

PROTECTING CHILDREN WITH DISABILITIES FROM INHUMAN AND DEGRADING TREATMENT: CONVERGING STANDARDS OF THE CRC, THE CRPD AND THE ECHR

Violeta VASILIAUSKIENĖ

Mykolas Romeris University
Maironio str. 27, LT 44211 Kaunas, Lithuania
E-mail: v.vasiliauskiene@mrui.eu
ORCID ID: [0000-0003-0743-4015](https://orcid.org/0000-0003-0743-4015)

Gabrielė GINTAUTAITĖ

Mykolas Romeris University
Maironio str. 27, LT 44211 Kaunas, Lithuania
E-mail: gintautaitė@mrui.eu
ORCID ID: [0009-0004-3808-215X](https://orcid.org/0009-0004-3808-215X)

DOI: 10.13165/PSPO-25-37-04-09

Abstract. *Children with disabilities remain at heightened risk of discrimination, institutional neglect, and various forms of violence due to the compounded vulnerabilities of age and disability. International human rights law recognizes this intersectional vulnerability and has developed increasingly specific protections. This article examines how the European Court of Human Rights (ECtHR) applies Article 3 of the European Convention on Human Rights (ECHR) — the prohibition of torture and inhuman or degrading treatment — in cases concerning children with disabilities, and to what extent this judicial interpretation incorporates principles derived from the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD). The research applies doctrinal, comparative, and interpretative analysis of ECtHR case law, focusing on judgments addressing institutional neglect, involuntary medical treatment, sexual violence, and systemic failures in protection. It further evaluates the Court's references to CRC "best interests" and protection-from-violence standards, as well as CRPD-based rights to dignity, autonomy, personal integrity, and inclusion. The findings reveal clear jurisprudential convergence between the ECtHR and UN treaty bodies. The Court has increasingly recognized that States bear extensive positive obligations toward children with disabilities: not only to refrain from abuse but to proactively prevent foreseeable risks, ensure adequate safeguards in care settings, and conduct effective investigations into allegations of harm. The Court's jurisprudence demonstrates that systemic institutional neglect, involuntary medical treatment, and failures to protect against violence may engage State responsibility under Articles 2, 3, 8, and 13 ECHR. Representative judgments illustrate that disability-sensitive and child-rights-based approaches are now integral to the interpretation of Article 3. Overall, the analysis shows that disability-sensitive and child-rights-based approaches are now integral to the ECtHR's interpretation of Article 3. This reflects a broader alignment of European human rights protection with CRC and CRPD standards, reinforcing that equal dignity and effective protection for children with disabilities must be ensured in practice, not only in law.*

Keywords: *children with disabilities, inhuman and degrading treatment, European Court of Human Rights, positive obligations, Convention on the Rights of the Child, Convention on the Rights of Persons with disabilities*

Introduction

Persons with disabilities remain one of the most vulnerable groups in society, often experiencing the risk of discrimination or degrading and other inappropriate treatment. The concept of disability itself has changed over time. The concept of disability can be perceived through various prisms – the medical definition of disability, the social definition of disability, the Human Rights definition of disability and so on. According to the medical definition of disability, disability is a disorder of physical, psychological or intellectual functions that limits the ability to perform certain activities. According to this approach, a person with a disability was assessed as having certain shortcomings, and the difficulties they experience were

associated only with their health condition. According to the social definition of disability, disability is perceived as the result of the interaction between the person and their characteristics. This means that disability occurs not only due to the person's health condition, but also due to inadequate conditions for full participation in society: limited services, unsuitable architecture, inaccessibility of information and other obstacles. According to this view, environmental barriers become the main factor that limits the opportunities of a person with a disability to participate in social life. The human rights perspective further emphasizes the social aspect of the definition of disability. From a human rights perspective, the main reasons why people with disabilities experience certain limitations are discrimination and exclusion. According to this perspective, disability is defined not only as an individual disorder or environmental obstacle, but also as a consequence of society, which takes disabled people too little or not at all into account and therefore separates them from mainstream activities. Therefore, like racism or sexism, disability is described as a consequence of discrimination. These different perspectives are particularly relevant in the context of children with disabilities. Given that people with disabilities are generally more vulnerable than people without disabilities, it is important to realize that children with disabilities often experience even greater vulnerability due to their age and other circumstances. From a human rights perspective, every child has the right to dignity, development, education and protection from all forms of violence. International conventions such as the Convention on the Rights of the Child (CRC), the Convention on the Rights of Persons with Disabilities (CRPD) and the European Convention on Human Rights (ECHR) establish specific provisions that states must follow in order to protect the rights of children with disabilities.

Despite this normative framework, the protection of children with disabilities from inhuman and degrading treatment remains fragmented in practice, particularly where neglect, institutionalisation, or medical interventions are concerned. The aim of the article is to examine how the European Court of Human Rights (ECHR) interprets and applies the prohibition of torture and ill-treatment (Article 3 ECHR) in cases concerning children with disabilities, and to what extent this interpretation integrates principles from the CRC and CRPD. Methodology: Doctrinal, comparative, and interpretative analysis of selected ECHR judgments involving children with disabilities; examination of cross-references to UN treaty bodies and emerging standards of “intersectional vulnerability.”

The Convention on the Rights of the Child and children with disability

From the perspective of protection against inhuman and degrading treatment, the Convention on the Rights of the Child (1989) (hereinafter – CRC) contains provisions aimed at protecting special needs of children as a vulnerable part of society, it establishes preventive obligations aimed at shielding children with disabilities from violence, institutional harm and neglect. The Convention was adopted by the United Nations General Assembly on 20 November 1989 and entered into force in 1990. It is the most comprehensive international legal instrument relating to the rights and well-being of children. This Convention sets out the fundamental rights of the child and the obligations of states to ensure them. The provisions of the Convention cover the best interests of the child, the right to life and development, education, health and protection from violence or other exploitation.

