

ACCESS TO JUSTICE FOR CHILDREN: PANAMA

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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?

Panama ratified the CRC on the 12 December 1990.¹

According to article 4 of the Constitution of Panama, the Republic of Panama shall abide by the rules of international law.² In addition, article 129 of the Constitution states that the Office of the Ombudsperson shall ensure that international conventions on human rights are observed.

Furthermore, on 1 August 1994, the Family Code³ was published in the Official Gazette, which is in accordance with the principles established in the CRC, and contains as an addendum, Law No. 15 of 6 November, the law by which the CRC was approved.⁴

B. Does the CRC take precedence over national law?

As mentioned in part I.A, article 4 of the Constitution of Panama states that “the Republic of Panama abides by the rules of international law,” which implies the constitutional status of international treaties. However, there is no further provision in the Constitution that affirms this.

C. Has the CRC been incorporated into national law?

Yes, the CRC has been incorporated into national law through Law No.15, as previously mentioned in part I.A.

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

Yes, the CRC has been directly invoked in the courts and cited.⁵

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

¹ Convention on the Rights of the Child, Chapter IV, available at:

http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en.

² Constitution of Panama, Article 4, available at:

<http://pdba.georgetown.edu/Parties/Panama/Leyes/constitucion.pdf>

³ Family Code, available at: <http://www.biblioteca.jus.gov.ar/Codigo-Familia-Panama.html>.

⁴ Available at:

http://www.organojudicial.gob.pa/cendoj/wp-content/blogs_dir/cendoj/PENAL_DE_ADOLESCENCIA/ley_15_de_1990_convencion_sobre_los_derechos_del_nio.pdf

⁵ See <http://bd.organojudicial.gob.pa/registro.html> and search for “the Convention on the Rights of the Child”

relevant international instruments?

Yes, there are many examples of judgments of High Courts that have applied the CRC, including those referenced.⁶

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?

Article 5 of the Family Code establishes that minors have capacity in determined cases regarding their rights.

On the other hand, article 332 of the Family Code states that parents are the legal representatives of their children. This is with the exception of specific acts that according to the law the child is authorised to carry out himself or herself, when the interests of the parents and the child are in conflict, and when acts related to the child's assets are excluded from the parents' administration.

⁶ See, for example, Corte Suprema de Justicia, Panamá, 9 de diciembre de 2009. Expediente: 421-08. *Amparo de garantías constitucionales presentado por el magíster Luis Ernesto Bolaños contra la orden de hacer contenida en la resolución de 7 de marzo de 2008 dictada por el Tribunal Superior de Niñez y Adolescencia*, (child abuse):
http://bd.organojudicial.gob.pa/scripts/dtSearch/dtisapi6.dll?cmd=getdoc&DocId=50113&Index=H%3a\d\tsearch\UserData\indices_dts\todo&HitCount=54&hits=2ec+2ed+2ee+2ef+2f0+2f1+43a+43b+43c+43d+43e+43f+55e+55f+560+561+562+563+875+876+877+878+879+87a+ea8+ea9+eaa+eab+eac+ead+1013+1014+1015+1016+1017+1018+124b+124c+124d+124e+124f+1250+147f+1480+1481+1482+1483+1484+15b8+15b9+15ba+15bb+15bc+15bd+&SearchForm=c%3a\inetpub\wwwroot\registro_form.html#hit3
Corte Suprema de Justicia, Panamá, 8 de septiembre de 2000.
Amparo de garantías constitucionales presentado por el licenciado Ricaurte M. Escudero, en representación de Magda Gabriela Meana de Mangravita, contra el Tribunal de Apelaciones y consultas de familia del primer circuito judicial, (due process rights for minors):
http://bd.organojudicial.gob.pa/scripts/dtSearch/dtisapi6.dll?cmd=getdoc&DocId=59919&Index=H%3a\d\tsearch\UserData\indices_dts\todo&HitCount=24&hits=849+84a+84b+84c+84d+84e+961+962+963+964+965+966+bb9+bba+bbb+bbc+bbd+bbe+c82+c83+c84+c85+c86+c87+&SearchForm=c%3a\inetpub\wwwroot\registro_form.html
Corte Suprema de Justicia, Panamá, 14 de septiembre de 2009. Expediente: 331-08.
Demanda contencioso administrativa de protección de los derechos humanos, interpuesta por la licenciada María Vargas Paz, en representación de Anne Appolonia Okwuka, para que se declaren nulos por ilegales, los actos administrativos contenidos en la nota no. DVIC-379-07 de 20 de diciembre de 2007 emitida por el viceministro de comercio e industriales, y en la nota no. DSAN-0023-08 de 2 de enero, emitida por el administrador general de la autoridad nacional de los servicios públicos, (due process rights and non-discrimination towards minors)
http://bd.organojudicial.gob.pa/scripts/dtSearch/dtisapi6.dll?cmd=getdoc&DocId=16814&Index=H%3a\d\tsearch\UserData\indices_dts\todo&HitCount=30&hits=315+316+317+318+319+31a+870+871+872+873+874+875+14b0+14b1+14b2+14b3+14b4+14b5+14c0+14c1+14c2+14c3+14c4+14c5+1647+1648+1649+164a+164b+164c+&SearchForm=c%3a\inetpub\wwwroot\registro_form.html#hit1

