

ACCESS TO JUSTICE FOR CHILDREN: NORWAY

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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?

Norway ratified the CRC in 1991, and incorporated it into Norwegian law in 2003 through the Human Rights Act.¹ Under this Act, the CRC is directly applicable as Norwegian law and takes precedence over conflicting national law.²

As Norway is a dualist country, ratified international instruments do not automatically become national law in Norway; rather, they must be incorporated or transformed into Norwegian law to be directly applicable.³ It is also a principle of general law that Norwegian law should be interpreted in accordance with obligations in public international law that are binding on Norway.⁴

B. Does the CRC take precedence over national law?

The CRC takes precedence over conflicting national law. When the CRC was first ratified, it was given domestic legal authority but domestic law had superior status. However, in 2003, the legislature amended the Human Rights Act giving the CRC precedence over conflicting national statutes.⁵

C. Has the CRC been incorporated into national law?

Norway incorporated the CRC into Norwegian law in 2003 through the Human Rights Act. The Human Rights Act incorporated the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR) and the European Convention of Human Rights (ECHR) into Norwegian law. The CRC was not initially part of this Act, but was added in 2003 following recommendations from non-governmental organisations and the UN

¹ of 21 May 1999 No. 30. Available at: <http://www.ub.uio.no/ujur/ulovdata/lov-19990521-030-eng.pdf>

² UNICEF, 'The UN Convention on the Rights of the Child: a study of legal implementation in 12 countries', http://www.unicef.org.uk/Documents/Publications/UNICEFUK_2012CRCimplentationreport.pdf, 2012, (accessed 4 February 2014), p. 59.

³ Incorporation means that the ratified instrument is incorporated into national law through specific provisions. Transformation means that national legislation is worded so as to be in accordance with the ratified instrument. Transformation may be either active or passive. In active transformation the Storting (Parliament of Norway) implements new legislation or amends existing legislation in order to comply with the international instrument concerned. In passive transformation the Storting considers that existing Norwegian legislation is already in accordance with the international instrument. See *Core document forming part of the reports of States parties: Norway*, HRI/CORE/NOR/2009, 18 February 2010, para. 99. Available at: http://www.bayefsky.com/core/norway_hri_core_nor_2009.pdf.

⁴ *Ibid.*, para. 100.

⁵ Representing Children Worldwide, 'Norway', <http://www.law.yale.edu/rcw/rcw/jurisdictions/euron/norway/frontpage.htm>, 2005, (accessed 4 February 2014).

Committee on the Rights of the Child in 2000.⁶

Incorporation of the CRC was accompanied by an accord to transpose it into relevant sectoral laws. In particular, Norway has integrated the general principles of the CRC (mainly Article 3, the best interests principle and Article 12, the right to be heard) into legislation in areas including pre-school education (e.g. Kindergarten Act 2005), parental responsibilities (e.g. Children's Act 2005), and immigration (Immigration Act 2008).⁷

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

The CRC can be directly enforced in the courts, however there are few, if any, examples of direct enforcement of the CRC by Norwegian national courts.

E. Are there examples of domestic courts using or applying the CRC or other relevant international instruments?

It is reported that there has been increased use of the CRC in the courts in terms of both the quality and quantity of cases taken on behalf of children since incorporation of the CRC, and that most litigation concerns Article 3.⁸ A 2009 Supreme Court judgment decided that regard should be given to the General Comments of the Committee on the Rights of the Child, which is seen to have had a positive effect on the potential for using the CRC in litigation.⁹ However, in a 2012 decision concerning immigration matters, the majority of the Supreme Court stated that it is not possible to award a declaratory judgement for a violation of the Convention, because while other treaties, such as the ECHR and ICCPR, contain an explicit right to an effective remedy for breaches of the rights, the CRC does not.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?

Children through their representatives can challenge violations of their rights in a wide range of settings. For example, administrative decisions can be appealed under the Public Administration Act by a party or another person with a legal interest in the case to the administrative body which is the immediate superior of the administrative body that made the decision, or may be subject to judicial review by a court.¹¹ Under the Criminal Procedure Act, an aggrieved party may institute a private prosecution in cases of criminal acts that are not prosecuted by the public authorities.¹²

An individual can submit a complaint to the Parliamentary Ombudsman or Ombudsman

⁶ UNICEF, p. 59.

⁷ Ibid.

⁸ Ibid., p. 61.

