

# INTEGRATING CHILDREN'S RIGHTS INTO FAMILY RELATIONSHIPS: INTERNATIONAL AND REGIONAL LEGAL PERSPECTIVES

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## **Abstract**

*The rights of the child are, for the science of human rights, aspects of major interest that problematize the vulnerability of a social category that is distinguished by insufficient physical and mental development. Given these bio - psycho coordinates-social values of the child, his quality of rights holder should be understood in the context of the relationship with the family - the element able to provide support for the improvement of the human model that the child poses in his development. Accepting these research theses, this paper advances as a scientific objective the analysis of the way in which, under the auspices of the most relevant international / regional legal instruments, two interrelated legal categories interact: children's rights and the family environment. From the observation of the models of correlation of the two legal categories in the international and regional systems of protection of children's rights derive particular models of capitalization of children's rights in society.*

**Keywords:** *children's rights, family environment, best interests of the child, right to privacy and family*

## **Children's rights and family relations in the UN human rights system: necessary connections and interpretations**

Human rights norms reiterate, as a legal leitmotif, the protection of traditional family values in the context in which vulnerable social categories are placed at the center of the discourse - among them, children occupying a primordial place. The international community inserts the connection between the family and the rights of the child in relevant international legal documents given that the child's membership in family coordinates is the fundamental premise for exercising other rights such as the right to identity, the right to survival and development, the right not to be separated from one's parents.

Relevance of the family in exercising the rights of children is highlighted in the preamble to **the UN Convention on the Rights of the Child** [1] which states that *the belief that the family, as the basic unit of society and the natural environment for the growth and welfare of all its members and , in particular, children, should receive protection and the assistance they need to- and can fully assume ts responsibilities within society .*

Representing the international treaty on the rights of the child, the Convention inserts family values at the heart of the civil and political, economic, social and cultural guarantees promoted in order to ensure the exercise of children's rights.

Placing the child in the family environment is important in order to empower all actors properly involved in the process of raising and educating children. To this end, Article 5 of the Convention governs the obligation of States Parties to the Convention to respect and support the fulfilment of the responsibilities of relevant social actors with responsibilities

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for the protection of the rights of the child, regardless of whether the aforementioned responsibilities are imposed on the *child's natural parents, or according to tradition, local members of the extended family or community, legal guardians or other persons who have, by law, children in care, to provide, in a manner appropriate to the capacities evolving child's direction and guidance in the exercise by the child of the rights recognized in this Convention*.

The UN Committee on the Rights of the Child's interpretation of Article 5 of the Convention is broadly expressed, both in terms of the concept of "family" and in relation to the support and well-being of children regardless of age and level of development of them. Although parents are the primary social responsibility for ensuring the care and development of children, the Committee draws attention to the inclusion in the conceptual sphere of the family of all types of social arrangements (from those specific to the nuclear family, to those related to the extended family and traditional or modern communities) provided that they act in accordance with the principle of the best interests of the child. In the same sense, the responsibility of social agents providing care services should be comprehensively understood, by reference to newborns, middle-aged children and adolescents who have not yet reached the age of majority. With regard to newborn children, the UN Committee on the Rights of the Child considers that they are not passive beneficiaries of care but are active social agents who, seeking protection and understanding from parents (as primary caregivers) or other caregivers, need welfare to develop. [ 2 ] The encouraging of the parent-child relationship ensures the premises for the formation of children's personality and, implicitly, leads to the shaping of the right to identity. According to the Committee, the development of children's abilities is based, first and foremost, on the guidance provided by primary caregivers (natural parents or extended family). Cultivating children's inclinations, talents, spirituality are actions based on the learning and maturation processes - which cannot be complete in the absence of the parental role of parents. The latter will take into account the child's decision-making autonomy and maturity so that parental counselling does not acquire authoritative values and is conducive to the exercise of children's right to participate (Article 12 of the Convention) and the right to freedom of thought, conscience and religion (Article 14 of the Convention). [ 3 ]

