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Application No. 5488/22

Trapitsyna and Isaeva v. Hungary

Third party intervention on behalf of the Hungarian Helsinki Committee

pursuant to the Registrar's notification dated 17 September 2019 that the President of the Section has granted leave, under Rule 44(3) of the Rules of the European Court of Human Rights.

András Kádár
Co-Chair
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The violations alleged by the applicants touch upon systemic issue observed in Hungary, namely the complete denial of access of the applicant and their lawyer to at least the essence of the classified data based on which the opinion on the risk to national security is established. This then often leads to unjustified and disproportional interference into the right to family and private life. With this intervention the intervener wishes to present the serious shortcomings in the Hungarian context in guaranteeing a fair procedure and rights of defence, followed by the presentation of the standards stemming from the law of the European Union (EU), which are binding for Hungary and the requirements deriving from the obligation to take the best interest of the child as a primary consideration into account.

A. The Hungarian context regarding access to classified data in national security immigration cases, including legislation and domestic jurisprudence

1. In immigration procedures, although Act II of 2007 on the Entry and Stay of Third Country Nationals (hereinafter: TCN Act) requires the National Directorate General for Aliens Policing (hereinafter: immigration authority) to provide reasoning in its decisions,[1] this is purely a formality with regard to the assessment of the national security threat. This is due to two reasons: *one*, the expert authorities (in this case the State security agencies) are not obliged to provide reasoning,[2] therefore the immigration authority is not able to state substantial reasons; and *two*, the opinions merely refer to the findings of the expert authorities. Therefore, the opinion often consists of the mere establishment of a threat to national security posed by a third-country national and references to the law based on which security agencies conducted their procedure. There is nothing substantial in the reasoning regarding the national security threat. The security agencies claim that providing access to such data or even to just a basic summary of data means disclosing information on the (secret) methods of gathering this information, which would jeopardise national security, therefore all the data are classified. The immigration authority does not have access to the classified data either, therefore they are not in a position to conduct a proper proportionality assessment when deciding about the revocation of a residence permit.

2. The Hungarian Supreme Court (hereinafter: Kúria) consistently held that it is not unlawful that the opinion of the specialised authority does not to include reasons where it is based on classified information. Moreover, where the immigration authority's decision is based on an opinion arrived at on the basis of classified information, the decision may not include that information. Neither the immigration authority nor the competent court is in the position to decide about granting access to these classified data instead of the classifier, or to allow their disclosure. The immigration authority and the court are obliged to consider the recommendation of the security agencies when making a decision.[3]

3. Act CLV of 2009 on the Protection of Classified Data (hereinafter: Act on the Protection of Classified Data) provides the person concerned with the possibility to request the classified data from the security agencies.[4] However, as per the experience of the HHC, there were no cases when access was granted. According to the security agencies, any disclosure would hinder the efficiency of the national security activity, and disrupt the security agencies' operating order, the exercise of its tasks and powers and therefore indirectly violate Hungary's national security interests.[5] The same reasons are used to justify classification are therefore used for denial of access. The need for classification is

[1] Section 87/M (1) Third-Country Nationals Act
[2] Section 87/B (8) Third-Country Nationals Act
[3] Kfv. II. 38.329/2018/10.
[4] Section 11 Act on the Protection of Classified Data
[5] Information received by HHC upon Freedom of Information requests from the Constitution Protection Office on 4 August 2021.

in itself a sufficient ground for refusing access to classified data and to justify the lawfulness of such a refusal. The Act on Protection of Classified Data contains no provision for obtaining 'extracts', or scope for discovering the essential grounds that demonstrate the threat to national security, not even to the extent required in order to mount a defence in the substantive proceedings.

4. Even if an applicant would be allowed access to the classified information, they have no possibility of using it in the ongoing administrative or the judicial proceeding.[6] In that sense, applicants are excluded from challenging the grounds on which the decision is based. Moreover, the use of classified data without permission is a criminal offense.[7]

5. In an appeal procedure against the refusal of access, the court cannot rule on the legality of the classification and cannot declassify the data itself. The court can only examine whether the denial of access to the applicant was lawful (was the ground for refusal provided, which public interest was pursued and whether the interest pursued would be harmed if the data would be disclosed). No substantive necessity and proportionality test takes place, as the decision refusing access under a mandatory legal provision does not even constitute a discretionary decision, the reference to a breach of public interest is a mandatory ground for refusal.

6. The security agency opinion is binding on the immigration authority.[8] If the immigration authority fails to act in accordance with the opinions requested from the specialised authorities, its decision must be annulled pursuant to Article 123 (1) (b) of Act CLV of 2016 on the General Rules of Administrative Procedures. Thus, under Hungarian law, the examination of the case of a third country national who holds a permanent residence permit and the substantive decision on that case are not actually made by the competent immigration authority but by specialised authorities (security agencies). Decisions without reasoning and without a necessity-proportionality test concerning the right of residence, the right to family life, or children's rights are automatically deemed legal by the courts reviewing them.

7. In sum, access to classified data underlying the assessment of the risk of national security is practically impossible for the applicants and their legal representatives and such shortcoming is considered legal by the highest court in Hungary, the *Kúria*. The immigration authority does not have access to classified data either and the opinion of the security agencies is binding for them in residence cases.

