

ACRiSL NETWORK NEWSLETTER

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PROJECT NEWS

Research

- ❖ Shauneen Lambe and Aoife Nolan, drawing on the research of the **ACRiSL** project, authored the [Children's Rights Strategic Litigation Toolkit](#) to support the office of the Children and Young People's Commissioner Scotland (CYPCS) in promoting and safeguarding children's rights.

The aim of this decision-making tool is to ensure that the CYPCS is accountable and transparent and its decisions clear and fair. The report explains the Commissioner's powers, sets out how children and young people are involved in strategic litigation and the principles that underpin this work. It then introduces a set of tools to help in the decision to get involved in Child Rights Strategic Litigation (CRSL) as well as provide reasons for those decisions.

Litigation

- ❖ **ACRiSL** partners [ECCHR](#) and [CRIN](#) produced an [animation video](#) on violent pushbacks and children's rights at Europe's borders as part of a digital communications campaign in support of two complaints to the UN Committee on the Rights of the Child against Croatia and Slovenia. This litigation forms part of the ACRiSL project.

Rohingya child refugee U.F. faced repeated beatings by Croatian border officers, had his belongings burnt and his shoes confiscated before numerous forced expulsions, including a 'chain' pushback from Slovenia. In 2022, ECCHR, as part of the **ACRiSL** project, together with [Blindspots](#), supported U.F. in submitting **two individual communications to the UN Committee on the Rights of the Child challenging Croatia and Slovenia over pushbacks**. The

applicant argued multiple violations of the UN Convention on the Rights of the Child (UNCRC) in relation to his expulsions and ill-treatment, including the States' failure to assess his age or apply any of the relevant safeguards under Articles 3(1), 8, 20(1), and 37 UNCRC. These are the first complaints of their kind against the two States. The complaints have now been communicated by the Committee.

In the short animation video, you can hear U.F.'s own voice and personal story. The video was created by [Neda Ahmadi](#).

Read more on the case and the context of violent pushbacks of migrants [here](#).

Past Events

- ❖ On 12 December 2022, **ACRiSL** held its fifth Network event on, '**Opportunities for UNCRC-based argumentation in Child Rights Strategic Litigation.**' A recording of the event is available [here](#).

The event consisted of a public panel where speakers discussed opportunities and challenges that they have experienced in terms of bringing legal argumentation based on the UNCRC before national courts. This was followed by a Q&A discussion with participants. Network members then joined a private session where we discussed opportunities and challenges faced by CRSL practitioners with regard to using the UNCRC in legal argumentation before courts.

Find out about our previous events on CRSL-related issues [here](#).

- ❖ On 21 November 2022, ECCHR hosted, '**Child pushbacks: Panel discussion on child rights at the border in Croatia and Slovenia**' with the support of **ACRiSL**. A recording of the event is available [here](#).

The panel of expert speakers engaged with policymakers and key actors to address the current situation for children on the move along the Balkan route and the state of child rights at the border.

New additions to the ACRiSL Case-Law Database

A key objective of the project is to [map existing CRSL practice](#). This entails gathering and collating information on who is doing or has done CRSL, on which child rights-related topics, where, and before which bodies.

Some of the cases recently added to the **ACRiSL Case-Law Database** are:

- [Head of the Llano Grande Educational Institution v Governor's Office of Boyacá and the Secretary for Education of the Department of Boyacá, Judgement T-279/18](#) – Colombia

Right to education – right to health – health status – dignity

- [The Child and Adolescence Court of the Zacapa Department, Judicial File No. 19003-2011-0637-Of.3ª \(Mayra Amador Raymundo\), No. 19003-2011-00638-Of.1ª \(Dina Marilú and Mavèlita Lucila Interiano Amador\), No. 19003-2011-0639-Of.3ª \(Brayan René Espino Ramírez\) – Guatemala](#)

Right to food – right to health – health status – right to education – right to work – right to housing – right to an adequate standard of living – poverty – best interests

- [Boimah FLOMO, et al., Plaintiffs–Appellants, v. FIRESTONE NATURAL RUBBER CO., LLC, Defendant–Appellee, No. No. 10–3675 – United States of America](#)

Child labour – corporate accountability – business and child rights – work rights

- [Swaziland National Ex-Miners Workers Association v The Ministry of Education and Others \(2168/09\) \[2010\] SZHC 258 \(19 January 2010\) – Eswatini](#)

Right to education

- [Supreme Court of India, Gaurav Jain v. Union of India and others, 9 July 1997, \[1997\] 8 SCC 114 – India](#)

