

ACCESS TO JUSTICE FOR CHILDREN: ESTONIA

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I. What is the legal status of the Convention on the Rights of the Child (CRC)?

A. What is the status of the CRC and other relevant ratified international instruments in the national legal system?

Estonia acceded to the Convention on the Rights of the Child (CRC) on 26 September 1991 and it entered into force on 20 November 1991.¹

Under the Constitution of Estonia, the Riigikogu (Parliament) shall ratify treaties that “require the adoption, amendment or annulment of Estonian laws.”² The Resolution of the Supreme Council of 26 September 1991 requires international treaties to be published in the Riigi Teataja, the public journal of Estonia.³ As the CRC was ratified by the Riigikogu and published in the Riigi Teataja in 1996, it is binding in Estonia.⁴

B. Does the CRC take precedence over national law?

The Constitution of Estonia provides that when a provision of a foreign treaty ratified by the Riigikogu conflicts with Estonian laws or other acts, the foreign treaty provision applies.⁵ As the CRC was ratified by the Riigikogu in 1996, it takes precedence over national legislation.⁶

C. Has the CRC been incorporated into national law?

Yes, the CRC has been incorporated by virtue of being published in the Riigi Teataja. Furthermore, numerous principles of the CRC are replicated in the 1992 Child Protection Act.⁷ A new Law on Child Protection was passed by Parliament and will enter into force on 1 January 2016.⁸

D. Can the CRC be directly enforced in the courts?

Yes, it is possible to directly enforce the CRC in court.

E. Are there examples of domestic courts using or applying the CRC or other

¹ Riigi Teataja (RT II 1996, 16, 56), available at <https://www.riigiteataja.ee/akt/24016>.

² Constitution of Estonia, Art. 121.

³ See Constitutional Judgment 3-4-1-1-96, Constitutional Review Chamber of the Supreme Court, May 10, 1996, available at <http://www.nc.ee/?id=471>.

⁴ Riigi Teataja (RT II 1996, 16, 56).

⁵ Constitution of Estonia, Art. 123.

⁶ Riigi Teataja (RT II 1996, 16, 56).

⁷ Child Protection Act, RT 1992, 28, 370 (passed 8 June 1992) and last amended 21.11.2013; RT I, 13.12.2013, 5; 23.12.2013, available at: <https://www.riigiteataja.ee/akt/113122013012?leiaKehtiv> (in Estonian).

⁸ Law on Child Protection, RT I, 06.12.2014, 1, available at: <https://www.riigiteataja.ee/akt/106122014001> (in Estonian).

relevant international instruments?

Courts regularly use the Convention in its principles in their decisions. A notable example is the 10 May 1996 judgment by the Constitutional Review Chamber of the Estonian Supreme Court, which found the Non-Profit Associations Act unconstitutional, in part because it allowed only persons eighteen years and older to found non-profit associations and belong to their leadership, thereby preventing children from exercising the right of association provided by Article 15(1) of the CRC.⁹ There are several other decisions published online and available in Estonian language.¹⁰

II. What is the legal status of the child?

A. Can children and/or their representatives bring cases in domestic courts to challenge violations of children's rights?

Yes, cases can be brought in the name of a child, subject to the requirements discussed in part II.B.

B. If so, are children of any age permitted to bring these cases by themselves in their own names/on their own behalf, or must the case be brought by or with the assistance of a representative?

Under Estonian law, minors have restricted active civil procedural capacity, meaning that cases will generally have to be brought on the child's behalf by a legal representative.¹¹ Minors between the ages of 15 and 18, however, have the right to participate in proceedings together with their legal representative.¹² Exceptionally, minors aged 14 and over have active procedural capacity in relation to proceedings for the establishment of guardianship.¹³

In administrative proceedings, a child aged 15 and over is deemed to have legal capacity if, in the court's assessment, he or she understands the meaning of their procedural actions and does not jeopardise his or her interests or the interests of his or her close relatives.¹⁴

A Child's Legal Representative

The legal representative of a child is typically their parent; parents with joint custody having a joint right of representation.¹⁵

⁹ Constitutional Judgment 3-4-1-1-96, Constitutional Review Chamber of the Supreme Court, 10 May 1996.

