

## IN THE EUROPEAN COURT OF HUMAN RIGHTS

Application No. 13662/09

Galvinš v. Latvia

### WRITTEN SUBMISSION OF LEAGUE OF HUMAN RIGHTS (LIGA)

#### INTRODUCTION

1. These written comments are submitted by LIGA (League of Human Rights) to leave granted by the Vice-President of the Section in accordance with Rule 44 § 3 of the Rules of Court. This case concerns critical questions under Article 6 of the European Convention on Human Rights and Fundamental Freedoms (*hereinafter* “the Convention”) as to what specific guarantees a minor suspect shall be provided with as regards the right to defend himself/herself through legal assistance in order that this right is effective and not only formal and that the criminal proceedings against children are organised as to respect the principle of the best interests of the child.<sup>1</sup>
2. To be more concrete, in the cited case the European Court of Human Rights (*hereinafter* “the Court”) is to deal with the questions from what moment of the proceedings the minor suspect has to be provided with legal assistance and what minimum standards this legal assistance shall comply with. Furthermore, this case raises two other specific aspects of children rights in juvenile justice proceedings, that is interrogation of minors and obligation to adapt interrogation settings to their age and personal circumstances, and notification of the minor’s legal representatives, in the vast majority of cases the minor’s parents, and their assistance to the minor when being interviewed by the police during the pre-trial stage of proceedings.

#### A. SCOPE OF THE APPLICATION OF ARTICLE 6 OF THE CONVENTION

3. The first issue raised by the case *Galvinš v Latvia* is the scope of application of Article 6 of the Convention. The question is whether the procedural safeguard enshrined in Article 6(3)(c) of the Convention (**the right to access to legal assistance**), applies for the initial inquiry by the police even though the interviewed person has not yet been formally declared suspect.

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<sup>1</sup> See, *inter alia*, *Blokhin v. Russia*, judgment of 14 November 2013, application no. 47152/06, § 157.

4. The particular importance of early access to a lawyer with respect to children has been emphasised in a number of soft law documents. The Council of Europe Recommendation no. 1987/20 on social reactions to juvenile delinquency recommended *“the governments of member states to review their legislation and practice with a view to reinforcing the legal position of minors throughout the proceedings, including the police investigation, by recognising inter alia the right to the assistance of a counsel who may, if necessary, be officially appointed and paid by the state”*.<sup>2</sup> According to the Council of Europe Recommendation no. 2003/20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice the juveniles while being questioned by the police *“should also have the right of access to a lawyer and a doctor. [...]”*.<sup>3</sup> The Council of Europe Guidelines on Child-friendly Justice provide that a child should be provided with access to a lawyer whenever apprehended by the police.<sup>4</sup> In addition, the Guidelines stipulate that *“a child who has been taken into custody should not be questioned in respect of criminal behaviour, or asked to make or sign a statement concerning such involvement, except in the presence of a lawyer or one of the child’s parents or, if no parent is available, another person whom the child trusts”*.<sup>5</sup>
5. Similarly, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment identified that there are several fundamental rights which constitute safeguards against ill-treatment, *“namely the right of detained persons to inform a close relative or another third party of their choice of their situation, and **the right of access to a lawyer** and to a doctor”*.<sup>6</sup> Moreover, these rights should apply also to persons who are obliged to remain with the police to provide an explanation, regardless whether they have been formally recognised as suspects.<sup>7</sup>
6. Likewise the Council of Europe documents, the UN Standard Minimum Rules for the Administration of Juvenile Justice (“the Beijing Rules”) stipulate that the juvenile shall have the right to be represented by a legal adviser or to apply for free legal aid throughout the proceedings.<sup>8</sup>
7. The particular importance of assistance by a lawyer in criminal proceedings with respect to children and vulnerable suspects has been recognised also by the European

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<sup>2</sup> Recommendation no. 1987/20 on social reactions to juvenile delinquency, para. 8. Available at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=608029&SecMode=1&DocId=694290&Usage=2>.

<sup>3</sup> Recommendation Rec (2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice, adopted on 24 September 2003, § 15.

<sup>4</sup> Guidelines of the Committee of Ministers of the Council of Europe, adopted on 17 November 2010, § 28.

<sup>5</sup> Guidelines of the Committee of Ministers of the Council of Europe, adopted 17 November 2010, § 30.

<sup>6</sup> Report to the Czech Government on the visit to the Czech Republic carried out by the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT) from 27 April to 7 April 2006 and from 21 to 24 June 2006, para. 15.

