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ABOUT THE CASE LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS REGARDING UNACCOMPANIED CHILDREN

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I. INTRODUCTION – II. GENERAL CONSIDERATIONS REGARDING THE CONTENTS OF THE ECHR AND ITS APPLICATION TO UNACCOMPANIED CHILDREN – III. THE COURT’S CASE LAW ON UNACCOMPANIED CHILDREN – IV. CONCLUSION

ABSTRACT: The institutions and bodies of the Council of Europe have assumed an increasing active role with regard to the situation of unaccompanied children on the move. The European Court of Human Rights is progressively adopting a key protective position particularly when assessing through its rulings if detentions of unaccompanied children are to be considered as a violation of their fundamental rights. This note proposes an overview of this outlook.

KEYWORDS: European Court of Human Rights, unaccompanied children, detention, ill-treatment, torture, article 3 ECHR.

SOBRE LA JURISPRUDENCIA DEL TRIBUNAL EUROPEO DE DERECHOS HUMANOS EN MATERIA DE MENORES NO ACOMPAÑADOS

RESUMEN: Las instituciones y órganos del Consejo de Europa han asumido un papel cada vez más activo en relación con la situación de los menores no acompañados que se desplazan. El Tribunal Europeo de Derechos Humanos está adoptando progresivamente una posición protectora clave, en particular a la hora de evaluar, a través de sus sentencias, si las detenciones de niños no acompañados deben considerarse una violación de sus derechos fundamentales. Esta nota propone una visión general de esta perspectiva.

PALABRAS CLAVE: Tribunal Europeo de Derechos Humanos, menores no acompañados, detención, malos tratos, tortura, artículo 3 del CEDH.

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SUR LA JURISPRUDENCE DE LA COUR EUROPÉENNE DES DROITS DE L'HOMME CONCERNANT LES ENFANTS NON ACCOMPAGNÉS

RÉSUMÉ: Les institutions et organes du Conseil de l'Europe jouent un rôle de plus en plus actif en ce qui concerne la situation des enfants non accompagnés en déplacement. La Cour européenne des droits de l'homme adopte progressivement une position protectrice clé, notamment lorsqu'elle évalue par ses arrêts si les détentions d'enfants non accompagnés doivent être considérées comme une violation de leurs droits fondamentaux. Cette note propose un aperçu de cette perspective.

MOTS CLÉS: Cour européenne des droits de l'homme, Enfants non accompagnés, détention, mauvais traitements, torture, article 3 de la CEDH.

I. INTRODUCTION

During the last decade, the institutions of the Council of Europe have assumed an increasing active role with regard to the situation of unaccompanied children on the move. The European Court of Human Rights is progressively adopting a key protective position particularly when assessing through its rulings if detentions of unaccompanied children are to be considered as a violation of their fundamental rights. This note proposes an overview of this outlook.

In *Rahimi v. Greece*, 5th April 2011, the European Court of Human Rights (hereafter the Court) has ruled an important judgment regarding the detention and the lack of care of an unaccompanied 15 year old Afghan minor². In particular, it is the first time that the Court has considered the fact that an unaccompanied minor being neglected by national authorities after being released without any kind of protection from a detention centre as a violation of article 3 of the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter, ECHR)³.

Before this case, the Court had ruled another important judgment on a similar subject: the well known *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, 12th of October 2006, also known as Tabitha's case, where the Court underlined that a 5-year-old child should not be detained unless there is no alternative and in the exceptional case where detention has to take place it

² About this judgment, LÓPEZ ULLA, J. M., "Alcance del artículo 3 del Convenio Europeo de Derechos Humanos en relación con la detención de un menor extranjero no acompañado. La obligación de no dejarle en desamparo", *Teoría y Realidad Constitucional*, n. 32, 2013, pp. 481-497.

³ Article 3 of the ECHR: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment".

should be implemented in appropriate centres and not in the same conditions as adults. As it has already been recognized⁴, Tabitha's case constitutes an important judgment regarding the detention conditions of migrant children. In the case of *Rabimi v. Greece*, the Court reaffirmed its case-law and noted first that a minor can not be unprotected or without legal representation once they leave a detention centre. As no consideration to the age of the child was taken during or after the detention, the Court considered that the applicant had been subjected to inhuman treatment.