This Convention applies and is relevant also to children with disabilities. The Convention specifically addresses the special needs of children with disability in Article 23. The article stipulates that every mentally or physically disabled child has the right to a full life, a guarantee of dignity, the development of self-confidence and active participation in public life. States

must provide such children with special care and support, taking into account the needs of the child and the situation of his or her parents or those caring for him or her. This assistance should be provided free of charge, as far as possible. Children with disabilities must be provided with opportunities to receive education, vocational training, as well as health care, rehabilitation and recreation. In this way, the aim is to ensure that children with disabilities can participate in society as much as possible, develop properly and realize their potential. Article 23 of the Convention specifically emphasizes the needs of children, establishes their rights and responsibilities, and the well-being of children with disabilities.

In addition, there are other articles that are relevant when it comes to the rights and interests of children with disabilities. Article 3 of this Convention emphasizes the primacy of the interests of the child in deciding issues related to him. It states that states undertake to provide the child with protection and care necessary for his or her well-being. This is relevant for children with disabilities, since ensuring their well-being requires additional protection. Article 19 states that states are obliged to protect children from all forms of violence - psychological, physical, sexual or neglect. This is important in relation to children with disabilities, since such children are more vulnerable in case of violence or neglect, they need additional protection and assistance. Article 37 of the Convention prohibits torture, other cruel, inhuman or degrading treatment or punishment, as well as unlawful deprivation of liberty. The provisions of this article also apply to children with disabilities who may face maltreatment.

In order to ensure that the provisions of the Convention on the Rights of the Child are properly implemented, the activities of the States Parties are overseen by the Committee on the Rights of the Child (CRC). The Committee on the Rights of the Child (2025) is a body of 18 independent experts that monitors the activities of the States Parties in implementing the Convention on the Rights of the Child. The Committee examines reports submitted by the States Parties, evaluates the activities of the States Parties in ensuring the protection of children's rights and shares recommendations, which provide advice on improving legal, social or educational systems. The Committee also investigates individual complaints about violations of the Convention on the Rights of the Child and may initiate investigations into systemic and most serious violations, such as the involvement of children in armed conflicts, the sale or exploitation of children. In addition to monitoring, the Committee prepares thematic comments and discussion days that help States Parties implement the Convention on the Rights of the Child in practice. In this way, it is ensured that the Convention on the Rights of the Child and its protocols are actually applied in the daily lives of children (Committee on the Rights of the Child, 2025).

In addition to directly monitoring the activities of States and examining reports, the Committee on the Rights of the Child also prepares general comments. They discuss in detail specific children's rights and problems, including the rights of children with disabilities and their protection from different forms of violence. Important general comments in this context are General Comment No. 9 ("Children with Disabilities") and General Comment No. 13 ("Freedom from All Forms of Violence"). These are not legal laws, but these comments provide interpretations and guidelines for States on how to implement the provisions of the Convention on the Rights of the Child in practice.

General Comment No. 9 "Children with Disabilities" (Committee on the Rights of the Child, 2006) provides a comprehensive interpretation of Article 23 of the Convention on the Rights of the Child. It emphasizes that the fundamental principle of Article 23, paragraph 1, is the right of children with disabilities to live a full and decent life, ensuring dignity and creating conditions for active participation in community activities. All State measures to implement the rights set forth in the Convention shall be aimed at the maximum inclusion of children with

disabilities in society, in particular in the areas of health care, education and leisure. The Committee emphasizes that, in accordance with article 23, paragraphs 2 and 3, children with disabilities have the right to individually adapted assistance free of charge. Such assistance shall ensure effective access to education, training, health care services and recreational opportunities. With regard to article 23, paragraph 4, the Committee notes that the international exchange of information between States Parties in the areas of prevention and treatment is limited. The Committee therefore recommends that States actively share experiences and disseminate information in order to strengthen skills in the areas of prevention and treatment of children with disabilities. Thus, this commentary shows that the purpose of article 23 of CRC is not limited to the formal guarantee of rights - the main focus is on the inclusion of children with disabilities on an equal footing in society.

Another relevant commentary on this topic is General Comment No. 13 “Freedom from All Forms of Violence” (Committee on the Rights of the Child, 2011). This commentary provides a broad interpretation of Article 19 of the Convention on the Rights of the Child. According to Article 19, States must ensure the protection of children from all forms of violence – psychological, physical, sexual, negligent or other – regardless of the environment in which they grow up. Children must not be seen as victims of violence, but as legal subjects with the right to dignity, expression of their views, health and participation in society. States must take all appropriate legal, social, educational and administrative measures to establish a comprehensive system of child protection, including risk identification, prevention, provision of services, treatment, monitoring and, where necessary, legal intervention. The commentary also highlights the role of the family, the community and institutions and the need to combat discrimination in order to ensure equal protection for all children. The ultimate goal is to create a coordinated system of the state, community, and family that would actively protect children from violence, promote their psychological, emotional, physical, and social development, and ensure their rights.

Thus, the Convention on the Rights of the Child and the Committee’s interpretative comments form a unified framework of protection that ensures children’s rights not only in law but also in practice. They emphasize the dignity of the child, protection from all forms of violence, equality, participation and full development, while obliging States to establish preventive and effective child protection systems.

Convention on the Rights of Persons with Disabilities (CRPD) and protection of children from violence

The Convention on the Rights of Persons with Disabilities (2006) (hereinafter- CRPD) complements child-specific protections by framing ill-treatment of children with disabilities as a violation of dignity, autonomy, and bodily integrity rather than a welfare concern. The CRPD is an international human rights treaty adopted by the United Nations General Assembly in 2006, which sets out the fundamental rights of persons with disabilities. The aim of the Convention is to ensure the full and equal enjoyment of the rights of persons with disabilities, to promote respect for the dignity of persons with disabilities and their active participation in society. The Convention consists of two parts: the main Convention, which sets out the principles of human rights, and its additional protocol. It obliges Member States to guarantee persons with disabilities autonomy, inclusion in society, protection from discrimination and the opportunity to participate in public, cultural and social life (Australian Human Rights Commission, 2025).