In addition, article 333 of the Family Code provides that where there are opposing interests between the parents and the child, the judge shall appoint a lawyer to represent the child. If the conflict of interest is between only one of the parents and the child, then the other parent shall be the legal representative. Also, by request of the minor's father or mother, the Public Prosecutor's Office, the Children's Ombudsperson, or any other person able to appear in court, the judge shall appoint a representative of the minor, who may be a relative, their legal guardian or any other person. Failing the appointment of any of the aforementioned individuals, or where such individuals have opposing interests to the child, the judge shall appoint another relative, or a non-relative where applicable.

Furthermore, article 738 of the Family Code establishes that: (i) the Children's Ombudsperson shall act as representative in all proceedings involving minors, and (ii) that any proceedings that do not comply with the aforementioned requirement shall be subject to nullity, except in the circumstances expressly provided for by law.

In sum, according to the Family Code, minors need a legal representative in order to bring a case to court. Nevertheless, the Family Code permits several instances in which the minor can participate in proceedings and be heard.

Article 818 of the Family Code states that proceedings concerning minors allow them, as well as their parents, guardian(s), or any other person whose appearance is considered necessary, to communicate directly with the judge, or any other public official or technician.

Also, article 489 of the Family Code states that minors have the right to express their views freely, and consequently, in all proceedings affecting them, they must be heard directly or through a representative, in accordance with the existing rules. Additionally, the aforementioned article states that children's opinions must be heard, taking into account their age and mental maturity.

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?

As mentioned in part II.A, the general rule is that minors need a legal representative in order to bring their cases to court. Article 768 of the Family Code establishes that minors may act as plaintiffs. However, article 769 of the Family Code specifically states that minors may be represented before the family courts, and specialised youth courts, by their ascendants, close relatives, guardians, the Children's Ombudsperson, or their parents.

On the other hand, article 350 of the Family Code provides for the emancipation of minors, which takes place either by court order or is authorised by law, in accordance with article 351 of the same code. Minors who have entered into a valid marriage will automatically be considered emancipated pursuant to article 352 of the Family Code. Judicial emancipation may be granted to persons aged 15 or above, and may be

requested by persons who exercise parental authority, guardians, or the minor himself or herself, when necessary, as a protective measure to act in the best interests of the child.⁷

In proceedings involving young offenders, article 539 of the Family Code states that the youth judge shall order a preliminary investigation, and that the views of the minor shall be heard.

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

As previously stated in part II.B, cases regarding the violation of children's rights shall be brought through a legal representative, which may be their parent, their guardian, a close relative, or a lawyer.

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

Article 829 of the Family Code states that court-appointed lawyers shall provide free representation for citizens, families, minors and disabled people that cannot afford to pay for their services, before the family courts and youth courts.

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)?

No further limitations were identified.

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?

Proceedings involving minors are governed by the Family Code, as well as some provisions of the Civil Code⁸, the Criminal Code⁹ and the Criminal Procedural Code.¹⁰ For these proceedings, jurisdiction lies with the specialised youth courts, as stated in article 744 of the Family Code.

In addition, article 747 of the Family Code establishes the specialised jurisdiction for matters involving minors, which shall be exercised by the Supreme Court of Justice, the High Courts for the Family, the Youth High Courts, the Family Section Courts, the Youth Section Courts, and the Municipal Family Courts.

⁷ Family Code, Articles 354-56.