Right to education – equality & non-discrimination – sexual exploitation – exploitation – primary caregiver

OTHER CRSL CASES

Argentina

[Asociacion Civil por la Igualdad y la Justicia contra GCBA y otros sobre amparo - educación-otros, CUIJ: EXP J-01-00048188-9/2019-0 Actuación Nro: 1554211/2022.](#)

In the framework of a [collective action for injunction that ACIJ initiated in 2019](#) with the support of the [Legal Clinic of the Human Rights Center \(CDH\) of the University of Buenos Aires School of Law](#), the courts of the City of Buenos Aires declared the unconstitutionality of the local government's failure to monitor, evaluate, supervise and sanction the discriminatory practice of privately run mainstream schools which denied enrolment to children and adolescents on the basis of their disability. Due to the structural nature of the problem, the court avoided imposing a concrete and immutable order. Instead, the court ordered the defendant (Ministry of Education of the Government of the City of Buenos Aires) to formulate a proposal involving diverse social actors to provide a solution and thus fulfil its obligations. The court would delimit the minimum content of the proposal so that its compatibility and adequacy could be analysed by the judiciary.

In terms of standing, this case is a significant example of an organisation deciding to bring an *acción de amparo colectivo*. This is a rapid judicial procedure allowing organisations defending collective rights or interests to claim a human rights violation when collective interests or

rights are affected (Article 14, Constitution of Buenos Aires), rather than in the name of specific children.

New Zealand

[Make it 16 Incorporated v Attorney General \[2022\] NZSC 134 \(SC\)](#)

Shortly after the nationwide school climate strikes began to mobilise tens of thousands of teens in New Zealand, the youth-led [Make It 16](#) campaign was commenced. The campaign's founders hoped that through voting, young people would have a stronger voice on the issue of climate change.

Make It 16, supported by a team of pro bono lawyers, brought this case to the High Court in 2019 arguing that the voting age of 18 in the Local Electoral Act unjustifiably limited the right of 16 and 17-year-olds not to be discriminated against on the grounds of age, contravening Section 19 of the Bill of Rights Act of New Zealand that provides for the right to be free from age discrimination. The case was dismissed and the appeal to the Appeal Court was unsuccessful. Make It 16 subsequently appealed to the Supreme Court. In July 2022, the Supreme Court declared that preventing 16 and 17-year-olds from voting constituted unjustified age discrimination in breach of the Bill of Rights. Following this decision, the Prime Minister committed to drafting legislation to change the voting age to 16. It is hoped that this landmark ruling will result in an increase in the number of 16 and 17-year-olds exercising their right to vote and thereby influencing political outcomes in New Zealand.

Read more on the case [here](#).

European Court of Human Rights

[Affaire M.K. et Autres c. France, 8 December 2022 \(Requêtes nos 34349/18, 34638/18 et 35047/18\)](#)

The European Court of Human Rights (ECtHR) found a violation of Article 6 (1) of the European Convention on Human Rights on the right to fair trial (civil limb) due to the French authorities' failure to enforce an interim relief court order to provide asylum seekers with accommodation. The parents and children had applied to the administrative court for interim relief following their unsuccessful application for accommodation. The judge granting interim relief ordered the authorities to shelter them in emergency accommodation. However, this order remained unfulfilled, and the family was left homeless. The ECtHR delivered the applicants' request for interim measures and directed the French authorities to ensure that the family was housed.

NETWORK MEMBER PUBLICATIONS

- ❖ Lauren E Sancken, Andrea K Rodgers, and Jennifer Marlow, 'The Injustice of 1.5°C–2°C: The Need for a Scientifically Based Standard of Fundamental Rights Protection in Constitutional Climate Change Cases' (2022) 40 *Va Env't LJ* 102 available at <https://digitalcommons.law.uw.edu/faculty-articles/919/>

This is the first in a series of publications by **ACRiSL** Network member [Our Children's Trust](#) seeking to clarify how important it is for courts to use standards based on the best available climate science when determining whether the rights of young people have been violated in the context of climate change.

FOR NEXT EDITION

Many thanks to all Network members who submitted information for this edition of the Newsletter. We are very keen that the Newsletter should highlight the great work that Network members are doing in order to promote information exchange and communication among network members.

We would be very grateful if network members could send us (brief) information by a deadline of **27 February 2023** on:

1. Information on **new CRSL decisions** (including a short description of the decision and (where possible) links to judgments)
2. Network member **events on CRSL-related issues**
3. Network member **publications or news items** on CRSL. (These need to include links, please).