¹⁰ See

https://www.riigiteataja.ee/kohtuteave/riigikohtulahendid.html?aasta=&asjaLiik=&asjaRegNr=&otsuseKuupaev=&kohtukoosseisuTunnus=&menetluseLiik=&annotatsioon=&tekstSisu=%C3%9CRO+lapse+%C3%B5iguste+konventsioon%0D%0A&tulemusteJarjestusYks=kohtuasjad.otsuse_kuupaev&tulemusteJarjestusKaks=desc&kuvada=kohtuasjad.sisu

¹¹ Code of Civil Procedure, § 202, available at:

<https://www.riigiteataja.ee/en/eli/513122013001/consolide>.

¹² Code of Civil Procedure, § 202(2).

¹³ Code of Civil Procedure, § 202(4).

¹⁴ Information provided to CRIN by the Chancellor of Justice of Estonia.

¹⁵ Family Law Act, RT I 2009, 60, 395 (passed 18 November 2009) § 120, available at

If a child's parents cannot be ascertained, or if neither parent has the right of representation, the court shall appoint a guardian for the child.¹⁶ A court may determine the guardianship of a child on its own initiative, or upon application of an interested person or government agency.¹⁷ Government agency officials, policemen, heads of medical and social welfare institutions, judges, prosecutors, notaries, bailiffs, and the child's relatives are required to notify the government and a court if a child is in need of guardianship.¹⁸ If there is reason to believe that a child will need a guardian prior to his birth, a guardian may be appointed and the appointment of the guardian enters into force upon birth.¹⁹ The rural municipality or city government where the child resides performs the duties of a guardian until a guardian is appointed by the court.²⁰

A guardian serves as the child's legal representative, and must consider the child's opinion if appropriate with regard to the child's age and level of development.²¹ A guardian may not serve as the child's legal representative in disputes between the child and the guardian or the guardian's direct relative.²² The court may deprive a guardian of his right of representation in certain matters if the interests of the child are in "significant conflict" with the interests of the guardian or a third person represented by the guardian.²³

In general, a guardian performs his services free of charge; however, the court may provide remuneration for the performance of the guardian's duties if it is reasonable given the financial situation of the ward and the relationship between the parties.²⁴ A guardian has the right to receive compensation for any expenses incurred in the performance of his duties, including securing liability arising from guardianship out of the child's assets.²⁵ The Ministry of Justice has the power to prescribe supplementary financial support for the performance of guardianship at the state's expense,²⁶ however this provision has not been applied in practice yet.

C. In the case of infants and young children, how would cases typically be brought?

As described in part II. B above, children would need to be represented by a parent or other adult.

D. Would children or their representatives be eligible to receive free or subsidised legal assistance in bringing these kinds of cases?

The State Legal Aid Act provides state legal aid in legal proceedings to any persons resident in Estonia, when the person cannot pay for competent legal

<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/84956/94847/F753334858/EST84956.pdf>.

¹⁶ Family Law Act, § 171(1).

¹⁷ Family Law Act, § 173(1).

¹⁸ Family Law Act, § 171(2).

¹⁹ Family Law Act, § 173(2).

²⁰ Family Law Act, § 176.

²¹ Family Law Act, § 179.

²² Family Law Act, § 180.

²³ Family Law Act, § 181.

²⁴ Family Law Act, § 192.

²⁵ Id.

²⁶ Id.

services because of his financial situation.²⁷

Please see part IV.B for further detail.

- E. Are there any other conditions or limits on children or chosen legal representatives bringing cases (e.g., would a child's parents or guardian have to agree to a case being brought)?

There are no further limitations imposed by law.

III. How can children's rights violations be challenged before national courts?

- A. If there is a potential violation of the Constitution or other principles established in domestic law, or with the CRC or other relevant ratified international/regional instruments, how can a legal challenge be brought?