⁸ Available at: <http://panama.eregulations.org/media/Código%20civil.pdf>

⁹ Available at: <http://www.refworld.org/pdfid/3e535baa4.pdf>

¹⁰ Available at: http://gacetas.procuraduria-admon.gob.pa/26114_2008.pdf

If a violation is caused by an order of a public official, the corresponding action is *amparo* (constitutional complaint), which is available to any person whose rights, as guaranteed to them by the Constitution of Panama, have been violated in this manner. The affected individual is entitled to make a petition, or a petition may be made on their behalf by a third party to have the order revoked. The enforcement of their rights will be ensured through summary proceedings and the jurisdiction of the relevant courts of law.¹¹ The Supreme Court, the High District Courts and the Circuit Courts all have jurisdiction to hear an *amparo* action.¹²

Habeas corpus is also available for the protection of constitutional rights.¹³

Additionally, a popular action may be brought in the Supreme Court by anybody regarding the unconstitutionality of any statute, decree, decision or act.¹⁴ A question of constitutionality can also be raised by the parties to a case before a lower court.

The Specialised Unit for Children and Youth in the Office of the Ombudsperson addresses complaints of violations of the human rights of children and adolescents. They identify the most urgent and unmet needs that are essential in childhood and adolescence, in order to coordinate efforts to meet their primary needs. They also develop and promote respect for the human rights of children and adolescents.¹⁵

Regional mechanisms

Individuals or groups of individuals, including children, and NGOs may submit petitions to the Inter-American Commission on Human Rights (IACHR),¹⁶ on their behalf or on behalf of third persons, regarding alleged violations of the American Convention on Human Rights.¹⁷ A petition can only be lodged after domestic remedies have been exhausted, and normally must be filed within six months after the final judgment.¹⁸ The petition must

¹¹ Constitution of Panama, Article 54; Judicial Code, Article 2615, available at: <http://www.libertadciudadana.org/archivos/Biblioteca%20Virtual/Leyes%20Nacionales%20Indigenas/Juridico/Codigos/Codigo%20Judicial%20de%20la%20Republica%20de%20Panama%202010.pdf>

¹² Judicial Code, Article 2616.

¹³ See Judicial Code, from Article 2574.

¹⁴ Judicial Code, Article 2556.

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http://www.defensoriadelpueblo.gob.pa/index.php?option=com_k2&view=item&layout=item&id=3743&Itemid=244.

¹⁶ The Inter-American Commission on Human Rights is one of two bodies within the Organisation of American States (OAS) for the promotion and protection of human rights. The other human rights body is the Inter-American Court of Human Rights. The Commission benefits from a “dual role” as its mandate is found in both the Charter of the Organisation of American States, and in the American Convention on Human Rights (ACHR). As an OAS Charter organ, the IACHR performs functions in relation to all OAS Member States. As an organ of the Convention, its functions are applicable only to States that have ratified the ACHR: Charter of the Organisation of American States, Chapter XV, available at: http://www.oas.org/dil/treaties_A-41_Charter_of_the_Organization_of_American_States.htm; American Convention on Human Rights, ‘Pact of San Jose, Costa Rica’, Chapter VII, available at: http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm.

¹⁷ American Convention on Human Rights, Article 44.

¹⁸ Rules of Procedure of the Inter-American Commission on Human Rights, Articles 31-32, available at: <http://www.oas.org/en/iachr/mandate/Basics/rulesiachr.asp>.

include, amongst other things, the name of the person filing it or, in the case of an NGO, the name of the legal representative, the name(s) of the victim(s) if possible, and whether the petitioner wishes to remain anonymous and the respective reasons.¹⁹ The victim may designate a lawyer or other person to represent him/her before the IACHR, but this is not compulsory.²⁰ When a petition is declared admissible, the IACHR attempts to reach a “Friendly Settlement” between the parties concerned. If this is not possible, the IACHR will reach a decision on the merits, which consists of non-binding recommendations to the violating State, aimed at ending the human rights violations, making reparations, and/or making changes to the law.

If the State does not comply with the recommendations of the IACHR, the IACHR may refer the case to the Inter-American Court of Human Rights (IACtHR).²¹ Individuals do not have direct recourse to the Court, and must submit their petitions to the IACHR. The IACtHR interprets and applies the ACHR and other Inter-American human rights treaties and issues a judgment, which may include an order to pay reparations to the victim(s) of human rights violations.²² The Court’s judgments are legally binding on the State against which they are made.