<sup>7</sup> *Ibid.*, para. 15.

<sup>8</sup> UN Standard Minimum Rules for the Administration of Juvenile Justice („the Beijing Rules”), adopted 29 November 1985, A/RES/40/33, § 15.1.

Union. The European Commission recently introduced Proposal for a Directive on procedural safeguards for children suspected or accused in criminal proceedings. Referring to the Directive 2013/48/EU on the right to access to a lawyer<sup>9</sup>, the Proposal foresees under Article 6 *“right to a mandatory access to a lawyer”*. In concrete, under Article 6(1) *“Member States shall ensure that children are assisted by a lawyer throughout the criminal proceedings in accordance with Directive 2013/48/EU.”* The Proposal explicitly provides that the *“right to access to a lawyer cannot be waived.”* Furthermore, bearing in mind importance of the right to legal assistance, Article 6(2) provides that the *“right to access to a lawyer shall also apply to criminal proceedings that may lead to the final dismissal of the case by the prosecutor after the child has complied with certain conditions”*.<sup>10</sup>

8. **The particular importance of early access to legal assistance** has been emphasised also by the Court in its jurisprudence related to juvenile justice. In *Blokhin v Russia* the Court called early access to legal assistance as *“one of the fundamental features of a fair trial”*<sup>11</sup> and *“a procedural guarantee of the privilege against self-incrimination and a fundamental safeguard against ill-treatment noting the particular vulnerability of an accused at the early stages of the proceedings when he is confronted with both the stress of the situation and the increasingly complex criminal legislation involved”*.<sup>12</sup> In concrete, the Court held that *“in order for the right to a fair trial to remain sufficiently “practical and effective”, Article 6 § 1 requires that, as a rule, access to a lawyer should be provided as from the first interrogation of a suspect by the police [...]”*.<sup>13</sup>
9. In the case *Nechiporuk and Yonkalo v Ukraine* the Court found that the right of the applicant to access to legal assistance enshrined by Article 6(3)(c) of the Convention had been violated since he had not been provided with mandatory legal assistance at the first inquiry by the police. The Court held that *“by having formally placed the applicant in administrative detention but in fact treating him as a criminal suspect, the police deprived him of access to a lawyer, which would have been obligatory under the Ukrainian legislation had he been charged with the offence of murder committed by a*

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<sup>9</sup> Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty.

<sup>10</sup> Proposal for a Directive of the European Parliament and of the Council on procedural safeguards for children suspected or accused in criminal proceedings {SWD(2013) 480 }{SWD(2013) 481}, § 6(1). The Proposal for a Directive is available at: <[http://ec.europa.eu/justice/criminal/files/com\\_2013\\_822\\_en.pdf](http://ec.europa.eu/justice/criminal/files/com_2013_822_en.pdf)>.

<sup>11</sup> See, *inter alia*, *Blokhin v Russia*, judgment of 14 November 2013, application no. 47152/06, § 159.

<sup>12</sup> See, *inter alia*, *Salduz v Turkey [GC]*, judgment of 27 November 2008, application no. 36391/02, § 54, and *Nechiporuk and Yonkalo v Ukraine*, judgment of 24 April 2011, application no. 42310/04, § 263.

<sup>13</sup> See, *inter alia*, *Salduz v Turkey [GC]*, judgment of Grand Chamber of 27 November 2008, application no. 36391/02, § 55.

*group of persons and/or for profit, an offence in respect of which he was in fact being questioned*".<sup>14</sup>

10. On many occasions the Court has stressed the fundamental importance of early access to a lawyer whenever the person who is de facto suspect is minor<sup>15</sup> in order that the right to a fair trial remains sufficiently "practical and effective".<sup>16</sup> As in *Salduz v Turkey*<sup>17</sup>, *Adamkiewicz v Poland*<sup>18</sup>, *Süzer v. Turkey*<sup>19</sup> and *Blokhin v Russia*<sup>20</sup> the Court has considered that access to a lawyer would be "*a counterweight to the intimidating atmosphere capable of sapping his will and making him confess to the interrogators*".<sup>21</sup> In addition, in *Adamkiewicz v Poland* the Court has ruled that children suspects may not always be aware of their right to access to a lawyer or capable of considering all the consequences of making a statement in the absence of a lawyer.<sup>22</sup> Therefore they should not be viewed as capable of waiving this right.
11. According to human rights standards and well-established Court's jurisprudence, the application of the right to access to legal assistance guaranteed under Article 6(3)(c) of the Convention does not depend on any formal recognition of the person as a suspect by domestic authorities. On the contrary, in cases of children domestic authorities are required to provide a child with effective access to legal assistance whenever they in fact start treating him/her as a suspect. It is very reasonable because only early access to qualified assistance by a lawyer would constitute appropriate safeguard ensuring that the right of children suspects to access to a lawyer is not illusory, but remains practical and effective. **Therefore, it should be explicitly recognised that children who are de facto suspected of having committed unlawful act under domestic criminal code have the right to access to a lawyer from the very first contact with law enforcement authorities. Moreover, in line with current European human rights developments, the access to legal assistance should be recognised as mandatory, except minor offences, without possibility to waive this right.**