In the context of children with disabilities, the relevant article of this convention is Article 7, which specifically deals with children with disabilities. Article 7 of the Convention particularly emphasizes the rights of children with disabilities, in order to ensure their equal opportunities to fully enjoy all human rights and fundamental freedoms. The article establishes the provision that in all actions concerning children with disabilities, the best interests of the child shall be a primary consideration. This means that States parties must take all necessary measures to ensure that the best interests of the child are a priority in all actions concerning them. It also provides for the right of children with disabilities to express their views freely on all matters affecting them. This right must be implemented taking into account the age and level of maturity of the child. In addition, States are obliged to provide appropriate assistance to children with disabilities, taking into account the child's level of disability and individual needs, so that every child with disabilities can effectively exercise this right.

Furthermore, in the context of children with disabilities, articles 15, 16, 17 are also of particular importance, which establish the protection of persons with disabilities from torture, ill-treatment, various forms of violence, exploitation and abuse and guarantee physical and mental integrity (Convention on the Rights of Persons with Disability, 2006). Article 15 of the Convention emphasizes that no one shall be subjected to torture or to cruel, inhuman or degrading treatment, including any medical or scientific experimentation without their free consent. States parties must take all effective legislative or other measures to protect persons with disabilities, including children with disabilities, from such treatment. Article 16 of the Convention establishes protection from all forms of violence, abuse and exploitation, both in the home and in the public environment. States parties must take all appropriate measures to ensure that persons with disabilities and their families are protected. When providing such protection, the person's age, gender and the nature of the disability must be taken into account. The article also emphasizes that states must guarantee the protection, rehabilitation and social reintegration of persons with disabilities, taking into account the age, gender and individual needs of the particular person, and take appropriate measures to identify, investigate and adequately address cases of violence, exploitation or other similar nature. Article 17 of the Convention emphasizes the right of every person with a disability to physical and mental integrity. Thus, these discussed articles of the Convention, together with the entire Convention on the Rights of Persons with Disabilities, are particularly important in revealing the topic of children with disabilities, since the Convention defines the rights and fundamental freedoms of persons with disabilities and the mechanisms for their protection.

The CRPD Committee's General Comment No. 3 on women and girls with disabilities (Committee on the Rights of Persons with Disabilities, 2016) focuses on Article 6 of the United Nations Convention on the Rights of Persons with Disabilities, which regulates the rights and freedoms of women and girls with disabilities. This article establishes the obligation of States parties to guarantee the empowerment, participation in society and the full enjoyment of all human rights by women and girls with disabilities. The Committee emphasizes that women and girls with disabilities face multiple forms of discrimination – based on gender, disability and other factors, such as age, ethnicity, social status or sexual orientation. For these reasons, they often face obstacles in accessing education, participating in the labour market, being legally recognized and having the opportunity to make decisions about their lives, using health care services and more. The comment draws attention to the fact that women with disabilities are not a homogeneous group – they come from different ages, types of disabilities and social situations, including refugees, migrants and women with intellectual or psychosocial disabilities. In this context, there is a need to ensure legal, policy, social and educational measures to combat discrimination and overcome barriers, with particular attention to issues

related to health care, sexual and reproductive health, family rights and protection from coercive medical interventions. The Commentary also highlights the importance of the participation of women with disabilities in public life. It is important that women with disabilities are able to express their opinions and make their own decisions, ensuring that they are not punished for expressing their opinions or views. In conclusion, the CRPD Committee's General Comment No. 3 discusses Article 6 of the Convention, noting that this article is a key instrument guaranteeing the equality, protection and full integration of women and girls with disabilities into society.

Another relevant Committee comment is the CRPD Committee's General Comment No. 4 on inclusive education (Committee on the Rights of Persons with Disabilities, 2016a). This comment addresses Article 24 of the Convention, which establishes the right of persons with disabilities to education. The Committee emphasizes that persons with disabilities are not merely recipients of social care but are full rights-holders, entitled to quality education and learning without discrimination and on an equal basis with others. Despite progress, many persons with disabilities still lack opportunities to learn alongside others due to stereotypes, discrimination, lack of knowledge, technical and financial resources, and gaps in legal protection. Inclusive education entails not only physical access to schools but also accessible learning materials, technologies, and individualized support measures. Special attention should be given to blind, deaf, and hard-of-hearing individuals, as well as persons with intellectual disabilities or those on the autism spectrum. For such persons, States must ensure appropriate teaching, specialist support, assistive technologies, and alternative communication tools, taking into account their specific needs. Thus, the CRPD Committee's General Comment No. 4 addresses Article 24 of the Convention, which is crucial for clarifying the principles of inclusive education and ensuring the right of persons with disabilities, including children, to equal, accessible, and quality education.

Thus, the provisions of the Convention on the Rights of Persons with Disabilities aim to ensure the rights and freedoms of persons, including children with disabilities. Articles 15, 16, 17 of this Convention are most relevant for the protection of the rights of children with disabilities. Article 7 of the Convention is of particular importance, which enshrines provisions that specifically emphasize the rights of children with disabilities and the obligation of states to protect their rights. The Committee's general comments No. 3 and No. 4 further strengthen the standards related to children's rights by providing interpretations of the articles of the Convention.

The European Convention on Human Rights (ECHR) and protection of children with disability from violence

Further protection of children from violence, inhuman or degrading treatment is established in the European Convention on Human Rights (ECHR) (1950). This document ensures the protection of fundamental human rights in Europe. Unlike the CRC and CRPD, the ECHR provides a judicial enforcement mechanism through which the prohibition of inhuman and degrading treatment can be concretely applied. The European Court of Human Rights, operating in Strasbourg, was established to implement the Convention, which monitors how states fulfil their obligations to guarantee the rights enshrined in the Convention to all persons within their jurisdiction and provides individuals with the opportunity to protect their violated rights at the international level. The ECHR consists of a main text and additional protocols. In general, the Convention enshrines fundamental human rights and freedoms that ensure personal dignity, security, self-expression and protection from state abuse. Although this Convention is

not specifically intended for persons with disabilities, its provisions are universal and the rights enshrined in the Convention can be protected by everyone, including persons with disabilities.