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

Several of the courts’ powers to remedy violations of children’s rights are found in the Family Code.²³ The youth judge may issue a caution, make an arrest, impose a fine or even temporarily or permanently remove all parental rights (*patria potestad*) from the father, mother, guardian, or the legal representative of the institution in whose care the child has been placed, when the child has been the victim of abuse, abandoned, or their basic needs are not being met.²⁴

Furthermore, all individuals, administrative authorities, and police authorities, whatever their standing, are obliged to co-operate to ensure compliance with the provisions of the Family Code, as well as compliance with the measures available to the youth courts and family courts for the enforcement of these provisions. Similarly, all of the aforementioned entities must ensure the protection of minors when they are aware of a violation of their subjective rights.²⁵

The Supreme Court has jurisdiction to hear *amparo* actions for acts of public officials with authority in the whole of Panama, or in two or more provinces. The High District Courts may hear *amparo* actions when they stem from acts of public officials with authority in one province, and circuit judges may on

¹⁹ Ibid., Article 28.

²⁰ Ibid., Article 23.

²¹ Ibid., Article 45.

²² American Convention on Human Rights, Article 63.

²³ Family Code, Book II, Title XI.

²⁴ Ibid, Article 559.

²⁵ Family Code, Article 771.

hear an *amparo* action when it concerns the conduct of public officials with authority in one district.²⁶ When a person brings a successful *amparo* action, either on their own behalf, or on behalf of a third party, they are entitled to have the violating order revoked.

The decisions issued by the Supreme Court regarding popular actions on unconstitutionality are final, definitive and binding, and must be published in the Official Gazette.²⁷

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?

Article 739 of the Family Code states that proceedings regarding minors shall be confidential and only the parties, proxies, relatives, licensed lawyers and persons that, at the discretion of the judge, demonstrate a legitimate interest in the matter will have access to the proceedings.

Similarly, the Criminal Procedural Code establishes that, as an exception to the principle of public disclosure, in cases where the victim is underage, the Court may decide to carry out such cases totally or partially in private.²⁸

Nevertheless, there appears to be no national provision which allows actions for violations of the rights of a single unspecified or unnamed victim.

However, where a challenge involves a law or an action that affects several children, collective litigation is possible, without naming a specific victim, as explained below in part III.D.

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

According to article 79 of the Criminal Procedural Code, associations recognised by the State can be considered victims of crimes that affect their collective interests, provided that the aims of the associations are directly related to those interests. The same article also defines a ‘victim’ as any person that individually or collectively has suffered damage and/or physical, mental or emotional harm.

Article 584 of the Family Code states that family rights belong to every member of the family, and that family members may be considered individually or collectively. This suggests that a collective action could be brought by a family on behalf of one of their members, without naming the individual victim.

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

²⁶ Judicial Code, Article 2616.

²⁷ Constitution of Panama, Article 206(2); Judicial Code, Article 2573.

²⁸ Criminal Procedural Code, Article 362.3.

filed

Yes, they may, as mentioned above in part III.D.

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?

As stated in part III.A, under article 744 of the Family Code, youth courts have exclusive jurisdiction over every proceeding in which a minor is involved. Article 747 of the Family Code establishes the specialised jurisdiction for the family and minors, which shall be exercised by the Supreme Court of Justice, the High Courts for the Family, the Youth High Courts, the Family Section Courts, the Youth Section Courts, and the Municipal Family Courts.

With regard to proceedings involving families and/or minors, the Supreme Court of Justice has jurisdiction over the entire Republic; the High Courts for the Family and the Youth High Courts have jurisdiction over one or more provinces; the Family Section Courts and Youth Section Courts have jurisdiction in one province or in one district; and the Municipal Family Courts have jurisdiction in their respective districts.²⁹

Where the minor acts as a plaintiff in a case concerning a violation of their rights, the court with jurisdiction to hear the case will be their court of domicile, or the court in their place of residence, at the request of the child.³⁰ In these circumstances, this removes the need for children to travel long distances in order to challenge violations of their rights.

Furthermore, the case process shall be strictly confidential, without solemnities or formalities, and shall be held in a simple and natural environment, even in places that may be different from the headquarters of the Court, depending on the circumstances of the case.³¹

The courts in which children or their representatives file cases will generally be civil courts, with a specialised jurisdiction for minors.³² However, they could exceptionally file cases at the criminal courts, if no other court had the jurisdiction to hear their case, and a criminal offence had been committed in accordance with the definition found in the Criminal Code.³³

The filing process is written, in accordance with procedure outlined in the Judicial Code.³⁴

²⁹ Family Code, Article 748.

³⁰ Ibid, Article 768.

³¹ Ibid, Article 818.2.

³² Ibid, Article 754.

³³ Criminal Code, Article 3.

³⁴ Judicial Code, Book II, Part I, Article 606.

- 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?