## **B. SPECIFIC FEATURES OF THE RIGHT TO ACCESS TO A LAWYER WITH RESPECT TO CHILDREN**

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<sup>14</sup> See *Nechiporuk and Yonkalo v Ukraine*, judgment of 24 April 2011, application no. 42310/04, § 264.

<sup>15</sup> See, *inter alia*, *Salduz v Turkey* [GC], judgment of 27 November 2008, application no. 36391/02, § 60; *Adamkiewicz v Poland*, judgment of 2 March 2010, application no. 54729/00, § 89; *Blokhin v Russia*, judgment of 14 November 2013, application no. 47152/06, § 159.

<sup>16</sup> See, *inter alia*, *Blokhin v Russia*, judgment of 14 November 2013, application no. 47152/06, § 159.

<sup>17</sup> *Salduz v Turkey* [GC], judgment of Grand Chamber of 27 November 2008, application no. 36391/02, § 60.

<sup>18</sup> *Adamkiewicz v Poland*, judgment of 2 March 2010, application no. 54729/00, § 89.

<sup>19</sup> *Süzer v. Turkey*, judgment of 23 April 2013, application no. 13885/05, § 79 in connection with § 80.

<sup>20</sup> *Blokhin v Russia*, judgment of 14 November 2013, application no. 47152/06, § 166.

<sup>21</sup> *Ibid.*

<sup>22</sup> *Adamkiewicz v Poland*, judgment of 2 March 2010, application no. 54729/00, § 79.

12. Furthermore, *Galviņš v Latvia* raises a question of **specific minimum standards of legal assistance**. In accordance with international human rights law, legal assistance to the child in order to ensure effectiveness should comply with specific requirements, for instance private interview between the child and the lawyer before the police interview begins, special qualifications of lawyers in communicating with children etc.
13. Not only children suspects have right to mandatory access to a lawyer from the very first moment of the proceedings, but also the legal assistance has to be **effective**. The legal counsel should be **trained in dealing and communicating with children**. The Council of Europe Guidelines on Child-friendly justice provide for that *“all professionals working with and for children should receive necessary interdisciplinary training on the rights and need of children of different age groups, as well as on proceedings that are adapted to them.”*<sup>23</sup> In addition, according to the Guidelines *“professionals having direct contact with children should also be trained in communicating with them [children] at all ages and stages of development, as well as with children in situations of particular vulnerability.”*<sup>24</sup> Specifically with respect to lawyers the Guidelines stipulate that *„lawyers representing children should be trained in and knowledgeable on children's rights and related issues, receive ongoing and in-depth training and be capable of communicating with children at their level of understanding”*.<sup>25</sup>
14. Similarly, the UN Committee on the Rights of the Child in its General Comment no. 10 emphasises the need for all the professionals involved in the juvenile justice, having received appropriate training on the Convention on the Rights of the Child as well as on, *inter alia*, psychological and other aspects of development of children.<sup>26</sup> According to the UN Standard Minimum Rules for the Administration of Juvenile Justice (“Beijing Rules”) all personnel dealing with juvenile cases should benefit from *“professional education, in-service training, refresher courses and other appropriate modes of instructions”* in order to *“establish and maintain the necessary professional competence”*.<sup>27</sup>
15. Furthermore, to ensure that the child’s is properly informed on his/her procedural rights as well as on what is at stake for him/her **the lawyer shall always take a private moment with the child suspect before the police interrogation begins**. The Council of Europe Guidelines on Child-friendly justice provide that *“children should be considered as fully-fledged clients with their own rights and lawyers should bring forward the opinion of the child”*<sup>28</sup>. In addition, the Guidelines require the lawyers to *“provide the*

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<sup>23</sup> Guidelines of the Committee of Ministers of the Council of Europe, adopted on 17 November 2010, § 14.