The European Court of Human Rights founded these judgments on the United Nations Convention on the Rights of the Child (hereinafter, CRC). The Court considered there was a breach of the CRC, especially of article 3 invoking "the best interest of the child principle"⁵. Moreover, a violation of article 37 of the same text took place as the detention or imprisonment of a child can only take place when there is no other possibility available⁶. Therefore, if national authorities do not carry out their international obligations relating to the detention of unaccompanied children, this could be considered as a violation of article 3 of ECHR⁷.

Rabimi v. Greece, 5th April 2011, is therefore the first judgment where the Court has condemned the fact that the child had been released from deprivation of liberty without any kind of protection. In this paper, reference will be made to this case and to further jurisprudence of the European Court of Strasbourg on unaccompanied children's conditions of detention.

⁴ SENOVILLA HERNÁNDEZ, D, "Comentario sobre la sentencia del Tribunal Europeo de Derechos Humanos de Estrasburgo de 12 de octubre de 2006: caso Mubilanzila Mayeka and Kaniki Mitunga v. Belgium", *Revista de Derecho Migratorio y Extranjería*, n. 13, 2006, pp. 187-198. SENOVILLA HERNÁNDEZ, D, "Menores no acompañados y no protegidos: resultados de una investigación en cuatro Estados europeos", *Revista Interdisciplinaria da Mobilidade Humana: REMHU*, vol. 22, n. 42, 2014, pp. 81-96.

⁵ Art. 3.1 of the C.R.C.: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration".

⁶ Art. 37 b) of the CRC: "No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time".

⁷ See *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, 12th October 2006, paragraph 81.

II. GENERAL CONSIDERATIONS REGARDING THE CONTENTS OF THE ECHR AND ITS APPLICATION TO UNACCOMPANIED CHILDREN

Article 1 of the ECHR recognizes to everyone the rights and freedoms defined in its Section I⁸. These rights and freedoms are not programmatic principles and shall be secured from the outset.

All human beings, minors or adults, under the jurisdiction of any of the State Parties to this Convention have legitimate right to access the European Court of Human Rights if a violation of any of the rights and freedoms recognized in the ECHR takes place. Therefore, under the Council of Europe's scope, everybody, children included, can appeal under the same conditions to the European Court.

Even though in theory anyone can appeal to the Court, in practice children face many legal, economic, social and cultural obstacles. The Court can only be accessed once all appeal procedures provided in domestic law have been followed and this requirement often constitutes an obstacle for children as in certain countries they are not able to assert their rights on their own.

In order to apply the ECHR effectively, the Court has pointed out in several rulings that “the Convention is a living instrument which must be interpreted in the light of present day conditions”⁹. A general obligation to commit to a dynamic interpretation of the rights and freedoms of the Convention comes from this important recommendation. In applying this principle, the Court considers “that the increasingly high standard being required in the area of the protection of human rights and fundamental liberties correspondingly and inevitably requires greater firmness in assessing breaches of the fundamental values of democratic societies”¹⁰.

The Court often underlines that contents of the ECHR should not be something theoretical, but concrete, real and effective. That is why the

⁸ Art. 1 of the ECHR: “The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention”.

⁹ See the following judgments: *Tyrer v. the United Kingdom*, 25th April 1978, paragraph 31; *Soering v. the United Kingdom*, 7th July 1989, paragraph 102; *Loizidou v. Turkey*, 23rd March 1995, paragraph 71; *Selmouni v. France*, 28th July 1999, paragraph 101.

¹⁰ *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, 12th October 2006, paragraph 48; *Selmouni v. France*, 28th July, 1999, paragraph 101.

Court can audit how national laws are applied¹¹. For example, in the case of *Assenov and others v. Bulgaria*, concerning a 14 years old boy, although the Court recognized the impossibility of proving that the injuries he suffered were the result of police action, the Court ended by recognizing a violation of article 3 of the Convention as the State had failed to properly investigate the child's claims. The Court highlighted that without a real and effective investigation, allegations of torture or ill treatment could hardly prosper, and the article 3 of ECHR would become ineffective law¹². This consideration regarding the effectiveness of rights and freedoms enshrined in the Convention is of key importance.