See part II.D above.

None of the proceedings or actions related to the enforcement of the rules of the Family Code will accrue taxes, dues, fees or other charges.³⁵ Also, article 762 of the Family Code stresses that the use of the family courts and the specialised youth courts should be free of charge.

- 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 practising 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?

There are several entities that would provide legal assistance free of charge, such as “La Universidad Latina de Panamá” (the Latin University of Panama),³⁶ and NGOs such as “La Fundación de Asistencia Legal Comunitaria; FUNDALCOM,” (The Foundation for Legal Aid in the Community), created by Panamanian law firm, Morgan & Morgan.³⁷

- 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?

Article 119 of the Criminal Procedural Code states that the statute of limitations for criminal proceedings for completed offences shall run from the day on which such offences were committed. For attempted offences, the prescription period runs from the day on which the last implementing act was carried out. Finally, regarding the commission of offences against the sexual freedom and integrity of a minor, the statute of limitations shall run from the day on which the victim reaches legal maturity.

- 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?

Article 763 of the Family Code states that judges of the family courts and the specialised youth courts are bound to investigate the truth with regard to disputes, by means of the evidential procedures that they deem necessary. In addition to the evidential procedures found in the Judicial Code, the

³⁵ Family Code, Article 742.

³⁶ http://www.ulat.ac.pa/es/consultorio/consultorio_juridico.php

³⁷ <http://www.fundalcom.com/que-hacemos/>

aforementioned courts may evaluate any other form of evidence, as long as it is not prohibited by law. Such evidence shall be evaluated in accordance with the rules of reasoned judgment.

Furthermore, according to article 818 of the Family Code, an investigation carried out by a youth judge must include a study of the minor's personality, as well as their psychological characteristics, and an analysis of endogenous and exogenous factors that have shaped their behavior. The youth judge is also authorised to collect reports, documents, and expert evidence from any public or private institution, and others.

In criminal proceedings, children aged below 14 do not have to give evidence under oath, while all minors aged 14 and above must do so.³⁸ The Criminal Procedural Code provides that, in order to protect the integrity of the victims, a minor, at the moment of testifying, may be accompanied by a relative or any other person whom the minor trusts, as long as this person does not influence their testimony.³⁹

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

All youth judges must endeavour to secure the fairest and most effective administration of justice, and in seeking to do so, shall make a special effort to make use of expedited procedures in proceedings involving minors in order to resolve the case before them with the greatest procedural efficiency.

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

Resolution of cases involving minors that impose protective measures may be subject to judicial review by the same court ex officio, or by request of the director of the institution where the minor is located, or by request of the minor's parents, representatives, guardians or the Children's Ombudsperson.⁴¹ The final resolution of the youth courts may be contested by means of an appeal, before the corresponding Higher Youth Court.⁴²

The final decision of the Higher Youth Court may then be appealed before the Supreme Court.⁴³

The judgments of the Supreme Court of Justice are final and cannot be the subject of an appeal on the basis of their alleged unconstitutionality.⁴⁴

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

³⁸ Judicial Code, Articles 2116 and 2246.

³⁹ Criminal Procedural Code, Article 332.7.

⁴⁰ Family Code, Article 740.

⁴¹ Family Code, Article 826.

⁴² Ibid, Article 827.

⁴³ Judicial Code, Article 92.

⁴⁴ Constitution of Panama, Article 207.

repercussions from a positive decision?

As the Supreme Court has authority over all lower courts, if it reaches a negative decision, it will be more far-reaching and have greater impact than a negative decision from a lower court.

There could be political backlash from a positive decision. Nevertheless, no case could be found in which a positive decision has been followed by political backlash.

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

One challenge of enforcing positive decisions may be the lack of unified information concerning abuses of children's human rights. A system of data collection based on the age, sex, accommodation (i.e. whether it is rural or urban), ethnic origins and social environment of child victims is necessary, in order to build a general profile of the difficulties that prevent children from asserting their rights.⁴⁵

Another concern is the reported complicity of some parents in the sexual abuse of their children, which may in practice result in a positive decision having little impact, unless the concerned children are removed from their parents' care.⁴⁶

Discrimination towards indigenous communities is also a problem. Although all indigenous people in Panama share the same political and legal rights as other Panamanian citizens, in practice, they continue to be marginalised. As a result, enforcing the rights of children who belong to indigenous communities, following a positive decision, could be met with hostility or institutional bias by those in a position to remedy the abuses.⁴⁷