*The parent-child relationship* is one of the regulatory coordinates of Articles 18 and 27 of the Convention, on the one hand reiterating the physical and spiritual connection of ancestral parent-child origin and, in the alternative, advancing the obligation of States Parties to support primary caregivers in fulfilling the main responsibility (such as promoting the well-being and development of children in accordance with the principle of their best interests). According to the UN Committee on the Rights of the Child, the right of the child to develop relations with both parents is adjacent to the principle of the best interests of the child. Exceptionally, the best interests of the child may differ from the child's need for integration into the natural family if this would have a negative impact on the child's psyche due to neglect, deprivation of affection, exposure to acute emotional stress or situations of nature to disrupt their mental health. [ 4 ]

*The principle of the best interests of the child* governs all aspects of its relationship with the family environment, in this respect, being representative: Article 9 on the right not to be separated from parents; Article 10 on the right to family reunification; Article 18 on parental responsibilities, Article 20 advancing the legal framework on situations where the child may be deprived of the family environment and alternative care; Article 21 laying down the rules

applicable to the adoption of children; Article 37 stipulating the circumstances of separation of children from detained parents, etc. Based on the issues presented, it is clear that the holistic vocation of the Convention is based on the correct application of the principle of the best interests of the child. Although the UN Committee on the Rights of the Child emphasizes that the provisions of the Convention are not subject to hierarchy, all of which are of equal importance in the effective realization of the rights of the child, none of these provisions can be violated by a negative interpretation of the rights of the child. [ 5 ]

Noting the relevance of the principle of the best interests of the child in the implementation of the provisions of the Convention, the Committee analyzed its legal nature, identifying a tripartite approach: (1) *as a substantial right* having the child who can claim to be considered in assessing a complex issue affecting him directly; In conjunction with this right, States Parties to the Convention have a specific obligation which is self-enforcing at the national level and may even be invoked before the courts; (2) *legal principle* on the basis of which the hermeneutics of the provisions of the Convention are realized: if a legal provision is open to multiple interpretations, the one that is in accordance with the best interests of the child will be preferred; (3) *procedural rule* because the justification / motivation of any decisions having an impact on children's rights must be developed in accordance with ensuring the well-being and exercise of their rights. [ 6 ]

The UN Convention on the Rights of the Child sets out a model for regional human rights protection systems with regard to placing the relationship between the rights of the child and the family in a legal context.

The most recent concern of the United Nations in the field of protection of children's rights, manifested against the background of the reconfiguration of social relations in the context of the COVID-19 pandemic, concerns the way in which children are adapted to virtual reality. The right to education of children is directly dependent in its exercise on access to the digital environment. Parents and caregivers must ensure, at the family level, the climate necessary for the access and exercise of the child's right to the virtual environment. Through the General Comment no. 25 [ 7 ] UN Committee on the Rights of the Child has integrated aspects of family relationships on the issue of adapting children to the virtual environment, pointing out that, to ensure the transition of children from the physical to the digital space, parents or carers of children must be initiated in the field. The Committee recognizes the special role of parents and caregivers in guiding children in the acquisition of digital skills, encouraging States Parties to ensure that parents and caregivers have the opportunity to acquire digital literacy themselves, observing ways in which technology can support children's rights. The training of parents and other persons providing care to children must be carried out on two distinct coordinates: (1) familiarizing them with basic skills / knowledge in the field and (2) raising awareness of caregivers to respect the autonomy of children and the protection of personal data, in according to their evolving capabilities. The fundamental principle that should coordinate family relationships is based on understanding the uniqueness and specificity of the parent-child relationship; in turn, this principle must be instrumented in ensuring the child's approach to the digital environment through family members. The guidance provided by the latter to the child will be guided by an appropriate balance between ensuring the protection of the child and encouraging his or her emerging autonomy, based on empathy and mutual respect.

**The relationship between the rights of the child and the family in the legal system of the Council of Europe: counterweight or continuity of the UN system?**

At the Council of Europe level, in order to facilitate the ratification of the UN Convention on the Rights of the Child, **the European Convention on the Exercise of the Rights of the Child** has been drawn up with the aim of protecting their best interests, including by developing procedural measures before judicial authorities. The latter have obligations to facilitate the exercise of children's rights within the procedures applicable to family cases. [ 8 ] According to the Convention, the objective of the regulations contained therein converges towards the promotion of the rights of the child both in substantive (substantive) and procedural matters. Recognizing that promotion is more comprehensive than procedural protection, the Convention reiterates that ensuring the right climate for the exercise of children's rights involves, first and foremost, establishing strong and coherent parent-child relationships and, in the alternative, recourse to family proceedings before judicial authorities administrative and judicial powers. In the scope of family proceedings, the Explanatory Report to the Convention with highlights, by way of example: issues relating to custody, parentage, adoption, guardianship, administration of children's property, elimination or restriction of parental responsibilities, protection against cruel and degrading treatment. [ 9 ]