⁹ Ibid.

¹⁰ *A, B, C, D and Norwegian Organization for Asylum Seekers (NOAS) v. The Immigration Appeals Board*. CRIN summary available at: www.crin.org/en/node/40375.

¹¹ See Public Administration Act, available at: <http://www.ub.uio.no/ujur/ulovdata/lov-19670210-000-eng.pdf>.

¹² Criminal Procedure Act, section 402, available at: <http://www.ub.uio.no/ujur/ulovdata/lov-19810522-025-eng.pdf>.

for Equality and Anti-discrimination concerning an alleged violation by any public authority. The Parliamentary Ombudsman may determine that an error or negligence has been committed by the public authority or that the public authority's decision is clearly unreasonable or contrary to good administrative practice, or recommend that compensation should be awarded. The opinion of the Parliamentary Ombudsman is not legally binding, but in practice it is frequently followed.¹³ These entities, however, have handled very few cases involving child complainants or complaints filed on behalf of children. The Ombudsman for Children has expressed concern that the lack of cases dealing with children may be a reflection of the inaccessibility of public complaints mechanisms to children.¹⁴

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 the Dispute Act 2005, persons under the age of 18 only have procedural capacity (the capacity to act on behalf of oneself in a lawsuit, including the capacity to bring an action) if provided by statute.¹⁵

Under the Civil Procedure Act, a child may be a party to a civil case, but may not normally conduct legal proceedings themselves. Civil actions on behalf of children must be filed by their legal guardian (i.e. parent or other person with parental responsibility).

Under the Public Administration Act, children must be represented by their guardian, or a representative appointed by the guardian in administrative law cases.¹⁶

In cases of criminal acts that are not prosecuted by the public authorities, if the aggrieved person is under 18, an application for prosecution shall be made by the person(s) who have parental responsibility. If no one has parental responsibility, an application for prosecution shall be made by the guardian. If the aggrieved person is over 16, an application for prosecution cannot be made against their express wishes in cases relating to assault and defamation. If the aggrieved person has completed their sixteenth year, they may also themselves apply for prosecution.¹⁷

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

Such cases would typically be brought by their legal guardian (i.e. parent or other person with parental responsibility).

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

¹³ Core document forming part of the reports of States parties: Norway, para. 109.

¹⁴ See The Ombudsman for Children in Norway, 'Supplementary report to the UN Committee on the Rights of the Child'.

¹⁵ Dispute Act 2005, section 2-2, available at:

<http://www.ub.uio.no/ujur/ulovdata/lov-20050617-090-eng.pdf>

¹⁶ Civil Procedure Act, section 37; *Initial report of Norway to the UN Committee on the Rights of the Child*, CRC/C/8/Add.7, 12 October 1993, paras 114-115. Available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2f8%2fAdd.7&Lang=en

¹⁷ General Civil Penal Code, section 78, available at:

https://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/NOR_penal_code.pdf

Children or their representatives may be eligible for free legal advice and representation in civil cases under the Legal Aid Act, or in criminal cases as a defendant or victim under the Criminal Procedure Act (see part IV.B below for more information).

- 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)?

As described in part II.B above, a child can only bring a case to court with the assistance of their legal guardian. There are no other such conditions or limits.

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?

There are many ways in which a legal challenge to a violation of children's rights may be brought before a Norwegian court. For example, in a civil claim or civil or penal proceedings such as a claim for compensation, or in administrative and judicial review proceedings of administrative decisions or the constitutionality of laws.¹⁸ A child who has been exposed to violence has the right to victims of violence compensation according to the provisions in the Victims of Violence Compensation Act 2001.¹⁹

Regarding judicial review, it does not appear possible for an individual to bring a case directly before a court alleging a violation of their rights under the Constitution, the CRC or any other ratified treaty. Rather, whenever the question of whether legislation is consistent with the Constitution or an international human rights treaty arises during the trial of a case, Norwegian courts must decide whether such legislation breaches the Constitution or the treaty in the case before it.²⁰

Complaints about administrative decisions may be brought initially to a higher administrative body. If the person believes that the administrative decision is based on an erroneous interpretation of the applicable law, that the administrative procedure has been at fault or that the administrative body has not acted in good faith, he/she may then ask the ordinary courts (beginning in the court of first instance) to review the administrative decision.²¹

At the regional level, Norway has ratified the ECHR and accepted the jurisdiction of the European Court of Human Rights, which decides cases concerning alleged violations of any of the rights contained in the ECHR.²² Any individual, group of individuals or an

¹⁸ *Core document forming part of the reports of States parties: Norway*, para. 108.

