

ბავშვთა ინტერესების სათანადო წარმომადგენლობა
კვლავ არ არის უზრუნველყოფილი

Proper representation of children's interests is still not ensured

Circumstances of the case

The applicant requested the court at the national to take her nephews' wish into account and determine their aunt's house as their place of residence.

At the stage of the court hearings, social workers got involved in the case as the children's representatives. By the final judgment, the national courts decided that the children should stay with their father. However, the courts and the social workers made the decision without taking into account the best interests of the children and their wish to live with their aunt.

Judgment of the European Court of Human Rights (ECtHR)

The ECtHR explained that there were shortcomings in social workers' representation of minors, as the legislation failed to properly regulate the rights of social workers in this process.

The national courts failed to hear the minors' opinions regarding the disputed issue

and to take into account the minors' best interests in spite of their hostile attitude to their father.

Shortcomings in the process of execution of the judgment

- Hearing of opinions of minors below the age of seven is still not ensured properly in courts;
- The issue of representation of minor is problematic as a representative of one and the same agency is obliged to represent the child's interests at the trial as well as to defend the report on the individual assessment of the child issued by the agency;
- In spite of the demand of the ECtHR, the rights and obligations of social workers, as procedural representatives, are not properly prescribed by the legislation.

In spite of social workers' vital role in the protection of children's rights, the effectiveness and quality of social work remains problematic. Instead of strengthening the work of social workers, the state has dismissed social workers on the basis of vague substantiation.