The procedural dimension of family cases determines the context of application of the right of children to be consulted, to express their opinions and to be informed about situations / decisions that may affect them. Similar to the UN system of protection of the rights of the child, the system of protection established under the European Convention on the Exercise of the Rights of the Child does not establish an order of importance in which the procedural rights of children can be exercised but does not condition their exercise by an expressed request of their holder. According to the Explanatory Report to the Convention, the child's right to information must be exercised even if he or she does not invoke that right in relation to the procedural authorities. However, some circumstances are necessary: states must define the criteria that allow them to assess the degree to which children are able or not to form and express their own opinions for certain situations that directly concern children such as consenting to or prohibiting a planned decision regarding their personal life such as adoption. [ 10 ]

The UN Convention on the Rights of the Child regulates the right to a legal representative as an alternative to the protection of children through parents, while the European Convention on the Exercise of Children's Rights provides for the possibility of appointing a legal representative in favor of the child. In this situation, the appointment of the special representative is the responsibility of the child (insofar as his or her level of maturity ensures the premises of a coherent option) or other competent persons / bodies. In carrying out the proceedings, the obligations of the judicial authorities are subject to compliance with the principle of the best interests of the child and the test of the latter's application is in turn subject to the possibility for the judicial authorities to obtain all relevant information to make a decision in the best interests of the child. Among the sources that can provide representative information to the judicial authorities, the child himself has an important role, being the competence of the judicial authority to decide to what extent it will take into account the child's opinion, corroborated with his degree of maturity.

Aware of the specific context on the protection of children's rights caused by situations of formal separation of parents, the member states of the Council of Europe have agreed to

develop standards for ensuring family relations between divorced parents and children, including in divorce situations. **The Council of Europe Convention on Contact with Children** [1 1 ] sets out 3 levels of interaction between children and their family members from whom they are conjuncturally separated so as to encourage the maintenance of family relationships: (1) level of direct contact (refers to personal contact between the child and his / her parents / other family members); (2) the level of formal contact (by phone, letters, faxes, e-mail); (3) the level of contact made by providing timely information about children to people requesting contact with him (sending recent photos, school reports, medical documents). [1 2 ]

The need for this regulation lies in facilitating personal relationships between family members and children, especially in situations where ensuring contact involves maintaining family relationships with an element of extraneity, always pursuing the best interests of the child. Although in principle the Convention seeks to maintain contact between children and parents, this issue is likely to be extended to persons other than parents, especially if the child has, over time, developed relationships with such a person. Through its regulations, the Convention emphasizes that the issue of maintaining contact between children and other family members involves a complex approach, emphasizing the need for accountability of bodies and authorities involved in the implementation of relevant international legal instruments in the field.

The Convention creates the appropriate regulatory framework for the protection of the rights of the child in the light of the family relationships that the child is likely to develop. By accepting that the child's identity and personality are shaped in accordance with the values arising from interactions with family members, the Convention clarifies the conceptual framework for them, establishing the significance of *family ties*. Extensively interpreting this concept, the Explanatory Report to the Convention emphasizes that these are connections that do not necessarily reflect the genetic situation: family relationships subsist even in the case of a *de facto* cohabitation situation but also in the case of *atypical interactions* (parentage resulting from adoption or reproductive medicine).

From the point of view of the legal nature, the child's right to have family relations with both parents is not an absolute right, as it is subject to restrictions or limitations by virtue of the principle of the best interests of the child. Thus, the principle of the best interests of the child is the indicator against which the need for a restriction or limitation will be assessed; the effective elements for establishing restrictive measures on the right to have family ties consist in the following: there must be no less restrictive solution; any restriction or exclusion must be proportionate; the need for restriction or exclusion will be duly justified. The possibility of restricting or limiting the right to establish family ties is mitigated if we take into account the interaction between parents and children and more rigidly in the hypothesis in which the family relations between the child and other members are evaluated. Assuming the parent-child attachment given the socio- affective connection between them, the justified cases of isolation that are in the best interests of the child are: the parent's lack of interest in the child's situation, physical and / or mental abuse applicable by the parent to the child, etc.