¹⁹ *Fourth periodic report of Norway to the UN Committee on the Rights of the Child*, CRC/C/NOR/4, 11 May 2009, para. 253. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fNOR%2f4&Lang=en.

²⁰ Karin M. Bruzelius, 'Judicial review within a unified court system', available at: http://www.venice.coe.int/WCCJ/Papers/NOR_Bruzelius_E.pdf.

²¹ *Ibid.*

²² European Convention for the Protection of Human Rights and Fundamental Freedoms ("European

NGO who is a victim of a violation of one of these rights may submit a complaint to the Court,²³ but the complaint will be admissible only if all domestic remedies have been exhausted.²⁴ Anonymous complaints are not permitted.²⁵ 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.²⁶ After examining the case, the Court renders a judgment which is binding on the State²⁷ and also has powers to award monetary compensation to the victims of human rights abuses.²⁸ 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. In 2009, the European Court issued a judgment against Norway which held that the State had violated the right to respect private and family life as provided under the ECHR.²⁹

Norway has also accepted the jurisdiction of several other complaints mechanisms in the UN system, including the Optional Protocol to the ICCPR, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Elimination of All Forms of Racial Discrimination.³⁰

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

Norwegian courts have general jurisdiction to review these violations. Courts in civil cases have the power to award monetary damages or to issue an injunction. In administrative cases, the court can review the validity of administrative decisions. If an administrative decision is found to be invalid, the matter will be sent back to the administrative organ for renewed consideration.³¹

Courts can review the constitutionality of acts passed by parliament and whether legislation is compatible with Norway's human rights obligations. When a court declares a law to be unconstitutional or inconsistent with a human rights treaty, the statutory provision may be annulled or not applied in the specific case.³²

C. Would such a challenge have to directly involve one or more individual child victims,

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>.

²³ Ibid., Article 34.

²⁴ Ibid., Article 35.

²⁵ Ibid.

²⁶ Rules of Court, July 2014, Rule 36, available at:

http://www.echr.coe.int/documents/rules_court_eng.pdf.

²⁷ European Convention on Human Rights, Article 46.

²⁸ Ibid., Article 41.

²⁹ See US Department of State, ‘2010 Human Rights Report: Norway’, <http://www.state.gov/j/drl/rls/hrrpt/2010/eur/154443.htm>, 2011, (accessed 4 February 2014).

³⁰ *Core document forming part of the reports of States parties: Norway*, para. 110.

³¹ Karin M. Bruzelius.

³² Ibid., para. 108; Karin M. Bruzelius; ‘Reply by the Supreme Court of Norway’, available at: http://www.venice.coe.int/WCCJ/Seoul/docs/Norway_CC_reply_questionnaire_3WCCJ-E.pdf.

or is it possible to challenge a law or action without naming a specific victim?

It is possible to challenge laws or actions without naming specific victims through representative litigation or class actions (see part III.D below).

D. Is any form of collective action or group litigation possible, with or without naming individual victims?

Norwegian law allows for “representative litigation”, in which an organisation, or another association or interest group, can bring an action for non-compensatory relief to protect the interests of the general public or a group. The organisation institutes a legal proceeding in its own name on behalf of its members or an interest of the general public or a specific group. Organisations may be found to have sufficient connection to the subject matter in dispute to fulfill the requirement of “legal interest” when the claim concerns matters and interests which are within the purpose and normal scope of the organisation. Norwegian representative litigation is an especially useful tool to protect rights that do not belong to a definite group of people, but rather belong to the general public.³³

Class actions for compensatory relief are also permitted under Chapter 35 of the Dispute Act. Section 35-2 sets out the conditions for bringing a class action: (1) several legal persons must have claims or obligations, which have identical or substantially similar factual and legal basis; (2) the claims must be such that they can be heard by a court with the same composition and mainly pursuant to the same procedural rules; (3) the court must find that a class action is the most appropriate way of dealing with the claims; and (4) it must be possible to nominate a class representative pursuant to section 35-9.³⁴

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?

Non-governmental organisations are permitted to file challenges to potential children's rights violations and to intervene in cases that have already been filed, provided the organisation shows that the interests in dispute concern the organisation's core values or aims.³⁵ See part III.D above for more information regarding representative litigation and class actions.