With regard to the State's positive obligations under article 3 of the ECHR, the Court has always recalled that this article enshrines an "absolute prohibition of torture and inhuman or degrading treatment or punishment" with "no provision for exception"¹³. As a consequence, State authorities must

¹¹ See, for example, *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, 12th October 2006, paragraph 54; In *Okkali v. Turkey*, 18 October 2005, paragraph 54, the Court "considers that the complaint, as presented by the applicant, concerns the positive obligation under Article 3 of the Convention to protect people's physical and psychological integrity through the law (see, mutatis mutandis, *Öneryildiz v. Turkey*, paragraph 95)".

¹² *Assenov and others v. Bulgaria*, 28th October 1998, paragraphs 95 and 100 to 106. Particularly paragraph 102 says: "The Court considers that, in these circumstances, where an individual raises an arguable claim that he has been seriously ill-treated by the police or other such agents of the State unlawfully and in breach of Article 3, that provision, read in conjunction with the State's general duty under Article 1 of the Convention to "secure to everyone within their jurisdiction the rights and freedoms defined in ... [the] Convention", requires by implication that there should be an effective official investigation. This investigation, as with that under Article 2, should be capable of leading to the identification and punishment of those responsible (see, in relation to Article 2 of the Convention, the *McCmann and Others vs. the United Kingdom* judgement of 27 September 1995, paragraph 161, the *Kaya vs. Turkey* judgement of 19th February 1998, paragraph 86, and the *Yaça vs. Turkey* judgment of 2 September 1998, paragraph 98). If this were not the case, the general legal prohibition of torture and inhuman and degrading treatment and punishment, despite its fundamental importance (see paragraph 93 above), would be ineffective in practice and it would be possible in some cases for agents of the State to abuse the rights of those within their control with virtual impunity". See also paragraph 106: "Against this background, in view of the lack of a thorough and effective investigation into the applicant's arguable claim that he had been beaten by police officers, the Court finds that there has been a violation of Article 3 of the Convention".

¹³ In this sense, *Soering v. the United Kingdom*, 7th July 1989, paragraph 88; *Bati and others v.*

take the necessary steps to ensure that individuals within their jurisdiction are not subjected to torture or inhuman or degrading treatment¹⁴. This principle is recalled in all judgments invoking article 3 of the ECHR.

With reference to this positive obligation, in *A. v. United Kingdom*, 23rd of September 1998, where a child was abused by his stepfather, the Court reminded that article 1 taken together with article 3 “requires States to take measures designed to ensure that individuals within their jurisdiction are not subjected to torture or inhuman or degrading treatment or punishment, including such ill-treatment administered by private individuals”¹⁵.

In the case of *Okkani v. Turkey*, 17th October 2006, where a child was subjected to inhuman treatment by the police, the Court once again recalled that States should ensure that rights and freedoms recognized in the Convention are observed. Particularly in this case, the Court underlined that when an individual makes a credible assertion that they have suffered treatment infringing article 3 of the ECHR at the hands of agents of the State, “it is the duty of national authorities to carry out ‘an effective official investigation’ capable of establishing the facts and identifying and punishing those responsible”. The Court added that this kind of control “is essential for maintaining the public’s confidence in, and support for, the rule of law and for preventing any appearance of the authorities’ tolerance of - or collusion in- unlawful acts”¹⁶.

In order to determine if article 3 of the ECHR has been violated, the Court often recalls that “ill-treatment must attain a minimum level of severity”. But “the assessment of this minimum is relative: it depends on all the

Turkey, 3rd June 2004, paragraph 120. In *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, 12th October 2006, paragraph 55, the Court reminds “the absolute nature of the protection afforded by Article 3 of the Convention”.