Family life has done on numerous occasions and subject analysis and interpretation *of the European Court of Human Rights* in relation to Article 8 of the **European Convention on Human Rights**. Following this, it was considered that the child's right to respect for family life includes a number of compound rights, such as the child's right to be

cared for by his parents, the right to maintain personal relations with both parents, the right not to be separated from parents unless this is in the best interests of the child, as well as the right to family reunification [13]. The ECHR stated that the obligation of the state not to interfere in family life implies, at the same time, a positive obligation to take the necessary measures both to support parents and families and to protect children from possible abuse [14].

States have a wide margin of appreciation when making the initial decision to separate children from their parents, but this margin of appreciation decreases with the period of time when children are separated from their parents and state authorities should invoke reasons very strong in support of their decision to maintain the separation [15].

The right to maintain personal relationships with parents is relativized to the specific situations to which it is related. Thus, in the case of a decision to separate the parents, the scope is wider, and normally limited only to the best interests of the child. If separation is decided by the state, in situations such as, for example, expulsion or incarceration of a parent, state authorities must respect a fair balance between the parties' interests and the obligation to guarantee the interests of the child [16].

In addressing the issues arising from family life, the ECHR urged States parties to organize and resort to civil mediation. In this regard, she referred to *Recommendation no. R (98) 1 of the Committee of Ministers of the Council of Europe on family mediation* [17], according to which recourse to family mediation can "improve communication between family members, reduce conflict between the parties to the dispute, lead to amicable settlements, ensure personal relations between parents and children, reduce the economic and social costs of separation and divorce for the parties themselves and for the states" [18].

In resolving the various issues raised by parents' relations with regard to their children, the Court emphasized that the courts must take measures to reconcile the divergent interests of the parties, taking into account the preeminence of the child's interests [19].

In addition, the Court recalled in particular that the will expressed by a child with sufficient discernment is a key element to be taken into account in any judicial or administrative proceedings concerning him. The right of a child to be heard and to participate in decision-making in family proceedings that primarily affect him or her is still guaranteed by several international legal instruments. In particular, Article 13 of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* provides that the authorities may refuse to order the return of the child if it finds that the child opposes it and that, in view of his age and maturity, it is appropriate to take this view into account [20].

### **The African system of child protection: the resurgence of a *suis generis* model**

At the African regional level, the protection of the rights of the child benefits from a coherent normative configuration, establishing a two-way system based on the African Charter on the Rights and Welfare of the Child [20] - as a fundamental legal instrument and the African Committee of Human Rights Child Welfare [21] - as the main mechanism for monitoring and controlling the Charter.

Colonialism, the dissonance between the maintenance of continental and national cultural identity and the integration of universal guarantees related to human rights are elements that problematize the maintenance of a family climate adequate to respect the rights of the child. The political and legal features of the African system of human rights

protection make it difficult to protect vulnerable groups. In relation to the latter, the right to have family relations are of fundamental importance; from the component dimensions of family relations derive the right to personality and the right to identity.

Interpreting extensively the content of the rights of the child, **the African Charter on the Rights and Welfare of the Child** regulates important aspects of the child's identity and personality: the right to a name and nationality (Article 6); family protection (Article 18); parental care and protection (Article 19); parental responsibilities (Article 20); protection against harmful social and cultural practices (Article 21); protection of children against parental separation (Article 25); protection of children with incarcerated mothers (Article 30).