In the context of children and persons with disabilities in general, Article 3 of the ECHR is relevant, which establishes an absolute prohibition of torture (Equality and Human Rights Commission 2021). Torture is the intentional infliction of extremely severe or cruel physical or mental pain or suffering on a person for such purposes as intimidating, coercing, extracting information or punishing him (Equality and Human Rights Commission 2021). The Convention prohibits torture as well as inhuman or degrading treatment or punishment. Inhuman treatment or punishment is manifested in actions that cause severe and intense physical or emotional suffering. Degrading treatment is manifested in actions that seriously violate a person's dignity. The provisions of Article 3 of the Convention are particularly important for persons with disabilities, including children with disabilities, as such persons are more likely to experience violence, neglect or other treatment that degrades their dignity. Torture or other inappropriate treatment of children with disabilities can be manifested in physical abuse, sexual abuse, psychological abuse, neglect, forced or inappropriate treatment and other forms. Physical abuse includes unlawful physical restraints (tying up), unreasonable use of force (hitting, pushing). Sexual abuse includes any sexual acts against a child. Psychological abuse includes intimidation, threats, manipulation, humiliating comments about a disability or other matters. Neglect includes living in unsafe conditions, inadequate hygiene, constant inadequate nutrition, failure to provide necessary medical care that is necessary due to a disability, and the like. Forced or inappropriate treatment includes procedures performed without explicit consent, painful procedures, prescribing inappropriate medications, and more (Equality and Human Rights Commission 2021). It is important to emphasize that children with disabilities are often extremely dependent on the help of other people, therefore not necessarily only active actions, such as the use of physical violence, but also passive actions, such as the failure to provide necessary assistance, systematic neglect, can be treated as torture or inhuman treatment of a child. Thus, Article 3 of the ECHR establishes the absolute obligation of the state to protect persons, including children with disabilities, from any violence, neglect, degrading or other negative treatment that violates their rights.

Article 8 of the ECHR (1950) – right to respect for private and family life – guarantees the right to respect for private and family life, inviolability of the home and secrecy of correspondence. In the context of this article, private life means that everyone has the right to live their life in private, without interference by the State. Article 8 of the European Convention on Human Rights protects a broad concept of private life, which includes a person's physical and psychological integrity, personal identity, autonomy, reputation, personal data, and decisions about their own body and relationships. It also extends to respect for one's home and correspondence, safeguarding individuals from arbitrary state interference in their personal and family sphere. 'Private life' also means that the media or other persons may not interfere in a person's life, personal data must be protected and may not be used without their consent, with certain exceptions. 'Family life' includes the relationship between unmarried couples, an adopted child or the adopter, a foster child or the foster parent. In this context, 'home' does not mean the right to housing. It means the right of an individual to live in peace in their own home, and authorities should not deny access to or enter a home without reasonable cause or permission, regardless of ownership (Equality and Human Rights Commission, 2021a). The provisions of this article are also relevant for children with disabilities. Children with disabilities are more controlled and dependent on others, and therefore face a greater risk of interference in their daily lives, so the state must take effective measures to ensure that the family life, personal data and other protected information of such children are adequately

protected. Any interference with the private life of a child with disabilities must be lawful and proportionate, in order to ensure the best interests of the child. Thus, Article 8 of the Convention is important for children with disabilities, ensuring their right to respect for private and family life.

Article 13 of the ECHR (1950) is intended to ensure the right to an effective remedy. The article establishes the provision that everyone whose rights or freedoms are violated has the right to apply to the appropriate state authorities for effective legal protection, regardless of whether the violation was committed by persons acting in their official capacity. This article is also relevant in the context of children with disabilities, since disabled children are generally at greater risk of their rights being violated. In the event of a violation of the law, children themselves are often unable to adequately defend their rights, therefore it is important to ensure effective legal assistance through parents, guardians or appropriate authorities. Thus, Article 13 of the Convention guarantees individuals, including children with disabilities, effective legal remedies in order to protect their best interests.

Article 14 of the ECHR (1950) – prohibition of discrimination – ensures that all human rights and freedoms set out in the ECHR are to be enjoyed without discrimination. According to this article, everyone must be guaranteed the right to equality, prohibiting discrimination on any ground. Discrimination on the grounds of sex, race, language, religion, political or other opinion, national or social origin, membership of a national minority, property, birth or any other ground is prohibited. Both direct and indirect discrimination are prohibited. Direct discrimination occurs when a person is treated less favourably than another person in a similar or identical situation. Indirect discrimination occurs when a rule or policy, formally applied equally to all people, in fact disadvantages a particular person or group of people (Equality and Human Rights Commission, 2021b). This article is particularly important in relation to children with disabilities, since it is precisely such children who most often experience discrimination, and the main reason for it is often their disability. Children with disabilities may face various restrictions in certain activities due to discrimination. The provisions of the article require that all rights of persons, including children with disabilities, be ensured without discrimination, therefore, in the event of such a violation, states must ensure necessary support and protection for children with disabilities.

To conclude, the ECHR is an important tool for preventing violations of individual rights and freedoms. Articles 2, 3, 8, 13 and 14 of this Convention are most relevant in ensuring the rights of children with disabilities, as they enshrine the most important rights of children with disabilities: the right to life, the prohibition of torture, the right to privacy and family life, the right to an effective remedy and the prohibition of discrimination. The aforementioned articles provide a legal basis for ensuring equal rights for children with disabilities.