<sup>24</sup> *Ibid.*, § 15.

<sup>25</sup> *Ibis.*, § 39.

<sup>26</sup> General Comment of the UN Committee on the Rights of the Child no. 10 (2007) on Children’s rights in juvenile justice, adopted on 25 April 2007, CRC/C/GC/10, §§ 49 and 97. See also Guidelines of the Committee of Ministers of the Council of Europe, adopted 17 November 2010, § 97.

<sup>27</sup> UN Standard Minimum Rules for the Administration of Juvenile Justice („the Beijing Rules”), adopted 29 November 1985, A/RES/40/33, § 22.1.

<sup>28</sup> Guidelines of the Committee of Ministers of the Council of Europe, adopted on 17 November 2010, § 40.

*child with necessary information and explanations concerning the possible consequences of the child's views and/or opinions".*<sup>29</sup>

16. Similarly, the UN Human Rights Committee emphasised in the General Comment No. 32 that *"Counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications."*<sup>1</sup> Furthermore, lawyers should be able to advise and to represent persons charged with a criminal offence in accordance with generally recognised professional ethics without restrictions, influence, pressure or undue interference from any quarter."<sup>30</sup> As to the effectiveness of the right to access to a lawyer the UN Human Rights Committee stressed that *"counsel provided by the competent authorities on the basis of this provision must be effective in the representation of the accused. Unlike in case of privately retained lawyers, blatant misbehaviour or incompetence [...] may entail the responsibility of the State concerned for a violation of article 14, paragraph 3 (d), provided that it was manifest to the judge that the lawyer's behaviour was incompatible with the interests of justice"*.<sup>31</sup>
18. As to the right to legal assistance guaranteed in article 6(3)(c) of the Convention the Court has ruled that *"the particular vulnerability of the accused at the initial stages of police questioning can only be properly compensated for by the assistance of a lawyer, whose task is, among other things, to help to ensure respect of the right of an accused not to incriminate himself"*.<sup>32</sup> In addition, according to the Court merely *"assigning counsel does not itself ensure the effectiveness of the assistance he may afford an accused"*.<sup>33</sup> Therefore the assistance of a lawyer provided to a child cannot be just formal in a way that the lawyer is just present at the police interrogation and throughout the proceedings but he/she is required to actively defend the child's rights.
17. Thus, in order that the child's right to legal assistance remains "practical and effective" it has to be provided only by qualified lawyers with special training. In addition to the special qualifications and training, **lawyers providing legal assistance to children suspects should have been allowed to comply with other specific requirements, especially to take a private moment with the child before the police interrogation begins and adequately inform the child on all his/her procedural rights, further course of the proceedings including the information on what is at stake for the child.**

## C. OTHER PROCEDURAL SAFEGUARDS – ADJUSTMENT OBLIGATION

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<sup>29</sup> *Ibid.*, § 41.

<sup>30</sup> The General Comment of the UN Human Rights Committee No. 32: Article 14: Right to equality before courts and tribunals and to a fair trial, adopted on 23 August 2007, CCPR/C/GC/32, § 34.

<sup>31</sup> The General Comment of the UN Human Rights Committee No. 32: Article 14: Right to equality before courts and tribunals and to a fair trial, adopted on 23 August 2007, CCPR/C/GC/32, § 38.

<sup>32</sup> See, *inter alia*, *Blokhin v. Russia*, judgment of 14 November 2013, application no. 47152/06, § 159.

<sup>33</sup> See *Imbrioscia v Switzerland*, judgment of 24 November 1993, application no. 13972/88, § 38.