In the analysis of *the African Committee of Experts on the Rights and Welfare of the Child*, the right to a name and nationality implies the recognition and enforcement of three interconnected rights: (1) the right to a name; (2) the right to register the birth and (3) the right to nationality. The Committee opinion is that the three rights converge towards the establishment of a child's personality and his or her social integration. In the Committee's view, the steps to be taken by parents / legal guardians of the child in order to ensure the social integration of their child consist of: taking the necessary steps to register the birth of the child and to establish parental affiliation - aspects that of the nationality of the state in which the child is born. Although birth registration is not in itself an element that confers the nationality of children, it is a form of proof of the connection between the child and the state. In order to fulfill the obligation of a State to prevent and reduce the statelessness of children, it is necessary for it to take all necessary measures to ensure that all children born in its territory are registered, including children born out of wedlock, children in single care parent, children with foreign / unknown parents. In order to ensure enhanced protection of children, registration of births is mandatory for all children born in a given territory even if it is clear that the requirements for the legal granting of the nationality of the State concerned are not met. [2 2 ]

In the concluding part of the General Commentary on Article 6 of the Charter, the Committee of Experts emphasizes that the responsibility for ensuring the implementation of the right to a name and a nationality lies with the parents / guardians and the States Parties. In particular, the obligation of States Parties to play an active role in ensuring that education and awareness-raising campaigns on birth registration are properly undertaken is emphasized. The article sets out a number of parental responsibilities for the upbringing and development of the child and, in a correlative manner, imposes on States Parties a number of obligations designed to supplement the obligations of the parents. In any case, the obligation to take proactive action is necessary under the broader obligations to take special measures to protect the child and to ensure that his or her best interests are taken into account. [2 3]

Concerns have been expressed in the recent work of the Committee regarding the fulfillment of the objectives set out in Articles 19 and 20 of the Charter on the protection of children through parents / guardians in the context of the separation of children from parents. In its Commentary on Article 30 of the Charter, the Committee draws attention to the fact that in the event that the child's parents / guardians are deprived of their liberty, the situation becomes vulnerable given that, being dependent on parental care, if it is removed, by default there will be a restriction on the rights of the child. In the application of a custodial sentence in relation to a person who is raising and caring for children, the judicial

authorities are obliged to apply additional guarantees such as: the application of special procedures (under which the authorities can act / decide as a matter of urgency, the choice of a non-custodial sentence if the option is possible, the protection of the best interests of the child). [2 4 ] These guarantees do not amount to entitling parents / guardians to exoneration from criminal liability for the offenses committed. In the Committee's view, States Parties should ensure that judicial officers are properly trained to assess the best interests of the child in relation to the seriousness of the crime and the protection of public safety when considering the incarceration of a mother / parents.

If an arrest is ordered, the authorities must consider providing appropriate alternative care for the child.

Child marriages are, at the level of the African protection system, a subject that involves the analysis of the right to have family relations from the perspective of the principle of the best interests of the child. Cultural norms govern family relationships and, based on them, childcare providers may decide to subject them to harmful practices in order to ensure the full integration of the child into the cultural community to which they belong. In order to prevent and combat child marriages, early or forced marriages and thereby ensure the rights of children, including in relation to the family environment and the cultural community to which they belong, the Committee of Experts considered that States Parties would be the first relevant actors in whose accountability is needed in order to change mentalities on this issue. In the Committee's view, the fundamental legislative measures in preventing and combating the practice of child marriage consist in: (1) prohibiting, by specific legal means, engagement and marriage for boys and girls under the age of 18; (2) ensuring the expression of the free and full consent of the future spouses in the completion of the marriage; (3) ensuring the full implementation of specific policies, legislation and sanctions on forced marriages; (4) streamlining the normative framework at national level by any means, including carrying out constitutional reforms (these will be based on the establishment of non-derogable clauses under which equality will be established at the conclusion of marriage but also the obligation of minimum age at marriage ); (5) implementation of formal verification procedures such as birth registration, marriage age verification and marriage registration; (6) the adoption of appropriate remedial measures for children who are already parties to forced, arranged or early marriages. [2 5 ]

### **The rights of the child in the inter-American system of human rights protection - a matter of *jus cogens***

At the inter-American regional level, the paradigm for the protection of children's rights is built on two fundamental legal instruments: the American Convention on Human Rights [2 6 ] and the Inter-American Convention on the International Return of Children [2 7 ] .