ECHR Jurisprudence: Protection from Inhuman and Degrading Treatment

While the CRC and CRPD establish normative standards for the protection of children with disabilities, their practical effectiveness depends on judicial interpretation and enforcement. The jurisprudence of the European Court of Human Rights plays a crucial role in translating these standards into binding obligations under the ECHR, particularly through the interpretation of Article 3. The European Court of Human Rights (ECtHR) has consistently recognized that vulnerable individuals – especially children and persons with disabilities – require specific protection against ill-treatment in institutional settings. Articles 2 and 3 of the European Convention on Human Rights (ECHR) impose positive obligations on States, obliging them not only to refrain from abuse but also to actively prevent foreseeable risks of

harm and to investigate allegations of mistreatment. These obligations are particularly crucial in contexts where children or adults with disabilities are placed in care institutions, hospitals, or other settings that may limit their autonomy or expose them to neglect, abuse, or exploitation. While the Convention does not always explicitly refer to children or persons with disabilities, the Court has increasingly applied CRC principles – such as the best interests of the child (Article 3) and the right to life and development (Article 6) – and CRPD principles – including dignity, personal integrity, and inclusion (Articles 10 and 19) – to evaluate systemic violations. Across a range of cases, from institutional neglect and abuse to involuntary psychiatric treatment and forced labour, the Court’s jurisprudence underscores the State’s duty to ensure both substantive protections (preventing harm) and procedural protections (effective investigations and remedies) in safeguarding the rights of the most vulnerable (Czepek, 2023).

Systemic Neglect and Institutional Abuse

The European Court of Human Rights (ECHR) has repeatedly emphasized the vulnerability of institutionalized children and young adults with disabilities, underscoring the State’s positive obligations under Articles 2 and 3 of the Convention. In cases involving systemic neglect, the Court has recognized that inadequate institutional conditions, lack of medical care, and insufficient oversight may amount to inhuman or degrading treatment, even in the absence of direct physical abuse.

In *Nencheva and Others v. Bulgaria* (2013), the Court examined the deaths of 15 children and young adults with intellectual and mental disabilities in a state-run institution. The facts revealed extremely poor living conditions, including lack of food, medicine, clothing, and heating. Authorities had been repeatedly informed of these conditions by local and central bodies, yet no measures were taken to protect the children. The Court found that the Bulgarian State had breached its positive obligation to safeguard the lives of vulnerable individuals, constituting a substantive violation of Article 2. Furthermore, the post-mortem investigation was ineffective: it started only two years later, was superficial, and did not cover all deaths, leading to a procedural violation of Article 2. The Court highlighted that the State knew or ought to have known about the life-threatening risks and failed to act, confirming that positive obligations extend beyond refraining from abuse to include proactive protection.

Similarly, in *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* (2014), the Court addressed the death of Valentin Câmpeanu, a young adult with severe intellectual disability and HIV. After being transferred to a medical and social care facility, he was deprived of antiretroviral treatment, placed in inadequate housing, and suffered both physical and psychological neglect. Independent expert reports concluded that his death resulted from gross medical negligence. The ECHR held that Romania had violated Article 2 (both substantive and procedural aspects) and Article 13, noting that Valentin had no effective remedy to challenge the inadequate protection. The Court emphasized that the State must anticipate foreseeable risks, ensure effective oversight, and provide safeguards, especially when individuals are institutionalized and vulnerable.

The *Validity Foundation (T.J.) v. Hungary* case (2025) further illustrates systemic abuse and neglect. T.J., a woman with severe intellectual disabilities, had been institutionalized from age 10. Over the years, she suffered physical injuries, chemical and mechanical restraints, malnutrition, and insufficient medical care, ultimately dying from bacterial pneumonia. The Court noted that Hungarian authorities failed to provide adequate supervision and protection, holding violations of Articles 2, 13, and 14. The judgment highlighted both life-threatening

neglect and discriminatory treatment based on disability, reinforcing that systemic institutional deficiencies can constitute inhuman or degrading treatment under Article 3.

Across these cases, the ECHR consistently interprets the State's positive obligations expansively. Authorities must not only refrain from abuse but also actively prevent foreseeable risks of harm. Failure to respond to systemic deficiencies, to provide adequate supervision, or to ensure effective legal remedies engages State responsibility.

In assessing these systemic violations, the Court increasingly drew upon CRC and CRPD principles. The CRC emphasizes the child's right to life, survival, and development (Article 6) and the best interests principle (Article 3), which requires that all actions concerning children prioritize their well-being. The CRPD highlights respect for inherent dignity, personal integrity, and inclusion (Articles 3, 19), principles that are clearly breached when institutional environments deprive children and young adults of basic rights, subject them to neglect, or isolate them from social participation.

These cases collectively demonstrate that systemic neglect and institutional abuse constitute not only a failure to prevent harm but also a breach of the core human rights of children and persons with disabilities. The ECHR jurisprudence thus illustrates the convergence of CRC, CRPD, and ECHR standards, providing a comprehensive framework to protect institutionalized vulnerable populations from inhuman and degrading treatment.

Psychiatric and Medical Treatment without Consent

The ECtHR has addressed cases involving involuntary psychiatric hospitalization, forced medication, and the failure to provide adequate protection for adults and minors with disabilities. The cases of *V.I. v. Moldova* (a minor) and *I.C. v. Moldova* (an adult with intellectual disability) illustrate the State's positive obligations to protect vulnerable individuals from inhuman or degrading treatment under Article 3 of the Convention and highlight the evolving jurisprudence regarding consent, autonomy, and rights-based protection.

In *V.I. v. Moldova* (2024), the applicant, a minor, was repeatedly hospitalized in the Codru Psychiatric Hospital between 2012 and 2014, often without clear explanations or his informed consent. He was diagnosed with mild intellectual disability and a psychopathiform syndrome, though psycho-pedagogical assessments later confirmed his development matched his chronological age and he had no special educational needs. Despite this, he was subjected to forced administration of sedatives (diazepam, diphenhydramine) and neuroleptics (risperidone, levomepromazine). The Court found that the involuntary hospitalization and treatment were disproportionate, considering the applicant's age, developmental stage, and psychological state. The poor conditions in the adult ward, including exposure to severely ill patients, strong cigarette smoke, limited outdoor access, and medication-induced drowsiness and loss of appetite, amounted to inhuman and degrading treatment, violating Article 3. Furthermore, the State's failure to arrange appropriate care after hospitalization represented a breach of Article 13 (right to an effective remedy). The Court emphasized that the authorities' actions failed to protect the minor's dignity and personal integrity, highlighting the relevance of international standards for the rights of children and persons with disabilities.