The Constitution of Estonia provides recourse to the courts for anyone whose rights have been violated.²⁸

Every person has a right to recourse to the civil courts or, by agreement of the parties involved, civil disputes may be referred to an arbitration tribunal.²⁹

The Administrative Procedure Act protects the rights of individuals against unlawful actions, by administrative authorities, including regulations and administrative acts and measures.³⁰ Any person at whom an administrative act, measure or proposal is directed, or whose rights are affected by that act or measure, may participate in an administrative proceeding.³¹

The Code of Administrative Court Procedure applies in the administrative courts in relation to proceedings for challenging unlawful actions by the executive authority.³² The applicant in an administrative proceeding may bring suit against the Government, the Prime Minister, a government agency, a local authority, or any legal person in public law.³³ The court ultimately determines the proper government authority or agency as the respondent in the proceeding.³⁴

Finally, constitutional challenges are heard by the Supreme Court.³⁵

As an alternative to bringing a claim in court, a child, his parent or his legal representative may submit a complaint to the Office of the Chancellor of

²⁷ State Legal Aid Act of 2004, §§ 4, 6, English translation available at:

http://ec.europa.eu/justice_home/judicialatlascivil/html/pdf/national_law_la_est_en.pdf.

²⁸ Constitution, § 15.

²⁹ Code of Civil Procedure, § 4, available at: <http://www.legaltext.ee/text/en/X2049K10.htm>.

³⁰ Administrative Procedure Act, RT I 2001, 58, 384 (passed June 6, 2001) §§ 1-3, available at <http://www.legaltext.ee/text/en/X40071K3.htm>.

³¹ Administrative Procedure Act § 11.

³² Code of Administrative Court Procedure, RT I, 23.02.2011, 3 (passed Jan. 27, 2011) § 2(1), available at <https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/527012014001/consolide>.

³³ Code of Administrative Court Procedure, § 17.

³⁴ Code of Administrative Court Procedure, § 18.

³⁵ Constitution, § 149.

Justice, who acts as an Ombudsman for Children.³⁶ Complaints may be brought about a person or institution performing a public task with a negative effect on a child, such as a decision made by someone without the requisite authority, a decision made based on false or incomplete information, discriminatory treatment, an official's failure to explain the child's rights, an unjustified decision, or lack of an explanation given with the decision.³⁷ Complaints may be filed through the website or by email, postal mail, fax or telephone.³⁸ The website for the Ombudsman for Children contains further details on children's substantive rights in Estonia.³⁹ The Chancellor of Justice also has a power to initiate constitutional review of legislation on the basis of a complaint or on his own initiative.

Council of Europe - ECHR

The European Court of Human Rights decides cases concerning alleged violations of any of the rights contained in the European Convention on Human Rights.⁴⁰ Any individual, group of individuals or an NGO who is a victim of a violation of one of these rights may submit a complaint to the Court,⁴¹ but the complaint will be admissible only if all domestic remedies have been exhausted.⁴² Anonymous complaints are not permitted.⁴³ The procedural rules for the Court do not make any child-specific provisions. Persons may initially present an application themselves or through a representative, however, all applicants must be represented at hearings thereafter.⁴⁴ After examining the case, the Court renders a judgment which is binding on the State⁴⁵ and also has powers to award monetary compensation to the victims of human rights abuses.⁴⁶ It is also worth noting that the Court has an established practice of referring to other international human rights instruments, including the CRC, as guides to interpretation of the European Convention.⁴⁷

B. What powers would courts have to review these violations, and what remedies could they offer?

The courts can declare unconstitutional any law, other legislative instrument,

³⁶ "How to Make a Complaint," Chancellor of Justice, <http://lasteombudsman.ee/en/how-to-make-a-complaint>.

³⁷ *Id.*

³⁸ *Id.*

³⁹ See Chancellor of Justice, <http://lasteombudsman.ee/en/welcome>.

⁴⁰ European Convention for the Protection of Human Rights and Fundamental Freedoms ("European Convention on Human Rights"), 1950, Articles 19 and 32, available at: <https://www.crin.org/en/library/legal-database/european-convention-protection-human-rights-and-fundamental-freedoms>.

⁴¹ *Ibid.*, Article 34.