Article 19 of **the American Convention on Human Rights** fulfills a dual regulatory function in relation to the recognition of children's right to family relationships, establishing, on the one hand, in principle, guarantees for the protection of the child from his or her family and, on the other hand, guarantees in favor of the child which are borne by society and the state. In the content of the American Convention on Human Rights, the rules establishing the relationship between children and their families are limited to articles whose marginal name evokes the rights of the child only in the alternative: (1) Article 12, paragraph 4, on freedom of conscience and religion states that *parents or guardians, as*

*appropriate, have the right to ensure the religious and moral education of children in accordance with their own beliefs;* (2) Article 13, paragraph 4, on the freedom of thought and expression, regulates the protection of the rights of the child as a legal limitation of public manifestations related to this freedom; (3) Paragraphs 4 and 5 of Article 17 govern the protection of children's rights in family relationships in the context of divorce or the birth of children outside traditional, marriage-based families. It is important to note that the rules of the American Convention on Human Rights (Article 27, points 2 and 3) enshrine the non-derogable nature of the rights of the child in exceptional circumstances - the guarantees attached to them being included in the category of *jus cogens* rules.

On the other hand, **the Inter-American Convention on the International Return of Children** aims to ensure contact between children and the family in a specific context - that of termination / suspension of family relationships due to inappropriate measures taken by States Parties in the case of placement. the relationship between the rights of the child and the family environment in an international context. According to Article 1 of the Convention, the purpose of this Convention is to ensure the prompt return of children habitually resident in a State Party who have been wrongfully removed or who, after being legally removed, have been wrongfully detained. The Convention aims to further ensure the application of visitation and custody rights.

#### **Instead of conclusions: reflecting supranational standards at the national level**

The UN Convention on the Rights of the Child has been a source of inspiration for representative legal instruments in the field of children's rights adopted at the regional level. Consequently, the ratification of the Convention by the Romanian state is a means of emulation of regional standards and an instrument of adherence to a minimum set of international guarantees on the rights of the child.

Based on this premise, in the regular evaluation of Romania regarding the implementation of the UN Convention on the Rights of the Child carried out during the 75th session of the Committee (held between May and June 2017), recommendations were made that reference to issues similar to those identified in the regional systems for the protection of the rights of the child. The UN Committee on the Rights of the Child reiterates the Recommendations addressed to the Romanian state following the evaluation carried out in 2009, expressing its concern for the aggravation of the phenomenon of violence against children amid their deprivation of a family environment. Having considered in conjunction with Articles 5, 9-11, 18 (1) and (2), 20-21, 25 and 27 (4) of the Convention, the Committee is committed to observing national limits in ensuring an effective child-family relationship: (1) the number of children in institutional care is high and the majority is represented by children from vulnerable social categories; (2) the absence of adequate mechanisms to identify children in situations of risk and of the early intervention services; (3) insufficiency and inadequacy of psychosocial support in relation to institutionalized children, (4) inadequacies in the activity of monitoring institutionalized children and investigating reports of physical and sexual abuse, including trafficking in children for sexual exploitation; (5) discrimination against children with disabilities, etc. [2 8 ]

In order to prevent and combat institutionalization, the Committee recommends the Romanian State to identify solutions in accordance with the best interests of the child, excluding the reason for financial shortages as an objective justification of the phenomenon of institutionalization.

Particular attention should be paid to the situation of children facing cross-sectional forms of discrimination (which have as their specificity the conjugation of the age criterion with other discriminatory criteria such as race, ethnicity or the presence of disabilities). Mainly, the difficulties of institutionalization can be overcome by speeding up measures to place children in family care and by facilitating access to adoption procedures (domestic or international). [29]

It is more and more obvious that the radiography of the Romanian society, marked by serious social problems that directly affect the quality of family life, and in it of children, such as the high degree of impoverishment of the population, underfunding of the education system, synopses of the health system, The massive phenomenon of social exclusion, the demographic collapse coupled with maintaining a sustained pace of migration, requires a responsible analysis and systematic and effective action at the national level.

### References

1 The UN Convention on the Rights of the Child was adopted by the General Assembly of the United Nations on November 29, 1989. It entered into force on September 2, 1990. Romania ratified the Convention by Law no. 18/1990, published in the "Official Gazette of Romania", Part I, no. 109 of September 28, 1990 and republished in the "Official Gazette of Romania", Part I, no. 314 of June 13, 2001.

2 Committee on the rights of the child, Fortieth Session, Geneva, 12-30 September 2005, General Comment No. 7 (2005), Implementing child rights in early childhood, page 8.