In *I.C. v. Moldova* (2025), the applicant, an adult woman with moderate intellectual disability, was placed under state guardianship and transferred to live with a family where she was subjected to forced labour on a farm and repeated sexual abuse. Despite her repeated complaints, the State failed to provide adequate protection, and no effective investigation was conducted. The ECtHR found violations of Article 3 (prohibition of torture and inhuman or degrading treatment), Article 4 (prohibition of forced labour), Article 8 (right to private and

family life), and Article 14 in conjunction with these rights (discrimination based on disability). The Court highlighted the State's positive obligation to prevent foreseeable harm, protect the applicant's dignity, and ensure her inclusion and autonomy, directly invoking CRPD principles.

Together, these cases demonstrate that the ECtHR interprets States' positive obligations broadly: authorities must not only refrain from abusive practices but actively safeguard the rights of individuals with disabilities, including providing effective protection, ensuring free and informed consent, and preventing foreseeable harm. The jurisprudence shows a clear shift from a paternalistic medical model toward a rights-based approach, where the principles of dignity, personal integrity, inclusion (CRPD Articles 10 and 19), and best interests of the child (CRC Article 3) are central in assessing systemic and individual violations in psychiatric and social care settings.

Violence, Degrading Conditions, and State Failure to Protect

Article 3 of the ECHR establishes an absolute prohibition of torture which is not limited to the prevention of physical violence as a form of torture, but also covers psychological violence and other forms of torture. This is particularly relevant in ensuring the rights of children with disabilities, as such children are often discriminated against, bullied, and do not receive sufficient support or assistance due to their health condition. Children with disabilities are particularly vulnerable, and therefore states are required to take action to ensure the protection of children with disabilities. The case law of the European Court of Human Rights contains cases that illustrate that a state can be held responsible for both physical violence and inaction when the rights of children with disabilities are violated as a result.

In the case of *A.P. v. Armenia* (2024), the European Court of Human Rights examined a case of sexual abuse of a child with a disability, more precisely an intellectual disability. The case established that at the time of the events in question the applicants were 14 years old and in the ninth grade at school. At the same school, A. G. - the then head of the village administration, a married man of 49 years old - worked as a sports teacher. The applicant's mother filed a police report about the criminal act committed by A. G. - the applicant's sexual abuse in her school classroom. During her testimony, the applicant recounted three separate incidents when A. G. sexually assaulted her. After one of the incidents, the applicant recounted the incident to several girls in her class, one of whom reported it to her class teacher. Despite the fact that some school staff and villagers had noticed the unusual behaviour, the local authorities failed to react appropriately. The case found that A. G., abusing his authority as head of the village administration and school teacher, sexually assaulted the applicant four times. Moreover, this violence took place in the village administration building during A. G.'s working hours and at school during lessons, although he was obliged to protect the applicant's safety and interests. Based on the Court's case-law and relevant domestic and international legal instruments related to children's rights and the rights of persons with disabilities, it was alleged that, despite its international obligations, including under Article 19 of the UN Convention on the Rights of the Child to take all appropriate legislative, administrative, social and educational measures to protect children from violence, including sexual abuse, the State had failed to establish the necessary measures and mechanisms for the protection of children (in particular children with disabilities) in State schools and public institutions. In this case, the ECtHR emphasised the State's responsibility for the protection of a child with disabilities from sexual violence and the obligation to ensure an adequate response to such threats. The Court found that the state failed to adequately protect the child, i.e. failed to effectively investigate the criminal act and stop A. G.'s criminal actions, and that the school staff and administration failed

to provide the necessary protection, although they were informed about the potentially dangerous treatment of a child with a disability. The court found violations of Article 3 (prohibition of torture), Article 8 (right to respect for private and family life) and Article 13 (right to an effective remedy) of the European Convention on Human Rights. In addition, the case highlights the importance of the principles of the international convention on the rights of persons with disabilities, emphasizing that persons with disabilities require additional state protection, since they are more vulnerable than other persons, especially when it comes to cases of violence.

When analysing violations of the prohibition of torture enshrined in Article 3 of the European Convention on Human Rights, it is important to highlight the vulnerability of not only children with disabilities, but also adults with disabilities to experiencing violations of the law. One such example in the case law of the European Court of Human Rights is the case of *Dorđević v. Croatia*, in which the European Court of Human Rights examined the failure of the state to fulfil its positive obligation to protect a person from ill-treatment and psychological suffering. The first applicant is a person who has lost legal capacity due to mental and physical disability. He is cared for by his mother, the second applicant. The case established that the applicants – the mother and her severely disabled adult son – were constantly subjected to systematic psychological and physical violence, humiliation and other cruel treatment by school-age children. The schoolchildren frequently harassed them, especially the first applicant – they shouted obscenities at the first applicant, called him insulting names, often spat at him, burned his hands with cigarettes, pushed him and committed other acts of physical violence. The second applicant also complained that unknown young men had damaged the applicants' balcony, uprooting all the flower beds and throwing stones and dirt on it. The incidents were so frequent that the first applicant, who has a disability, lived in a constant state of fear and stress. Although the second applicant – the mother of a disabled son – had contacted the police, social services, the school, the municipality, the ombudsmen and even the heads of state on many occasions, all the institutions responded superficially: the police often did not arrive or, when they did, did not take any necessary action, the juvenile perpetrators were not identified, the prosecutor's office refused to initiate pre-trial proceedings due to the age of the children, and the social and educational institutions also failed to take effective measures, limiting themselves to interviews and general calls for parents to talk to their children.