⁴² *Ibid.*, Article 35.

⁴³ *Ibid.*

⁴⁴ Rules of Court, July 2014, Rule 36, available at: http://www.echr.coe.int/documents/rules_court_eng.pdf.

⁴⁵ European Convention on Human Rights, Article 46.

⁴⁶ *Ibid.*, Article 41.

⁴⁷ *Case of M.R and L.R v. Estonia*, concerning a child abduction case, which was found inadmissible by the court. Available at: <http://hudoc.echr.coe.int/eng-press?i=003-3968774-4606365>. A summary is available here: http://www.echr.coe.int/Documents/FS_Child_abductions_ENG.pdf.

administrative decision or measure which violates the Constitution.⁴⁸ Administrative courts hold the power to annul administrative acts, order that administrative acts be taken, award compensation caused by a public law relationship, and declare an administrative act to be null and void or unlawful.⁴⁹

Courts may award financial compensation in the form of damages, though the purpose of these is to restore the position of the plaintiff to that which would have been had the violation not occurred, therefore, punitive damages do not exist in Estonia.⁵⁰ Interim remedies are also available.⁵¹

C. Would such a challenge have to directly involve one or more individual child victims, or is it possible to challenge a law or action without naming a specific victim?

There appear to be no provisions in Estonian law which allow for a legal challenge to be brought without naming a specific victim, except for the ability of the Chancellor of Justice to initiate constitutional review proceedings on his own initiative.

According to the Constitution, all court proceedings are public, however, the court may elect to hold them *in camera* if necessary to, *inter alia*, protect the interests of a minor.⁵² Civil proceedings may be held in whole or in part *in camera* if the court decides so in the interests of a minor.⁵³ The Code of Administrative Court Procedure also provides that administrative proceedings are generally accessible to the public,⁵⁴ unless the court declares a proceeding closed where that is “clearly necessary” in the interest of a minor or for hearing a minor.⁵⁵ In closed proceedings, the contents of the hearing and of the documents examined are confidential.⁵⁶ In general, administrative court judgments are publicly announced; however, if clearly necessary for the “life, health or freedom” of a participant, witness or other person in a proceeding, only the operative part of its judgment is announced.⁵⁷ There are extensive provisions guaranteeing the right to privacy of children involved in criminal proceedings.⁵⁸ However, the law allows for the identity of children with criminal convictions to be published in official documents on their third conviction.⁵⁹

D. Is any form of collective action or group litigation possible, with or without

⁴⁸ Constitution, § 15.

⁴⁹ Code of Administrative Court Procedure, § 5(1).

⁵⁰ *Dispute resolution in 38 countries worldwide*, 2005, available at: http://www.academia.edu/3223230/Litigation_in_Estonia.

⁵¹ *Ibid.*

⁵² Constitution, § 24.

⁵³ Code of Civil Procedure, § 38.

⁵⁴ Code of Administrative Court Procedure, § 2(7).

⁵⁵ Code of Administrative Court Procedure, § 77 (applying Code of Civil Procedure § 38).

⁵⁶ Code of Administrative Court Procedure, § 77 (applying Code of Civil Procedure § 41).

⁵⁷ Code of Administrative Court Procedure, § 173(5) (applying Code of Civil Procedure § 38).

⁵⁸ European Commission, *Study on children's involvement in judicial proceedings: Contextual overview for the criminal justice phase - Estonia*, June 2013, at p. 25, available at: <http://www.childreninjudicialproceedings.eu/docs/ContextualOverview/Estonia.pdf>.

⁵⁹ *Id.*

naming individual victims?

The Code of Administrative Court Procedure allows joint action by multiple applicants⁶⁰ and proceedings may involve fifty or more third parties to an administrative matter.⁶¹ The Code of Civil Procedure also allows joint action.⁶² Thus, group litigation is possible, however, there are no provisions which allow for victims to remain anonymous.

E. Are non-governmental organisations permitted to file challenges to potential children's rights violations or to intervene in cases that have already been filed?