Norway has ratified the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints,³⁶ meaning that complaints of violations of children's rights contained in the European Social Charter³⁷ can be made to the European Committee of Social Rights. Such complaints of unsatisfactory application of

³³ Dispute Act, Sections 1-3 and 1-4. See also Global Class Actions, ‘Class Actions, Group Litigation & Other Forms of Collective Litigation in the Norwegian Courts’, http://globalclassactions.stanford.edu/sites/default/files/documents/Norway_National_Report.pdf, (accessed 4 February 2014); L. Moher, ‘Norway: Collective redress in Norway’, <http://www.mondaq.com/x/162650/Class+Actions/Collective+Redress+In+Norway>, 2012, (accessed 4 February 2014).

³⁴ Dispute Act; see also Global Class Actions.

³⁵ Dispute Act, sections 1-4, 15-7.

³⁶ Available at: <http://conventions.coe.int/Treaty/en/Treaties/Html/158.htm>.

³⁷ Available at: http://www.coe.int/t/dghl/monitoring/socialcharter/Presentation/TreatiesIndex_en.asp.

the Charter may only be submitted by international NGOs that have participatory status with the Council of Europe.³⁸ The Committee reviews the information provided by both sides and writes a report with its conclusions, which is sent to the Committee of Ministers of the Council of Europe that adopts a resolution and makes a recommendation to the State.³⁹ The State then must provide information about the steps taken to comply with the recommendation in its next report under the Charter.⁴⁰

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?

Within the Norwegian court system, there are three ordinary judicial authorities: District Courts, Courts of Appeal, and the Supreme Court as the court of last instance. Norwegian courts have general jurisdiction and all courts have the competence to handle both criminal and civil cases, including cases concerning the validity of administrative decisions and cases that give rise to constitutional questions.

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?

Regarding civil cases, the Legal Aid Act differentiates between prioritised cases without financial means testing and prioritised cases with financial means testing. In cases without financial means testing, legal aid is granted regardless of the applicant's financial situation.⁴¹ Prioritised cases without financial means testing include those concerning child welfare, immigration, compensation or redress for unlawful criminal prosecution, claims for victim's compensation against a perpetrator, domestic violence, forced marriages, and where coercion is involved, for instance in psychiatric health care.⁴²

Prioritised cases with financial means testing include those concerning custody, personal injury, compensation for victims of violent crimes, and complaints or appeals concerning social security. Eligibility for legal aid in these cases requires gross income below 246,000 NOK (32,278 €) for an individual, or if a co-habitant, the gross annual income of the household must be below 369,000 NOK (48,417 €). In addition, a person must have net assets below 100,000 NOK (13,121 €).⁴³

³⁸ Additional Protocol for a System of Collective Complaints, Article 1. See also:

http://www.coe.int/t/dghl/monitoring/socialcharter/OrganisationsEntitled/OrgEntitled_en.asp.

³⁹ Additional Protocol for a System of Collective Complaints, Articles 8-9.

⁴⁰ Additional Protocol for a System of Collective Complaints, Article 10.

⁴¹ The Act on Free Legal Aid of 13 June 1980, Section 11.

⁴² Ibid.; O. Rønning, 'National report - Norway',

http://www.ilagnet.org/jscripts/tiny_mce/plugins/filemanager/files/The_Hague_2013/National_Report/Norway_National_Report_Final.pdf, 2013, (accessed 4 February 2014).

⁴³ Ibid.

Legal aid can, under special circumstances, be granted in other types of cases if the case in hand is similar to the prioritised case types or affects the applicant to a particularly high degree.⁴⁴

If legal aid is granted, the court fees will also be covered under the legal aid scheme. The client will be obliged to pay a contribution. The rate is 925 NOK (125.53 €) for legal aid outside court and 25 per cent of the cost, but capped at 4725 NOK (627.67 €) for legal aid in court proceedings.⁴⁵

The Criminal Procedure Act contains certain requirements for the provision of legal aid. Generally, a criminal defendant will be entitled to assistance from a publicly funded legal aid lawyer.⁴⁶

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

In Norway, publicly funded legal aid is mainly provided by lawyers in private practice, who are remunerated through state funding.⁴⁷ Approximately one third of practising lawyers in Norway accept legal aid clients under this system currently in place.⁴⁸

There is no tradition of formalising pro bono work. However, most legal firms provide some legal assistance for little or no payment. In addition, the Norwegian Bar Association organises free legal aid services across 35 locations in Norway.⁴⁹

- 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?