18. In addition to the right of legal assistance and its minimum standards, this case also raises an issue of **other procedural safeguards based on individualized adjustments and modifications** which shall be put in place in order to protect the child against any forms of coercion or manipulation especially at the police interviews. These should cover for example the length of the interview, the daytime when it takes place, the settings in which it is conducted, the manner of communicating with the child and interviewing him/her etc.
19. The Council of Europe Recommendation no. 1987/20 on social reactions to juvenile delinquency called for the adjustments and reinforcement of *'the legal position of minors throughout the proceedings'*, including by ways of different specific procedural measures.<sup>34</sup> The Council of Europe's Guidelines on Child-friendly justice stipulates in the guideline no. 54 that *"in all proceedings, children should be treated with respect for their age, their special needs, their maturity and level of understanding, and bearing in mind any communication difficulties they may have. Cases involving children should be dealt with in non-intimidating and child-sensitive settings"*. Moreover, according to explanatory memorandum to the Guidelines, *"information on the procedural system includes the need for detailed information on how the procedure will take place, what the standing and role of the child will be, how the questioning will be carried out, what the expected timing will be, the importance and impact of any given testimony, the consequences of a certain act, etc. Children need to understand what is happening, how things could or would move forward, what options they have and what the consequences of these options are."*<sup>35</sup>
20. Also very recent European Commission's proposal for a directive of the European Parliament and of the Council on special safeguards for children suspected or accused in criminal proceedings<sup>36</sup> provides under article 9 (questioning) that *"the length, style and pace of interviews should be adapted to the age and maturity of the child questioned"*<sup>37</sup>, and furthermore with respect to training of officials, it proposes that *"judicial authorities, law enforcement authorities and prison staff dealing with cases involving children should be aware of the particular needs of children of different age groups and should take care that the proceedings are adapted to them."*<sup>38</sup>

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<sup>34</sup> Recommendation no. 1987/20 on social reactions to juvenile delinquency, para. 4-9. Available at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=608029&SecMode=1&DocId=694290&Usage=2>.

<sup>35</sup> Ibid., Explanatory memorandum para. 54 (explanation of guideline no. 2).

<sup>36</sup> Proposal for a directive of the European Parliament and of the Council on special safeguards for children suspected or accused in criminal proceedings, available at: [http://ec.europa.eu/justice/criminal/files/com\\_2013\\_822\\_en.pdf](http://ec.europa.eu/justice/criminal/files/com_2013_822_en.pdf).

<sup>37</sup> Ibid, para. 42.

<sup>38</sup> Ibid, para 64.

21. In *T. v. the United Kingdom* the Court has held that when criminal charges are brought against a child, it is *"essential that he be dealt with in a manner which takes full account of his age, level of maturity and intellectual and emotional capacities, and that steps are taken to promote his ability to understand and participate in the proceedings"*.<sup>39</sup> In *Panovits v. Cyprus*, the Court explained the right of an accused minor to effective participation in his or her criminal proceedings *"requires that he be dealt with due regard to his vulnerability and capacities from the first stages of his involvement in a criminal investigation and, in particular, during any questioning by the police. The authorities must take steps to reduce as far as possible his feelings of intimidation and inhibition"*, moreover the authorities are under obligation to *"ensure that the accused minor has a broad understanding of the nature of the investigation, of what is at stake for him or her, including the significance of any penalty which may be imposed as well as of his rights of defence and, in particular, of his right to remain silent ... It means that he or she, if necessary with the assistance of, for example, an interpreter, lawyer, social worker or friend, should be able to understand the general thrust of what is said by the arresting officer and during his questioning by the police (ibid)"*.<sup>40</sup>

22. Adjustment obligation relates to notion of 'effective participation' of minor in the proceedings under article 6 of the Convention and requires authorities to ensure that interviews of child-suspects are conducted in such a way that respects their age, maturity, health condition and other individual characteristics and in principle it overlaps with issue of qualified and early access to legal assistance (see above).

#### **D. INVOLVEMNT OF CHILD'S LEGAL REPRESENTATIVES**

23. The case raises also question whether the effective application of the right to a fair trial with respect to child suspects requires that **the child's legal representatives** are appropriately notified about the interview of the child and that the child has the right to be assisted by them or by any appropriate adult at the police interview. This issue has never been dealt with by the Court, however it is very important that the Court rule on this issue and clarify whether the article 6 of the Convention covers also this procedural safeguard with respect to child suspects. Indeed, such an approach would comply with the current developments in human rights law in the European Union.<sup>41</sup>

24. Regarding notification of parents and holders of parental responsibility it has been acknowledged in the Council of Europe standards that *"from their first involvement with the justice system or other competent authorities (such as the police, immigration, educational, social or health care services) and throughout that process, children and their*

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<sup>39</sup> *T. v. the United Kingdom* [GC], judgment of 16 December 1999, application no. 24724/94, § 84.

<sup>40</sup> *Ibid*, para. 67.

<sup>41</sup> *Ibid.*, article 5.