¹⁴ *Rahimi vs. Greece*, 5th April 2011, paragraph 62; *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, 12th October 2006, paragraph 53. The last resolution reminds: *Z and Others v. the United Kingdom*, 10th May 2011, paragraph 73; and *A. v. the United Kingdom*, 23rd September 1998, paragraph 22. This provision must be especially observed with regard to children and other vulnerable members of society to prevent any kind of ill-treatment concerning them (see *Osman v. the United Kingdom*, 28 October 1998, paragraph 116).

¹⁵ *A. v. United Kingdom*, 23rd September 1998, paragraph 22. This resolution also refers to *H.L.R. v. France*, 29th April 1997, paragraph 40.

¹⁶ *Okkani v. Turkey*, 17th October 2006, paragraph 65. See also, *Slimani v. France*, 27th July 2004, paragraph 30-31, and *Assenov and Others v. Bulgaria*, 28 October 1998, paragraph 102.

circumstances of the case, such as the duration of the treatment, its physical and/or mental effects and, in some cases, the sex, age and state of health of the victim”¹⁷.

Indeed, the Court has often pointed out that when the applicant is a child, considering their vulnerability, the obligation of effective protection ought to be stronger. In light of the Court’s view, “*children are particularly vulnerable to various forms of violence*”, so domestic provisions relating to the protection of children must be taken by Governments¹⁸. Children are entitled, notes the Court, to State protection against serious breaches of personal integrity¹⁹.

III. THE COURT’S CASE LAW ON UNACCOMPANIED CHILDREN

In this section we will examine the contents of the main European Court of Human Rights judgments relating to unaccompanied migrant or asylum-seeking children, specifically the Courts’ regard for those States’ actions or omissions leading to a violation of article 3 of the ECHR²⁰.

1. RAHIMI V. GREECE, 5th April 2011

The facts of *Rahimi v. Greece* were as follow: the applicant was a 15 year old Afghan national called Eivas Rahimi. After his parents died in the war in Afghanistan, he left his country and finally arrived in the Island of Lesbos,

¹⁷ *Asenov and Others, v. Bulgaria*, paragraph 94. See, amongst others, *Raninen v. Finland*, 16th December 1997, paragraph 55; *Tekin v. Turkey*, 9th June 1998, paragraphs 52 y 53; *Bati and others v. Turkey*, 3rd June 2004, paragraphs 113-120; *Mubilanziya Mayeka and Kaniki Mitunga v. Belgium*, 12th October 2006, paragraph 48.

¹⁸ About the Importance of a common protocol in Europe about the detention of unaccompanied children, LÓPEZ ULLA, J.M., “La necesidad de un protocolo común en Europa sobre la detención de menores extranjeros no acompañados”, *Revista de Derecho Comunitario Europeo*, n. 46, 2013, pp. 1061-1090.

¹⁹ *A. v. the United Kingdom*, 19th February 2009, paragraph 22: “children and other vulnerable individuals, in particular, are entitled to State protection, in the form of effective deterrence, against such serious breaches of personal integrity”. See also the *X and Y v. Netherlands*, 26th March 1985, paragraphs 21-27; *Stubbings and Others v. the United Kingdom*, 22th October 1995, paragraphs 62-64; an also the United Nations Convention on the Rights of the Child, articles 19 and 37. Also in this sense, *inter alia*, *A. v. the United Kingdom*, 23rd September 1998, paragraph 22, and *Okkani v. Turkey*, 17th October 2006, paragraph 70.

²⁰ For a complete study on immigrant children legal status, ALONSO SANZ, L., *El estatuto constitucional del menor inmigrante*, Centro de Estudios Políticos y Constitucionales, Madrid, 2016.

in Greece. The same day he arrived, he was arrested and in Pagani detention centre. Once he was notified of a deportation order against him, he was released and instructed to leave Greece within 30 days. Without any kind of livelihood, the child remained unprotected for several days until he was taken in by a support association in Athens. He had applied for asylum but his application was still pending at the moment of this judgment.

The applicant alleged a lack of appropriate supervision considering his age. He also complained about the fact that he was not cared for during his arrest, during his deprivation of liberty and afterwards when he was released. He also contested about the conditions of his detention, alleging that he was placed in an adult detention centre. He complained as well that neither was he informed about the reasons for his detention, nor about the possibilities provided by Greek law to appeal such decision.