The time limit for lodging an appeal of an administrative decision is three weeks from the date on which notification of the administrative decision has reached the party concerned. If notification is made by public announcement, the time limit for an appeal runs from the date on which the administrative decision was first published. Such appeals may still be dealt with beyond this time limit in special circumstances.⁵⁰

In cases of criminal acts that are not prosecuted by the public authorities, an application for prosecution must be submitted not later than six months after the person entitled to apply has acquired knowledge of the criminal act and who has committed it. In the case of children, the time-limit does not begin to run until their right is established at age 16.

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⁴⁴ The Act on Free Legal Aid, sections 11 and 16.

⁴⁵ O. Rønning.

⁴⁶ Ibid.; Criminal Procedure Code, sections 96-99, 100.

⁴⁷ Ibid.

⁴⁸ Latham & Watkins LLP, 'A survey of pro bono practices and opportunities in 71 jurisdictions', <http://www.probonoinst.org/wpps/wp-content/uploads/a-survey-of-pro-bono-practices-and-opportunities-in-71-jurisdiction-2012.pdf>, 2012, (accessed 4 February 2014), p. 214.

⁴⁹ See Stockholm Institute for Scandinavian Law, 'The Norwegian Bar Association', <http://www.scandinavianlaw.se/pdf/46-17.pdf>, (accessed 4 February 2014).

⁵⁰ Public Administration Act, sections 29 and 31.

⁵¹ General Civil Penal Code, sections 78 and 80.

A special period of limitation applies to children who have the right to victims of violence compensation. In such cases it will be sufficient that the demand for compensation is forwarded before the victim reaches 21 years of age.⁵²

- 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 civil cases, the general rules of evidence in the Civil Procedure Act apply. The parties shall ensure that the factual basis of the case is properly and completely explained and must present the evidence necessary to fulfill this duty. The submission and examination of evidence is free. However the evidence presented must have relevance and importance for the disputed questions of the specific case.⁵³

Regarding child witnesses below 12 years of age, the court must balance the interests of the child against the clarification needed in the case. For witnesses below 16 years of age, the court must consider how to conduct the examination with due regard for the interests of the child. In the case of any child witness, the child's guardian or other custodian is permitted to be present at the examination unless special reasons indicate otherwise.⁵⁴

In criminal cases, there is no age limit connected to the obligation to give evidence. When a child under 16 years of age is examined as a witness, the child's parents or a person responsible for the child should be allowed to be present at the examination unless the person concerned has been reported in connection with the case or there are other reasons to the contrary.⁵⁵ A witness under 14 years of age or who otherwise does not have a clear understanding of the meaning of an affirmation is not required to give an affirmation to the court.⁵⁶

In addition, there are several special procedural rules in connection with the examination of child witnesses in particular criminal cases. In cases of sexual offences, the judge when examining a witness who is under 14 years of age shall take the statement separately from a sitting of the court when he or she finds this desirable in the interests of the witness or for other reasons. The judge shall in such cases as a general rule summon a well-qualified person to assist with the examination or to carry out the examination subject to the judge's control. When it is possible, the examination shall, as a main rule, be recorded on a videocassette and if necessary on a separate sound recorder. Examination of a witness separate from a sitting of the court may also be used in cases concerning other criminal matters when the interests of the witness so indicate. When the witness's age or special circumstances so indicate, the judge may decide that instead of or prior to an examination separately from the sitting of the court, the witness

⁵² Fourth State Party Report, para. 253

⁵³ Dispute Act 2005, Part V - Evidence, available at:
<http://www.ub.uio.no/ujur/ulovdata/lov-20050617-090-eng.pdf>

⁵⁴ Dispute Act 2005, Section 24-10, available at:
<http://www.ub.uio.no/ujur/ulovdata/lov-20050617-090-eng.pdf>

⁵⁵ Criminal Procedure Act 1981, Section 128, available at:
<http://www.ub.uio.no/ujur/ulovdata/lov-19810522-025-eng.pdf>

⁵⁶ Criminal Procedure Act 1981, Section 132, available at:
<http://www.ub.uio.no/ujur/ulovdata/lov-19810522-025-eng.pdf>

shall be placed under observation.⁵⁷ The Ministry of Justice has proposed that these rules for judicial examination should also apply to children aged 14 to 16, and in all cases where it would be particularly stressful for the child to testify in the case or where the child should be protected from the strain of repeated examinations.⁵⁸