The Code of Administrative Court Procedure provides that an association of persons, or a person seeking protection of another person or the public interest, may file an action with an administrative court only in cases provided by law.⁶³ However, no other law makes any such provision, meaning that actions brought by NGOs will be inadmissible.⁶⁴

In addition, the Civil Code permits legal persons, including non-governmental organisations, to intervene as a third party in court proceedings.⁶⁵ The Estonian Union for Child Welfare⁶⁶ and the Chancellor of Justice for Children (Chancellor of Justice) have presented their positions through interventions in cases.

IV. Practical considerations. Please detail some of the practical issues, risks and uncertainties that might be involved in bringing a case to challenge a violation of children's rights, such as:

A. Venue. In what courts could a case be filed (e.g., civil, criminal, administrative, etc.)? What would the initial filing process entail?

Estonia's judicial system comprises county and city courts and administrative courts, which are the courts of first instance; circuit courts; and the highest court, the Supreme Court.⁶⁷ The Supreme has a civil chamber, criminal chamber, an administrative chamber⁶⁸ and a constitutional review chamber.⁶⁹ There are no specialised court for minors or family issues in Estonia.

The submission for an action for administrative proceedings must be delivered by post, person or electronic means to any courthouse of an administrative or county court, which then transmits the submission to the

⁶⁰ Code of Administrative Procedure, §19.

⁶¹ Code of Administrative Court Procedure, § 22.

⁶² Code of Civil Court Procedure, § 207.

⁶³ Code of Administrative Court Procedure, § 44.

⁶⁴ Supreme Court decision 10.04.2001 nr3-3-1-16-01, Tallinn Administrative Court decision 10.11.2006 nr 3-06-2199, Tallinn Administrative Court Decision 15.06.2007, 3-07-1015, p.15.

⁶⁵ Code of Civil Procedure, § 212-216.

⁶⁶ <http://www.lastekaitseliit.ee/>.

⁶⁷ Constitution, § 148. *See also* Courts Act, available at:

<http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X30065K9&keel=en&pg=1&ptyyp=RT&tyyp=X&query=kohtute+seadus>.

⁶⁸ Courts Act, § 28.

⁶⁹ *Id.*

court with jurisdiction over the matter.⁷⁰

- B. Legal aid / Court costs. Under what conditions would free or subsidised legal aid be available to child complainants or their representatives through the court system (i.e., would the case have to present an important legal question or demonstrate a likelihood of success)? Would child complainants or their representatives be expected to pay court costs or cover other expenses?

As described in part II.D, the provisions regulating legal aid are contained in the State Legal Aid Act.

State legal aid may be granted for court proceedings, including drawing up the statement of claim, a petition in proceedings, or an appeal.⁷¹ An applicant for state legal aid must apply to the court competent to hear that action.⁷² If the petition is granted, the court then requests the Prosecutor's Office or an investigative body of the Bar Association to appoint an advocate to provide state legal aid.⁷³ The state pays the advocate a fee for that legal aid.⁷⁴ If a person receives legal aid for a court proceeding, he also has the right to receive legal aid for an appeal against a ruling in that same case, or in enforcement proceedings related to that case.⁷⁵ The court, however, may reassess the grounds for granting state legal aid under the State Legal Aid Act to determine if such grounds still exist.⁷⁶

In general, submitting an action to the court requires the payment of the state fee, however, there is no specific exemption from payment for child rights related matters.⁷⁷ Certain actions are exempt from payment of state fees, including actions for compensation for damage caused by bodily injury or death, actions for allowance⁷⁸ and disputes concerning compensation for damage caused by unlawful conviction, criminal prosecution or deprivation of liberty.⁷⁹ Furthermore, civil courts may release a party from payment of costs if they are insolvent.⁸⁰

Generally, the expenses related to the trial will be borne by the party against whom a judgement is made, but if a party is in receipt of legal aid, it would be up to the court to determine whether the need to cover the expenses.⁸¹

- C. Pro bono / Financing. If legal aid is not available, would it be possible for child complainants or their representatives to obtain legal assistance from practicing lawyers on a pro bono basis, through a children's rights organisation, or under an

⁷⁰ Code of Administrative Court Procedure, § 40.

