerning the authorities' failure to protect the children's lives and Article 13 concerning the impossibility for their mother to obtain compensation. [Measures](#) taken following the judgment.

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

15.9.2009

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 Articles 3 and 8. [Measures](#) taken following the judgment.

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

20.3.2012

The case concerned a seven-year-old's complaint that it had taken the authorities five years to investigate his 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. C.A.S. alleged in particular that the violent sexual abuse to which he had been subjected was of such gravity that it had amounted to torture, and that the proceedings had been slanted, the domestic courts having blamed his parents, and to a certain extent him, for not reacting sooner. Both applicants further complained that their family life had been destroyed and that they had been forced to leave the town in which they lived to rebuild a normal life.

The Court found a violation of Article 3 (prohibition of inhuman or degrading treatment and effective investigation) and of Article 8 (right to respect for private and family life and the home). In this judgment, the European Court clearly recognised that States had an obligation under Articles 3 and 8 to ensure the effective criminal investigation of cases involving violence against children. It, moreover, specifically referred to the international obligations¹ Romania had undertaken for the protection of children against

any form of abuse, including helping recovery and social reintegration of victims, and particularly regretted that C.A.S. had never been provided with counselling or been accompanied by a qualified psychologist during the proceedings concerning his rape or afterwards.

E.S. v. Sweden (no. 5786/08)

21.06.2012

The case concerned a complaint that the Swedish legal system, which does not prohibit filming without someone's consent, had not provided the applicant any protection against her stepfather's violation of her personal integrity by attempting to secretly film her naked when she was 14 years old.

The Court found that, at least in theory, the applicant's stepfather could have been convicted under the Penal Code either for child molestation or for attempted child pornography. In addition, Sweden had adopted a proposal criminalising certain aspects of illicit filming. Therefore, the Swedish system was not deficient to an extent of being incompatible with the Convention requirements.

PENDING CASES

S. H. H. v. Turkey (no. 22930/08)

Communicated 10.02.2010

Matei v. Romania (no. 43994/05)

Communicated 31.03.2010

Ill-treatment by police

Okkali v. Turkey (no. 52067/99)

17.10.2006

A 12-year-old boy was beaten by police officers to induce him to confess to stealing money from his employer (the accusation of theft was subsequently withdrawn). He left the police station staggering and vomiting, with severe bruising (as large as 30x17 cm). A stay of execution was ordered concerning the convictions of the police officers responsible and they were later promoted.

The Court found a violation of Article 3 concerning the impunity of the police officers and the absence of special protection for a minor. The Court regretted that nothing in the proceedings indicated concern for the protection of a minor; there was no reference to the applicant's age as an aggravating factor or to any domestic legislation on the protection of minors. The impunity of those responsible also cast into doubt the dissuasive effect of the judicial system and its capacity to protect anyone. Measures taken following the judgment.

Stoica v. Romania (no. 42722/02)

4.3.2008

A 14-year-old youth claimed he was beaten up by the police because he was of Roma origin. No prosecution was brought and the police were not prosecuted.

The Court found that the applicant's injuries were the result of inhuman and degrading treatment, that there had been no proper investigation and that the police officers' behaviour had clearly been motivated by racism, in violation of Articles 3 and 14. Measures taken following the judgment.

¹ 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.

Darraj v. France (34588/07)

4.11.2010

A 16-year-old youth was taken to hospital with a fractured testicle, numerous cuts on his face and bruising on his eye, wrist, back and scalp, two hours after being taken to a police station for an identity check, where he was handcuffed, but not charged with any offence. He then needed an emergency operation and was declared unfit for work for 21 days. He claimed he had been hit and kicked in the genitals by police officers; the police officers claimed variously that they had acted in self-defence and that the youth had fractured his testicle by falling on a sink.

The Court noted that the applicant was in a vulnerable position. He had been handcuffed and had sustained a serious injury while in the hands of police officers (at least two and of larger build than himself) who were supposed to protect him. It was also unclear why he had been handcuffed, as he had been calm prior to his arrival at the police station and had never before been in police custody. Although the Court found the subsequent investigation into the events to be adequate, no disciplinary proceedings were taken against those responsible and only minimal fines were imposed. So there was a manifest disproportion between the seriousness of the act and the punishment imposed. There had therefore been a violation of Article 3 (prohibition of inhuman or degrading treatment).

Çiğnerhun Öner v. Turkey (no. 2) (application no. 2858/07)

23.11.2010

A 12-year-old boy was ill-treated by police officers while being held in police custody (not registered), after he refused to give his name in an identity check, leaving him with bruises on his thigh and near his right eye.

The Court found that the boy had been subjected to inhuman and degrading treatment in violation of Article 3 and that there had been no effective punishment of the police officer responsible, in further violation of Article 3.