The ECtHR found that such inaction constituted a violation of Article 3 of the ECHR, as it failed to fulfil the positive obligation to protect the individual from degrading and inhuman treatment amounting to torture. In this case, the first applicant – a person who was particularly vulnerable due to his disability and dependent on his mother – was unprotected from long-term and systematic psychological and physical violence. The Court also found that the second applicant, the mother of a person with a disability, had suffered a violation of her right to respect for her private and family life, as enshrined in Article 8 of the Convention. The violation of this right was found on the basis that the second applicant, due to constant noise, threats, hostility in the social environment and the need for isolation, could no longer live her own life normally and properly and protect her son. The Court also found a violation of Article 13 of the Convention. The applicants were awarded compensation for non-pecuniary damage and litigation costs. Thus, taking into account the situation of this case and assessing all the circumstances, it should be noted that even when the suspects are minors, the state must organize such supervision, protection and prevention measures that would effectively ensure the safety of vulnerable persons.

Another case in which the situation is different and Article 2 of the ECHR was violated is *Jasinskis v. Latvia* (2010). In this case, the Court examined a situation where the applicant's

son, Valdis Jasinskis, a man who had been deaf and mute since birth, and several of his friends were drinking in a bar. After leaving the bar, the applicant's son and his friends went to a party at a nearby school. In front of the school entrance, a minor pushed the applicant's son, Valdis Jasinskis, who fell backwards down the stairs, hit his head on the ground and lost consciousness for several minutes. When the security guards saw the applicant's son lying unconscious on the ground, they called an ambulance and the police. The officers who arrived mistakenly thought that the disabled man was simply very drunk. Despite the fact that the officers were informed that this person had fallen down the stairs, had lost consciousness and that he had a disability – the person was deaf and mute, they decided not to wait for the ambulance and took the applicant's son to the police station. At the police station, the applicant's son was placed in a recovery room without any medical examination. The officers did not make sufficient efforts to notice symptoms indicating a head injury, although considering that the man could not stand, did not speak, did not react properly and gesticulated a lot, it was possible to understand that he needed a medical examination and assistance. The complainant's son also knocked on the door and walls, but after a while he stopped doing so and fell asleep. Much later, after many repeated requests from the father, the son was taken to the hospital, where it was determined that his condition was already very serious and soon the complainant's son Valdis Jasinskis died from massive head fractures and internal bleeding. The tests also determined that no traces of alcohol were found in his blood. The complainant complained that the actions of the services were insufficient - his son was not provided with the necessary medical assistance, attention was not paid to his son's unusual behaviour, and the police failed to comply with their duty to protect the health of detainees.

The ECtHR found in this case that the state had failed to fulfil its positive duty to protect life in this case: the police officers did not provide a person with a disability with the necessary medical assistance, violated the requirements of domestic law regarding the protection of the health of detainees, and the post-mortem investigation was ineffective, insufficiently independent, and avoided assessing the responsibility of the police officers. The Court found a violation of Article 2 (right to life) of the ECHR. Thus, this case shows that states have a duty to ensure special care for persons with disabilities who are in vulnerable situations. States must protect such persons from human rights violations.

Summarizing the cases presented, it can be concluded that all persons with disabilities, including children with disabilities, regardless of whether their disability is mental or physical, are more vulnerable than persons without disabilities. This is why, in the event of a violation of the rights of such persons, states must respond actively, rather than formally. The case of *A.P. v. Armenia* highlights the vulnerability of children with disabilities in cases of sexual violence and the importance of taking timely and effective protective measures. Other cases – *Dorđević v. Croatia* and *Jasinskis v. Latvia* – show that adults with disabilities are also vulnerable, especially when such persons find themselves in situations in which rights such as the right to life or the prohibition of torture are violated.

Conclusions

The Convention on the Rights of the Child, together with the Committee's interpretative guidance, establishes a coherent protective framework that secures children's rights not only through formal legislation but also in practice. It underscores children's inherent dignity, protection from all forms of violence, equality, participation, and full development, while placing clear duties on States to create preventive and effective child protection systems.

The Convention on the Rights of Persons with Disabilities safeguards the rights and freedoms of persons with disabilities, including children. Articles 15, 16, and 17 are particularly significant for the protection of children with disabilities, while Article 7 holds special importance as it explicitly focuses on their rights and sets forth State obligations to ensure these rights are upheld. The Committee's General Comments No. 3 and No. 4 further reinforce these protections by clarifying the Convention's standards related to children.

The European Convention on Human Rights serves as a fundamental instrument in preventing violations of individual rights and freedoms. Articles 2, 3, 8, 13, and 14 are especially relevant for safeguarding the rights of children with disabilities, as they affirm essential guarantees: the right to life, freedom from torture and ill-treatment, respect for private and family life, access to an effective remedy, and protection against discrimination. These provisions together form a legal basis for ensuring equality and non-discrimination of children with disabilities.

The judgments in *Nencheva and Others v. Bulgaria*, *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania*, and *Validity Foundation (T.J.) v. Hungary* collectively show that systemic neglect and institutional abuse constitute not only a failure to prevent harm but also a violation of the fundamental human rights of children and persons with disabilities. This ECtHR case law demonstrates the alignment of CRC, CRPD, and ECHR standards, creating a robust framework to shield institutionalized vulnerable groups from inhuman or degrading treatment.

The cases *V.I. v. Moldova* and *I.C. v. Moldova* further indicate that the ECtHR interprets States' positive obligations broadly: authorities must go beyond simply avoiding harmful practices and must actively protect the rights of individuals with disabilities—ensuring effective safeguards, free and informed consent, and prevention of foreseeable harm. The Court's jurisprudence reflects a clear shift from a paternalistic, medicalized approach to a rights-based perspective, where dignity, bodily integrity, inclusion (CRPD Arts. 10 and 19), and the best interests of the child (CRC Art. 3) are central to the evaluation of systemic and individual rights violations in psychiatric and social care environments.