The Court observed that the complaint about the general conditions of Pagani detention centre, where the applicant was deprived of liberty for two days, are corroborated by several reports from national and international institutions, organizations and NGOs. For instance, the Court quotes a report released by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment highlighting the “*abominable conditions of detention*” at the Pagani centre. Furthermore, in a second report from the same institution published in 2010, it was shown that the centre was “*unhealthy beyond all description*”, and that illegal immigrants were detained in conditions “*that could be qualified as inhuman and degrading treatment*”. Considering these sources denouncing the deplorable living conditions at the Pagani detention centre, the Court considered that this place was dangerous for both detainees and staff²¹.

In this judgment, the Court reminded that children must not be detained in centres under the same conditions as adults, and concluded that the detention conditions in the Pagani centre were severe enough to consider that they injured human dignity. Among the circumstances that should be evaluated to determine the severity of treatment, the Court has considered that children are highly vulnerable members of society, especially when they are illegal immigrants as well as when they are unaccompanied and left to their own

²¹ *Rahimi v. Greece*, 5th April 2011, paragraphs 30, 31, 37, 41 and 47.

devices²². In its argument, the Court considered that as the victim was an unaccompanied immigrant child, he was in a situation of extreme vulnerability. For this reason, the Court considered that article 3 of the ECHR was violated, without taking into consideration the length of detention (two days)²³.

But besides the conditions of the child's detention, what is ground breaking in the *Rahimi vs. Greece* judgment is that the Court considered that there had been an inhuman or degrading treatment as the child was not assisted either during his detention nor when he was released. The child should have been provided with a guardian from the moment he was arrested and also once he was released²⁴.

2. MUBILANZILA MAYEKA AND KANIKI MITUNGA V. BELGIUM, 12th of October 2006

This well known judgment concerns the detention and posterior forced return by Belgian authorities of a 5 year old Congolese girl, named Tabitha, who was trying to reunite with her mother living in Canada. In this decision, the Court underlines that States have the duty to take adequate measures to provide care and protection as part of its positive obligations under article 3 of the ECHR. Furthermore, the same ruling states that children can neither be treated nor detained as if they were adults and that detention centres must be adapted to their needs. Moreover, appropriate measures should be taken by authorities to ensure that unaccompanied immigrant children receive proper counselling and educational assistance from qualified personnel, especially mandated for that purpose²⁵.

²² *Rahimi v. Greece*, 5th April 2011, paragraph 87. In this sense, see also *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, 12th October 2006, paragraph 55.

²³ *Rahimi v. Greece*, 5th April 2011, paragraph 86.

²⁴ This attitude generated in the child a deep anguish and concern. The Court assumes the report of the NGO ARSIS saying that the child arrived to its hostel extremely thin and with other problems, such as distress and fear of darkness. See *Rahimi v. Greece*, 5th April 2011, paragraphs 92, 94, 95. The Court takes into consideration that Greek Ombudsman has reported that when children detained in Paganí centre are released, the authorities neither provide them with housing nor provide them any help. The Court also takes note of the report entitled "Let them survive: the systematic failure of the protection of unaccompanied migrant children in Greece" (Human Right Watch, 2008). This report reflects the precarious situation in which these children are when they are released after a period of detention.

²⁵ *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, 12th of October 2006, paragraph 50:

For these reasons, the Court concluded that the measures taken by Belgian authorities were far from being sufficient to fulfil the Belgian State's obligation to provide care to a 5 year old girl²⁶. Consequently, as the child's detention "demonstrated a lack of humanity to such a degree that it amounted to inhuman treatment", with no doubt about the considerable distress that the girl had suffered because of such conditions, the Court considered that there had been a violation of article 3 of the ECHR²⁷.