*parents should be promptly and adequately informed.”<sup>42</sup> Similarly, recent European Commission’s proposal for a directive of the European Parliament and of the Council on special safeguards for children suspected or accused in criminal proceedings provides in its Preamble that “Children should have the right to have the holder of parental responsibility informed about applicable procedural rights, either orally or in writing. This information should be provided promptly and in such detail as is necessary to safeguard the fairness of the proceedings and the effective exercise of the rights of defence of the child. Where it would be contrary to the best interests of the child to inform the holder of parental responsibility of those rights, another appropriate adult should be informed.”<sup>43</sup> This obligation is reflected in proposed article 5 of the Directive, which provides that “Member States shall ensure that the holder of parental responsibility of the child or, where that would be contrary to the best interests of the child, another appropriate adult, is provided with the information that the child receives in accordance with Article 4.”*

25. Regarding presence of parents during the questioning the Council of Europe Recommendation no. 1987/20 on social reactions to juvenile delinquency explicitly acknowledges *“the right to the presence of parents or of another legal representative who should be informed from the beginning of the proceedings”*.<sup>44</sup> Later Recommendation no. 2003/20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice stipulates that *“While being questioned by the police [the juveniles] should, in principle, be accompanied by their parent/legal guardian or other appropriate adult.”*<sup>45</sup> From perspective of therapeutic effect of any juvenile justice proceedings, the Recommendation no. 2008/11 on the European Rules for juvenile offenders subject to sanctions or measures recognised as one of basic principles that *“Any justice system dealing with juveniles shall take due account of the rights and responsibilities of the parents and legal guardians and shall as far as possible involve them in the proceedings and the execution of sanctions or measures, except if this is not in the best interests of the juvenile.”*<sup>46</sup> Also, according to the Council of Europe’s Guidelines of Child-friendly Justice *“Children should be allowed to be accompanied by their parents or, where appropriate, an adult of their choice, unless a reasoned decision has been made to the contrary in respect of that person.”*<sup>47</sup>

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<sup>42</sup> See especially Guidelines of the Committee of Ministers of the Council of Europe, adopted on 17 November 2010, p. 5, para. 1.

<sup>43</sup> Proposal for a directive of the European Parliament and of the Council on special safeguards for children suspected or accused in criminal proceedings, § 15. Document available at: [http://ec.europa.eu/justice/criminal/files/com\\_2013\\_822\\_en.pdf](http://ec.europa.eu/justice/criminal/files/com_2013_822_en.pdf).

<sup>44</sup> Recommendation no. 1987/20 on social reactions to juvenile delinquency, para. 8.

<sup>45</sup> Recommendation no. 2003/20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice, para.15.

<sup>46</sup> Recommendation no. 2008/11 on the European Rules for juvenile offenders subject to sanctions or measures, para. 14.

<sup>47</sup> Guidelines of the Committee of Ministers of the Council of Europe, adopted on 17 November 2010, § 58.

26. The involvement of parents has been also recognised in relevant UN documents. The Beijing Rules provides that the *“parents or the guardian shall be entitled to participate in the proceedings and may be required by the competent authority to attend them in the interest of the juvenile. They may, however, be denied participation by the competent authority if there are reasons to assume that such exclusion is necessary in the interest of the juvenile.”* The UN Committee on the Rights of the Child elaborated on the parent’s role in its General Comment no. 10. The Committee recommended that states parties *“explicitly provide by law for the maximum possible involvement of parents or legal guardians in the proceedings against the child. This involvement shall in general contribute to an effective response to the child’s infringement of the penal law. To promote parental involvement, parents must be notified of the apprehension of their child as soon as possible.”*
27. Recently also the Court criticised failure of authorities to involve family of a child suspect in *Blokhin v Russia*. In concrete the Court recognised that the circumstances surrounding the interview of the applicant who had been 13 at the material time and who had been taken by the police to the police station without being provided with opportunity to contact his family *“psychologically coercive and conducive to breaking any resolve the applicant might have had to remain silent”*.<sup>48</sup> It is evident that children in juvenile justice proceedings can find themselves in extremely vulnerable position. To prevent coercive nature of actions taken by law enforcement authorities and to ensure that minimal standards of fair trial are respected, parents should be at minimum informed from the beginning of the proceedings about actions and procedural rights and children should benefit from the right to be accompanied by them where appropriate. **Therefore, involvement of parents or holders of parental responsibility at minimum by proper notification and information and when appropriate by allowing children to be accompanied by them should be explicitly recognised by the Court as a part of the fair trial standards under Article 6 of the Convention in proceedings concerning minors.**

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<sup>48</sup> *Ibid.*, § 166.