3 G. Lansdown, *The Evolving Capacities of the Child* (Florence: UNICEF Innocenti Research Center, 2005).

4 Committee on the rights of the child, Fortieth Session, Geneva, 12-30 September 2005, General Comment No. 7 (2005), Implementing child rights in early childhood, pp. 9-10.

5 Committee on the Rights of the Child General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), p.

6 *Ibidem*.

7 Committee on the Rights of the Child General comment No. 25 (2021) on children's rights in relation to the digital environment.

8 Electronic documentation in computer system made by accessing the site: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/160>, on March 21, 2021, 4 p.m. : 50 pm

9 Explanatory Report to the European Convention on the Exercise of Children's Rights, Strasbourg, 25 January 1996.

10 *Ibidem*, p.

11 Opened for signature at Strasbourg on 15 May 2003, which entered into force on 1 September 2005.

12 According to the Explanatory Report to the Convention, p. 5.

13 *Handbook of European Law on the Rights of the Child*, European Union Agency for Fundamental Rights and Council of Europe, Luxembourg, Publications Office of the European Union, 2016, p.81.

14 Judgment of 12.06.2013 , in the case of *RMS / Spain* , pt . 69.

15 Judgment of 13.03.2012 , in the case of *YC v. The United Kingdom* , point 137.

16 *Handbook of European Law on the Rights of the Child* , European Union Agency for Fundamental Rights and Council of Europe, Luxembourg, Publications Office of the European Union, 2016, p.77.

17 *Recommendation no. R (98) 1 of the Committee of Ministers of the Council of Europe to the Member States on family mediation* , adopted by the Committee of Ministers on 21 January 199 8.

18 Judgment of 6.12. 2011, in the case of *Cengiz Kiliç v. Turkey*

19 Judgment of 10. 01. 2017, in the case of *Kacper Nowakowski v. Poland* .

20 Judgment of 1.02. 2018, in the case of *MK v. Greece* (n ° 51312/16).

21 Adopted by the Organization of African Unity (OAU) in 1990 and entered into force in 1999. Although drafted and adopted under the auspices of the Organization of African Unity, the Charter is currently applied as a legal instrument of the African Union with a view to legal transformation. of the Organization of African Unity in the African Union in 2001.

22 Established under Article 32 of the Charter for the purpose of protecting and promoting the rights of the child. Pursuant to Article 42 of the Charter, which governs the term of office of the members of the Committee, the functions of the Committee shall relate to: (a) Promoting and protecting the rights enshrined in the Charter, in particular by: (i) collecting and documenting situations on African issues in the areas of children's rights and welfare, the organization of meetings, the encouragement of national and local institutions concerned with the rights and welfare of children and, where necessary, the development of opinions and recommendations to governments; (ii) formulating and establishing principles and rules for the protection of the rights and well-being of children in Africa; (iii) cooperation with other African, international and regional institutions and organizations concerned with the promotion and protection of the rights and welfare of the child. (b) Monitoring the implementation and ensuring the protection of the rights enshrined in this Charter. (c) Interpretation of the provisions of this Charter at the request of a State Party, of an institution of the Organization of African Unity or of any other person or of an institution recognized by the Organization of African Unity. (d) To perform such other duties as may be assigned to it by the Assembly of Heads of State and Government, the Secretary-General of the OAU and any other body of the OAU or the United Nations.

23 African Committee of Experts on the Rights and Welfare of the Child, General Comment on article 6 of the African Charter on the Rights and Welfare of the Child: "Right to Birth Registration, Name and Nationality" p. 10 et seq.

24 African Committee of Experts on the Rights and Welfare of the Child General Comment no. 1 (Article 30 of the African Charter on the Rights and Welfare of the Child) on "Children of Incarcerated and Imprisoned Parents and Primary Caregivers" 2013, pp. 15-17.

25 Joint General Comment of the African Commission on Human and Peoples' Rights (ACHPR) and the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) on Ending Child Marriage, pp. 13-25.

26 Adopted at the Inter-American Conference on Human Rights, San José, Costa Rica, on 22 November 1969. The Convention entered into force after the deposit of the eleventh instrument of ratification (that of Grenada) on of 18 July 1978.