The corruption of government officials is a serious problem which has given rise to a culture of impunity, as the Panamanian government prosecutes few cases of alleged corruption or abuses of authority involving its officials.⁴⁸ The judicial system is also prone to corruption and inefficiency, and can become overburdened and politicised.⁴⁹ In a landmark case, Alejandro Moncada, a Supreme Court judge, was suspended in October 2014 over corruption charges, though this is the first time in 24 years that a high court judge has been removed from the bench.⁵⁰

⁴⁵ Second periodic Report of Panama to The UN Committee on the Rights of the Child, CRC/C/70/Add.20, Annex I, para. 25, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2F70%2FAdd.20&Lang=en

⁴⁶ Panama 2012 Human Rights Report, available at: <http://www.state.gov/documents/organization/204679.pdf>

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ "Freedom in the World 2013, Panama." Freedom House. Available at:

<http://www.freedomhouse.org/report/freedom-world/2013/panama#.VEUQY60gTtR>

⁵⁰ The Jurist. "Panama Supreme Court judge suspended over corruption charges," written by Alison Sacriponte. Available at:

However, NGOs can operate freely in Panama, meaning that they can play a role in ensuring that positive judicial decisions are enforced.⁵¹ The Office of the Ombudsperson is also important in the enforcement of positive decisions (see part III.A).

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.

Since the ratification of the CRC, there have been several regulations in order to protect children's rights, such as Law No. 47 of 2000, by which the Optional Protocol to the United Nations Convention on the Rights of the Child, related to the sale of children, child prostitution and child pornography was approved. There is also Law No. 18 of 2000, by which the Convention on the Prohibition of the Worst Forms of Child Labour Convention and the Immediate Action for its Elimination was approved. Also, a new law called the Law for the Fundamental Protection of the Child, is currently under consideration, which would include more fully developed child protection proceedings.⁵²

Other important regulations regarding the protection of children's rights include the following:

- Law No. 46 of 6 June, 2003, which amends provisions of Law No. 40 of 1999, on the Special Regime of Criminal Responsibility for Adolescents;
- Law No. 16 of 31 March, 2004, which establishes provisions for the prevention and criminalisation of offences against sexual integrity and freedom, and amends and supplements articles of the Criminal Code and Judicial Code;
- Law No. 29 of 1 August, 2004, which reorganises the Ministry of Youth, Women, Childhood and Family;
- Law No. 41 of 1 December, 2005, which amends and supplements articles of Law No. 7 of 1997, that creates the Office of the Ombudsperson;
- Law No. 15 of 22 May, 2007, which establishes measures to facilitate initiating prosecutions in ordinary legal proceedings, and in special legal proceedings, for the criminal responsibility of adolescents;
- Law No. 22 of 22 June, 2007, which adopts measures for the protection

http://jurist.org/paperchase/2014/10/panama-supreme-court-judge-suspended-over-corruption-charges.php?utm_source=JURIST+Paper+Chase+Daily+Digest&utm_campaign=aafae7fac8-RSS_EMAIL_CAMPAIGN&utm_medium=email&utm_term=0_63e224c141-aafae7fac8-297704541

⁵¹ "Freedom in the World 2014, Panama." Freedom House. Available at:

<http://www.freedomhouse.org/report/freedom-world/2014/panama-0#.VEUcZq0gTtQ>

⁵² <http://www.law.yale.edu/rcw/rcw/jurisdictions/amc/Panamá/frontpage1.htm> and

<http://www.idemipanama.org/especiales/docs/ley.pdf>

of minors, in relation to the exhibition and production of pornographic material;

- Law No. 61 of 12 August, 2008, which establishes the General Law for Adoptions in the Republic of Panama;
- Executive Decree No. 279 of 24 September, 2003, which created the Health and Safety Network against Unhealthy and Dangerous Child Labour;
- Executive Decree No. 140 of 11 November, 2003, by which the National Council for Childhood and Adolescence was created;
- Executive Decree No. 37 of 21 June, 2005, by which several provisions of Executive Decree No. 25 of April 15, 1997, were amended, (Restructuring of the Committee for the Abolition of Child Labour and the Protection of Adolescent Workers);
- Executive Decree No. 101 of 17 May 2005, which prohibits the access of minors to websites with pornographic content;
- Executive Decree No. 546 of 21 November, 2005, which prescribes free health care to children under the age of 5, in every medical establishment, of the Ministry of Health; and
- Executive Decree No. 19 of 12 June, 2006, which approves the list of hazardous child labour practices, in the context of the Worst Forms of Child Labour.

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