There are also provisions in Norwegian law that protect the child's right to express their views in cases. Under the Children Act, children as young as seven years old must be able to express their opinions before decisions are taken concerning personal relations for the child. This does not exclude younger children from being heard. The Act provides that the child's opinion shall be given due weight in accordance with the child's maturity and age.⁵⁹

In administrative law cases, the administrative body must ensure that a child who is a party to the case has been given an opportunity to express their views insofar as they are capable of forming their own opinions about the case in question. Due weight shall be attached to the child's views in accordance with their age and state of maturity.⁶⁰ Furthermore, a child who is a party and has due cause for doing so must be given the opportunity to communicate orally with a public official at the administrative body that is dealing with the case.⁶¹ A child over 15 years of age who is a party and has not already expressed their opinion on the case through an application or by other means must be notified before an administrative decision is made and be given an opportunity to express their opinion within a stipulated time limit.⁶²

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

Timing guidelines have been proposed by the Ministry of Justice with consent from the Norwegian Parliament. Currently, all civil cases should be disposed in six months and all criminal cases in three months.⁶³

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

Judgments of a District Court may be appealed to a Court of Appeal. Decisions by a Court of Appeal – other than those on the question of guilt in criminal cases – can be appealed to the Supreme Court.⁶⁴

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?

⁵⁷ Criminal Procedure Act 1981, Section 239, available at:

<http://www.ub.uio.no/ujur/ulovdata/lov-19810522-025-eng.pdf>

⁵⁸ *Fourth periodic report of Norway to the UN Committee on the Rights of the Child*, para. 525.

⁵⁹ *Ibid.*, para. 80.

⁶⁰ Public Administration Act, section 17.

⁶¹ *Ibid.*, section 11(d).

⁶² *Ibid.*, section 16.

⁶³ Dr P. Albers, 'The management of judicial time',

http://www.eipa.eu/modules/EuroMedJustice/Conferences/Istanbul_16_19Apr07/speeches/1_Speech_PI_M_ALBERS_TheManagementJudicialTime.pdf, (accessed 4 February 2014).

⁶⁴ Norwegian Courts Administration, 'Courts of Norway',

http://www.domstol.no/upload/DA/Internett/da.no/Publikasjoner/Domstolene%20i%20Norge_ENG_OPP_SL.pdf, (accessed 4 February 2014).

The doctrine of precedent is based in legal tradition, and is presupposed by the Norwegian Act No. 2 of 1926. Thus, negative effects of an unfavourable decision could be felt for years into the future. In addition, a negative decision by the Supreme Court will have a greater effect than that of a lower court. However, Act No. 2 of 1926 does not place any restraints on the Supreme Court to overrule a prior decision.⁶⁵

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

No other such concerns or challenges were identified.

- 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.

Norway was the first country in the world to establish the Ombudsman for Children. The Ombudsman for Children is an independent body that has the power to monitor legislation and policy, and ensure that public authorities comply with the CRC. However, it is not equipped to handle individual complaints, neither in terms of resources nor mandate. It also cannot reverse decisions made by competent authorities such as social welfare authorities or immigration authorities, schools or courts.⁶⁶

According to a state report, Norway has a well developed system of customary law. To meet the requirements under customary law the custom must have been consistently practised over a long period of time, and both the legal practitioners and society as a whole must have considered the custom to be legally binding. In Norway, customary law still plays a considerable part in the legal system, especially in the law of damages, law of torts, contract law, public administration law and constitutional law.⁶⁷

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

⁶⁵ See S. Eng, 'The doctrine of precedent in English and Norwegian Law', <http://www.scandinavianlaw.se/pdf/39-14.pdf>, (accessed 4 February 2014).

⁶⁶ Norwegian Ombudsman for Children, 'About the Ombudsman', <http://barneombudet.no/english/about-the-ombudsman/>, (accessed 4 February 2014); The Ombudsman for Children in Norway, 'Supplementary report to the UN Committee on the Rights of the Child', http://www.crin.org/docs/supplementary-report-to-the-un_english.pdf, 2009, (accessed 4 February 2014), p. 8.

⁶⁷ *Core document forming part of the reports of States parties: Norway*, para. 71.