⁷¹ State Legal Aid Act of 2004, § 10(2).

⁷² Id.

⁷³ State Legal Aid Act of 2004, § 18.

⁷⁴ State Legal Aid Act of 2004, § 21.

⁷⁵ State Legal Aid Act of 2004, § 17(3).

⁷⁶ State Legal Aid Act of 2004, § 17(4).

⁷⁷ State Fees Act 1997, available at:

<http://www.legaltext.ee/en/andmebaas/paraframe.asp?loc=text&lk=et&sk=en&dok=X40031K3.htm&query=act&tyyp=X&ptyyp=RT&pg=18&fr=no>.

⁷⁸ State Fees Act 1997, § 16.

⁷⁹ Id.

⁸⁰ Code of Civil Procedure, § 57.

⁸¹ Information provided to CRIN by the Chancellor of Justice.

agreement that does not require the payment of legal fees up front?

The Estonian Bar Association does not provide any information about obtaining legal assistance on a pro bono basis; it merely refers the public to the State Legal Aid Act.⁸² According to a 2012 local news article, however, the Estonian Bar Association opened “law pharmacies” in Tallinn, Tartu, and Johvi where volunteers provided free legal advice to the public for several hours per week.⁸³ However, it must be noted that most volunteers are law students and, therefore, they cannot provide representation in court. Additionally Estonian Union for Child Welfare in cooperation with Estonian Bar Association, provides free legal advice for family law matters and some cases have progressed to the courts.

D. Timing. How soon after a violation would a case have to be brought? Are there any special provisions that allow young adults to bring cases about violations of their rights that occurred when they were children?

Various limitation periods are prescribed by the Civil Code,⁸⁴ but these will be suspended in cases whether a plaintiff who has restricted active legal personality has no legal representative.⁸⁵

An administrative action for the annulment of an administrative act or measure must be filed with the court within thirty days of the date that the person becomes aware, or should have become aware, of that act or measure.⁸⁶ An action challenging the lawfulness of an administrative act or measure must be filed within three years of the date on which the act was issued or the measure was taken.⁸⁷

In case of a criminal offence against the sexual self-determination of a person under the age of 18, the limitation period is suspended until the victim reaches 18 years of age.⁸⁸

E. Evidence. What sort of evidence is admissible/required to prove a violation? Are there particular rules, procedures or practices for dealing with evidence that is produced or presented by children?

In reviewing a challenge to an administrative act, “documentary evidence shall be examined and explanations of interested persons, opinions of experts and testimonies of witnesses shall be heard, [and] physical evidence shall be inspected and on-the-spot visits of inspection shall be carried out.”⁸⁹ A participant in the proceedings must prove the facts on which his submission is based; the court then objectively assesses whether each assertion has been

⁸² See Estonian Bar Association, <https://www.advokatuur.ee/eng/frontpage>.

⁸³ Steve Roman, “Bar Association to Open Free ‘Law Pharmacies,’” ERR News (Apr. 2, 2012), <http://news.err.ee/v/society/48a0f5ee-d4f7-4d16-8a22-08a8c0fc196d>.

⁸⁴ General Part of the Civil Code, Chapter 10, available at: <https://www.riigiteataja.ee/en/eli/530102013019/consolide>.

⁸⁵ General Part of the Civil Code, § 165.

⁸⁶ Administrative Procedure Act § 75; Administrative Procedure Code § 46(1-2).

⁸⁷ Code of Administrative Court Procedure § 46(5).

⁸⁸ Penal Code, § 81 (7), available at: <http://www.wipo.int/edocs/lexdocs/laws/en/ee/ee133en.pdf>.