In conclusion, all persons with disabilities—including children—are more vulnerable than those without disabilities, whether their impairments are physical or mental. Therefore, when their rights are violated, States must take proactive and meaningful measures rather than merely formal steps. *A.P. v. Armenia* demonstrates the heightened vulnerability of children with disabilities in cases of sexual violence and the necessity of prompt and effective protection. Meanwhile, *Đorđević v. Croatia* and *Jasinskis v. Latvia* confirm that adults with disabilities are also at increased risk—particularly where core rights such as the right to life or the prohibition of torture are endangered. Overall, the ECtHR's case law confirms an emerging convergence of European and international human rights standards, recognising the intersectional vulnerability of children with disabilities and reinforcing States' obligations to provide effective protection against inhuman and degrading treatment.

References

1. Committee on the Rights of the Child (2025) *Introduction to the Committee* [Online]. Available at: <https://www.ohchr.org/en/treaty-bodies/crc/introduction-committee> (Accessed: 30 November 2025).
2. Committee on the Rights of the Child (no date) *Committee on the Rights of the Child*. [Online] Available at: <https://www.ohchr.org/en/treaty-bodies/crc> (Accessed: 30 November 2025).
3. United Nations (1989) *Convention on the Rights of the Child*. [Online] Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child> (Accessed: 30 November 2025).
4. Committee on the Rights of the Child (2006) *General Comment No. 9 (2006): The rights of children with disabilities*. [Online] Available at: <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=7EkKVoQjzAcvVrq1S%2BXnifEfU0LA5cKyafb0NKhsv70eHsJTj%2Fll6K191cop0ziifuOtfJZMQ6qzwiOs0WqJ8w%3D%3D> (Accessed: 30 November 2025).
5. Committee on the Rights of the Child (2011) *General Comment No. 13 (2011): The right of the child to freedom from all forms of violence*. [Online] Available at: <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=ILviUbu5EFC9rm1di9wgejN5XY9X%2Fll6K191cop0ziifuOtfJZMQ6qzwiOs0WqJ8w%3D%3D> (Accessed: 30 November 2025).
6. United Nations (2006) *Convention on the Rights of Persons with Disabilities*. [Online] Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities> (Accessed: 30 November 2025).
7. Australian Human Rights Commission (2025) *United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)*. [Online] Available at: <https://humanrights.gov.au/know-your-rights/rights-of-individuals/disability-rights/disability-rights/international-opportunities-and-the-crpdc/united-nations-convention-rights-persons-disabilities-uncrpd> (Accessed: 30 November 2025).
8. Committee on the Rights of Persons with Disabilities (2016) *General Comment No. 3: Women and girls with disabilities*. [Online] Available at: <https://docs.un.org/en/CRPD/C/GC/3> (Accessed: 30 November 2025).
9. Committee on the Rights of Persons with Disabilities (2016a) *General Comment No. 4: Inclusive education*. [Online] Available at: <https://docs.un.org/en/CRPD/C/GC/4> (Accessed: 30 November 2025).
10. Council of Europe (1950) *European Convention on Human Rights*. [Online] Available at: https://www.echr.coe.int/documents/d/echr/convention_ENG (Accessed: 30 November 2025).
11. Equality and Human Rights Commission (2021) *Article 3 – Freedom from torture and inhuman or degrading treatment*. [Online] Available at: <https://www.equalityhumanrights.com/human-rights/human-rights-act/article-3-freedom-torture-and-inhuman-or-degrading-treatment> (Accessed: 30 November 2025).

12. Equality and Human Rights Commission (2021a) *Article 8 – Respect for your private and family life*. [Online] Available at: <https://www.equalityhumanrights.com/human-rights/human-rights-act/article-8-respect-your-private-and-family-life> (Accessed: 30 November 2025).
13. Equality and Human Rights Commission (2021b) *Article 14 – Protection from discrimination*. [Online] Available at: <https://www.equalityhumanrights.com/human-rights/human-rights-act/article-14-protection-discrimination> (Accessed: 30 November 2025).
14. Czepek, J. (2023) ‘Protection of rights of minor victims of torture, inhuman or degrading treatment, or punishment under the European Convention on Human Rights’, *Prawo i więź*, 3(46), pp. 252–254. Available at: <https://doi.org/10.36128/priw.vi46.730> (Accessed: 30 November 2025).
15. Nencheva and Others v. Bulgaria (2013) *Application no. 48609/06*, European Court of Human Rights, judgment of 18 June 2013. [Online] Available at: <https://hudoc.echr.coe.int/eng?i=001-120956> (Accessed: 30 November 2025).
16. Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania (2014) *Application no. 47848/08*, Grand Chamber judgment, European Court of Human Rights, judgment of 17 July 2014. [Online] Available at: <https://hudoc.echr.coe.int/fre?i=001-145577> (Accessed: 30 November 2025).
17. Validity Foundation on behalf of T.J. v. Hungary (2024) *Application no. 31970/20*, European Court of Human Rights, judgment of 10 October 2024. [Online] Available at: <https://hudoc.echr.coe.int/eng?i=001-236193> (Accessed: 30 November 2025).
18. V.I. v. the Republic of Moldova (2024) *Application no. 38963/18*, European Court of Human Rights (Second Section), judgment of 26 March 2024. [Online] Available at: <https://hudoc.echr.coe.int/eng?i=001-231739> (Accessed: 30 November 2025).
19. I.C. v. the Republic of Moldova (2025) *Application no. 36436/22*, European Court of Human Rights, judgment of 27 February 2025. [Online] Available at: <https://hudoc.echr.coe.int/eng?i=001-241986> (Accessed: 30 November 2025).
20. A.P. v. Armenia (2024) *Application no. 58737/14*, European Court of Human Rights (Fourth-Section Committee), judgment of 18 June 2024. [Online] Available at: <https://hudoc.echr.coe.int/?i=001-234259> (Accessed: 30 November 2025).
21. Đorđević v. Croatia (2012) *Application no. 41526/10*, European Court of Human Rights, judgment 24 July 2012. [Online] Available at: <https://hudoc.echr.coe.int/eng?i=001-112322> (Accessed: 30 November 2025).