Children in court

T. v. United Kingdom (no. 24724/94) & V. v. United Kingdom (no. 24888/94)

16.12.1999

Two boys, aged 11, were tried in public over three weeks in an adult court – with extremely high levels of press and public interest – for the murder of a toddler (Jamie Bulger) which they had committed aged 10. They were convicted of murder.

Among other things, the Court found that the boys did not have a fair trial, in violation of Article 6 § 1. A child charged with an offence had to be dealt with in a way which took full account of her/his age, level of maturity and intellectual and emotional capacities. Both boys were suffering from post-traumatic stress disorder following their crime and both found the trial distressing and frightening and were unable to concentrate. The formality and ritual of the Crown Court must have been intimidating and the raised dock in which they had to stand must have increased their discomfort. It was unlikely that they would have felt able to co-operate with their lawyers inside or outside the court room. The Court found no violation of Article 3 either concerning the applicants' age (there was no clear common standard in Europe on the minimum age of criminal responsibility) or the length and public nature of the trial. Measures taken following the judgment.

S.C. v. United Kingdom (no. 60958/00)

15.6.2004

An 11-year-old boy, with a very low intellectual level for his age, was tried in an adult court and sentenced to two-and-a-half year's detention for attempting to steal a bag from a woman aged 87, who fell and fractured her arm.

The Court found a violation of Article 6 § 1, in that the boy was not capable of fully participating in his trial; he did not understand the role of the jury and his need to make a good impression on them or that he risked going to prison; he expected to go home with his foster father. It was essential that a young applicant of limited intellectual ability be tried by a specialist tribunal. Measures taken following the judgment.

Children in detention

Selçuk v. Turkey (no. 21768/02)

10.1.2006

A 16-year-old was held in pre-trial detention for almost four months before being released.

Having particular regard to the fact that the applicant was a minor at the relevant time, the Court found a violation of Article 5 § 3 (right to liberty and security). Measures taken following the judgment.

Mubilanzila Mayeka and Kaniki Mitunga v. Belgium (no. 13178/03)

12.10.2006

Five-year-old Tabitha Kaniki Mitunga, a Congolese national, was detained, after arriving without proper papers at Brussels Airport. She had been due to be collected by her uncle, before joining her mother, a refugee living in Canada. In the absence of more suitable accommodation, she was held in facilities for adult illegal immigrants for nearly two months, unaccompanied by her family and with no-one assigned to her to provide counselling or educational assistance, before being returned to the Democratic Republic of Congo. No-one from her family was there to meet her on arrival in Kinshasa. She finally joined her mother in Canada following the intervention of the Belgian and Canadian Prime Ministers.

The Court found violations of Article 3 and 8 concerning both Tabitha's detention and deportation. Tabitha was in a very vulnerable situation, given her age and status as an illegal foreigner unaccompanied by her family. Both the conditions of her detention and deportation had caused her considerable distress and demonstrated a lack of humanity amounting to inhuman treatment. Despite its obligations to reunite an unaccompanied minor with her family, the Belgian authorities had hindered Tabitha's reunion with her mother. In addition, detaining her had served no purpose as there was no risk of evasion. The authorities had also failed to ensure that Tabitha would be cared for on arriving in Kinshasa. Measures taken following the judgment.

Güveç v. Turkey (no. 70337/01)

20.1.2009

A 15-year-old minor, tried before an adult court and ultimately found guilty of membership of an illegal organisation, was held in pre-trial detention for more than four-and-a-half years in an adult prison, where he did not receive medical care for his psychological problems and made repeated suicide attempts. He had no legal assistance when being questioned by the police, his prosecutor and judge and both he and his lawyer were absent for 14 of the 30 hearings concerning his case.

The Court found that the youth's detention had undoubtedly caused his psychological problems which prompted his suicide attempts. The authorities were directly responsible for his problems and failed to provide adequate medical care. There had been a violation of Article 5 § 3 (length of detention) and of Article 3, given the applicant's age, the length of his detention with adults and the absence of medical care or measures taken to prevent his suicide attempts. He had also been unable to participate in his trial, in violation of various aspects of Article 6. Measures taken following the judgment.

[Ichin and Others v. Ukraine \(no.s 28189/04 & 28192/04\)](#)

21.12.2010

Two boys, aged 13 and 14, were held in a juvenile holding facility for 30 days for stealing food and kitchen appliances from a school canteen, although the boys had already confessed to the theft and returned some of the stolen goods and were under the age of criminal responsibility.

The Court found that the boys had been detained arbitrarily in a place that had failed to provide the "educational supervision" required, in violation of Article 5 § 1 (right to liberty and security).

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