⁸⁹ Administrative Procedure Act § 83.

proved.⁹⁰ Courts must accept and consider only relevant evidence.⁹¹

The Code of Administrative Court Procedure applies the evidentiary provisions of the Code of Civil Procedure to administrative proceedings.⁹² Every person who is aware of relevant facts in the matter may be heard as a witness, unless that person is a participant or representative thereof in the proceedings.⁹³

In general, the minor's legal representative is heard under oath on the minor's behalf; however, the child may be heard if the court deems it reasonable under the circumstances.⁹⁴ A court may refuse to hear a minor under the age of 14 if the court believes that he is "unable to comprehend the facts relevant to the matter properly or to give truthful testimony with regard thereto."⁹⁵ Witnesses of at least 14 years must be warned against refusing to give testimony without a legal basis and giving knowingly false testimony.⁹⁶

A witness under the age of 14 may be heard in the presence of a parent, guardian, child protection official, psychologist, or social worker if the court deems it necessary.⁹⁷ A court may also involve a child protection official, psychologist or social worker in the proceedings.⁹⁸ If the court reasonably believes that a witness is afraid or has reason to speak falsely in the presence of a particular participant, the court may remove that participant while the witness is being heard.⁹⁹ The court will then read the testimony to the participant, who has the right to question the witness.¹⁰⁰

F. Resolution. How long might it take to get a decision from the court as to whether there has been a violation?

The average time to resolve administrative cases in Estonia in 2010 was 146 days, compared to an average of 514 days in the European Union.¹⁰¹ However, statistics from 2013 indicate even longer periods.¹⁰² There are some provisions aimed at preventing extensive length of criminal proceedings. When a criminal case involves a child, the Code of Criminal Procedure stipulates that it must be processed as quickly as possible and any lawyer or prosecutor who is deemed to be delaying the proceedings will be removed.¹⁰³ If the court has failed to take any meaningful steps towards a

⁹⁰ Code of Administrative Court Procedure §§ 59, 61.

⁹¹ Code of Civil Procedure, Part 5.

⁹² Code of Administrative Court Procedure § 56.

⁹³ Code of Civil Procedure, § 251.

⁹⁴ Code of Civil Procedure, § 271.

⁹⁵ Code of Civil Procedure, § 256.

⁹⁶ Code of Civil Procedure, § 262.

⁹⁷ Code of Civil Procedure, § 261.

⁹⁸ *Id.*

⁹⁹ Code of Civil Procedure, § 260.

¹⁰⁰ *Id.*

¹⁰¹ "Estonian Court System Functions Well," Estonian Review, Estonian Ministry of Foreign Affairs (25 June 2013), <http://www.vm.ee/?q=en/node/17565>.

¹⁰² Available at:

http://www.kohus.ee/sites/www.kohus.ee/files/elfinder/dokumendid/i_ja_ii_astme_kohtute_menetlusstatistika_2013_a_koondandmed.pdf (in Estonian).

¹⁰³ European Commission, *Study on children's involvement in judicial proceedings*, at p. 14.

resolution of the case within nine months, any of the parties can apply for an expedited hearing.¹⁰⁴

G. Appeal. What are the possibilities for appealing a decision to a higher court?

Children aged 14 years or over with sufficient capacity to exercise discretion have the right, in a family matter pertaining to their person, to file an appeal against a court ruling independently (i.e without the assistance of their legal representative).¹⁰⁵ The Supreme Court reviews judgements as a court of cassation.¹⁰⁶ Administrative appeals must be lodged within 30 days of the date that the judgment was publicly pronounced.¹⁰⁷

H. Impact. What are the potential short-term and long-term impacts of a negative decision? Is there a possibility for political backlash or repercussions from a positive decision?

Research did not reveal any indication of political backlash or repercussions from positive decisions.

I. Follow up. What other concerns or challenges might be anticipated in enforcing a positive decision?

One challenge which may be anticipated in enforcement of judicial decisions concerning children is that bailiffs do not have appropriate training on the children's rights.

V. **Additional factors**. Please list any other national laws, policies or practices you believe would be relevant to consider when contemplating legal action to challenge a violation of children's rights.

This report is provided for educational and informational purposes only and should not be construed as legal advice.

¹⁰⁴ Id.

¹⁰⁵ Information provided to CRIN by the Office of the Chancellor of Justice of Estonia.

¹⁰⁶ Courts Act, Article 26.

¹⁰⁷ Code of Administrative Court Procedure, § 181.