It should be noted that in *Mubilanzila Mayeka's case* the Court considered that article 3 of the ECHR was violated not only with regard to the child but also to her mother. To be precise, the Court states that not only a parent, but also a relative could qualify as a victim due to the ill-treatment of their child or another person of their family. This depends, the Court underlines, on several

"The Court notes that the second applicant, who was only five years old, was held in the same conditions as adults. She was detained in a centre that had initially been designed for adults, even though she was unaccompanied by her parents and no one had been assigned to look after her. No measures were taken to ensure that she received proper counselling and educational assistance from qualified personnel especially mandated for that purpose. That situation lasted for two months. It is further noted that the respondent State have (sic) acknowledged that the place of detention was not adapted to her needs and that there were no adequate structures in place at the time". See also *Muskhadzhiyeva and others v. Belgium*, 19th January 2010, paragraph 56.

²⁶ *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, 12th of October 2006, paragraph 55: "The second applicant's position was characterized by her very young age, the fact that she was an illegal immigrant in a foreign land and the fact that she was unaccompanied by her family from whom she had become separated so that she was effectively left to her own devices. She was thus in an extremely vulnerable situation. In view of the absolute nature of the protection afforded by Article 3 of the Convention, it is important to bear in mind that this is the decisive factor and it takes precedence over considerations relating to the second applicant's status as an illegal immigrant. She therefore indisputably came within the class of highly vulnerable members of society to whom the Belgian State owed a duty to take adequate measures to provide care and protection as part of its positive obligations under Article 3 of the Convention".

²⁷ *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, 12th of October 2006, paragraph 58: "The measures taken by the Belgian authorities – informing the first applicant of the position, giving her a telephone number where she could reach her daughter, appointing a lawyer to assist the second applicant and liaising with the Canadian authorities and the Belgian embassy in Kinshasa – were far from sufficient to fulfill the Belgian State's obligation to provide care for the second applicant. The Court is in no doubt that the second applicant's detention in the conditions described above caused her considerable distress".

factors such as “the proximity of the family tie – in that context, a certain weight will attach to the parent-child bond – the particular circumstances of the relationship and the way in which the authorities responded to the parent’s enquiries”. In such cases “the essence of such a violation lies in the authorities’ reactions and attitudes to the situation when it is brought to their attention”²⁸.

Because of the distress and anxiety that the mother had suffered because the attitude of the Belgian authorities (apart from the separation due to detention, she was only provided with a telephone number to reach her daughter), the Court considered that such a level of severity constituted a violation of article 3 of the ECHR²⁹.

Muskbadzhiyeva and others v. Belgium, 19th January 2010, presents a similar situation. In contrast to *Mubilanžila Mayeka*, in this case the Court considered that article 3 of the ECHR had not been violated concerning the mother, taking into account that the family was not separated. The Court underlines that parents should not always be considered victims of the ill-treatment inflicted on their children, but only when special factors made the parents’ suffering different in scale and nature from the emotional distress inevitable for close relatives of victims of serious human rights violations. In *Muskbadzhiyeva’s* case the Court found that the distress and frustration caused by the children’s detention in the transit centre did not reach the level of severity required in order to consider the mother as subjected to inhuman treatment³⁰.

IV. CONCLUSION

In conclusion, up until now the case law of the European Court of Human Rights concerning unaccompanied migrant or asylum seeking children has been sporadic. This failing is likely to have been motivated by the precarious situation of this particular kind of migrants as well as the existing procedural obstacles within domestic judicial systems, as has been previously referred to in this note. Nevertheless, in 2006 the Court condemned Belgian authorities for the detention and posterior return of an infant 5-year-old unaccompanied girl trying to reunite with her mother. This judgment constituted an important

²⁸ The Court recalls at this point, *Çakici v. Turkey*, 8th July 1999, paragraph 98, and *Hamiyet Kaplan and Others v. Turkey*, 13 September 2005, paragraph 67.

²⁹ *Mubilanžila Mayeka and Kaniki Mitunga v. Belgium*, 12th of October 2006, paragraphs 61 and 62.

³⁰ *Muskbadzhiyeva and others v. Belgium*, 19th January 2010, paragraph 66.

step forward to defend the fundamental rights of unaccompanied children. However, many academics and advocates have speculated as to whether the Court's case law would be the same if a similar situation occurred with teenage children. The recent condemnation of Greece in the Rahimi case shows that the European Court is determined to tackle State parties' abusive practices concerning migrant children's detention, taking into account their vulnerability, particularly when they are unaccompanied.

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