8. Whether the opinion of the security agencies regarding the threat to national security is binding in expulsion procedures is a subject of divergent legal interpretation. A government decree provides that expulsion on the grounds of national security may be ordered upon the initiative of the security agencies.[9] Section 43 (3) of the TCN Act states that when such an expulsion is ordered, the law enforcement agencies delegated under the relevant government decree shall make a recommendation as to the duration of an entry ban. However, the immigration authority interprets these provisions in the sense that the immigration authority is bound by the security agencies' opinion on expulsion as well, and not just the duration of the entry ban. This interpretation has been upheld by certain judges,[10] while others have rejected it.[11]

9. The judges ruling on the appeal against a decision issued by the immigration authority (e.g. in residence cases or in expulsion cases) can on the other hand access the classified data,[12] but in their judgment they can only determine whether or not the contents of the opinion issued by the specialised authority provide sufficient grounds to demonstrate harm to national security. It cannot

[6] Section 13 (1) Act on the Protection of Classified Data
[7] Section 265 Criminal Code
[8] Section 35 (7) Third Country Nationals Act and Section 97 (1) Government Decree 114/2007. (V. 24.)
[9] Section 114 (4b) Government Decree 114/2007. (V. 24.)
[10] 15.K.701.402/2021/21., 11.K.706.657/2020/27., 29.K.701.391/2022/3.
[11] 49.K.701.125/2021/12.
[12] Section 13 (5) Act on the Protection of Classified Data

rule on the logical conclusion reached by that authority. Furthermore, the judge cannot refer to the content of classified data in the judgement.[13] Consequently, the court may only give an unreasoned decision as to whether the classified information relied on by the authority may support the authority's conclusion. The court must therefore review the decision, taking a final position on the applicability of the ground for refusal based on classified information, without the applicant or their representative being able to present a defence against the grounds on which the decision is based.

10. The Hungarian courts consider that the judge has access to the classified data and that the applicant can request to see it (despite the systematic denial of such an access permit) should be enough and that the principle of equality of arms is not violated. The relevant jurisprudence of the Kúria, which administrative courts are obliged to observe, considers that the court has no right to assess or override the specialist authority's data. The court accesses the case file in order to effectively protect the applicant's rights, and is obliged to verify whether the data contained therein sufficiently justify the immigration authority's measures. The Kúria interprets the CJEU and ECtHR case law as not imposing an obligation to disclose at least the essence of the grounds to the applicant. The Kúria also interprets the case law as only guaranteeing the right to an effective remedy, which is fulfilled by the fact that the Hungarian courts have access to the classified data and can verify if the conclusion on national security threat is justified.[14]

11. In sum, in Hungary, the equality of arms and the right to defence are considered to be guaranteed by the sole fact that the courts reviewing immigration authority decisions have access to classified data.

12. Besides issues regarding access to classified data described above, the immigration procedures suffer from another major shortcoming with regard to the respect of the right to family life. Due to a legislative gap, there is no obligation to assess family life when someone's residence permit is withdrawn or not extended. In cases where a residence permit is withdrawn as a result of national security, public safety or public order reasons, it is also not necessary to examine the necessity and proportionality of such withdrawal. Pursuant to the relevant provisions of the TCN Act, a third country national may be granted a residence permit only if their entry or stay in Hungary does not represent a threat to the country's public policy, public security, national security or public health.[15] Therefore, a third country national who does not have a residence permit, or whose residence permit has been withdrawn, cannot oppose their expulsion on the grounds of the right to the protection of their private or family life. If a third-country national is to be expelled, the obligation to take into account their right to family life prior to expulsion is only applicable to third-country nationals with a status based on the grounds of family relations (if their residence was not yet withdrawn).[16] This results in regular violations of the right to family life and in cases where minors are involved, the best interest of the child.

13. In conclusion, the current Hungarian domestic legal environment does not allow for a systematic assessment of the right to family life in all decisions where the right to reside is terminated based on an alleged threat of national security.

B. EU law standards on the access and use of classified information in administrative procedures and on the nature and scope of the judicial review with regard to legality of the lawfulness of the classified data

[13] Section 13(5) Act on the Protection of Classified Data

[14] Kfv.VI.37.640/2018/9., Kfv.III.37.039/2013/6, Kfv. II. 38.329/2018/10, Kfv.37.086/2021/9., Kfv.I.37.075/2021/9., Kfv.I.37.064/2021/9, Kfv.II.37.544/2019/16., Kfv.II.37.533/2020/9., Kfv.II.37.671/2020/17, Kfv.IV.37.098/2022/15.

[15] Section 13 (1) TCN Act

[16] Section 45 (1) TCN Act

14. It is a legal requirement of the European Union that decisions relating to public policy or public security reasons must not be automatic, they must be made after a thorough assessment of the individual circumstances of the case, while respecting the principle of proportionality, and before any rights are limited, proper assessment of the affected person's individual circumstances, the effects of their behaviour on society, and the individual fundamental rights concerned is required. In accordance with CJEU case law, fundamental liberties may only be restricted in a justified and proportionate way.[17]

B.1. Access and use of classified information in administrative procedures

15. Article 47 of the Charter of Fundamental Rights of the EU (hereinafter: the Charter) provides the right to an effective remedy and to a fair trial. The guarantees contained in this Article apply to all cases based on EU law. Guarantees enshrined in Article 47 of the Charter were interpreted in the jurisprudence of the CJEU.

16. In judgment C-166/13, *Mukarubega*,[18] the CJEU stated that observance of the rights of the defence is a fundamental principle of EU law in which the right to be heard in all proceedings is inherent. According to the CJEU, the right to be heard in judicial and administrative proceedings '*guarantees every person the opportunity to make known his views effectively during procedure and before the adoption of any decision liable to affect his interests adversely*'. The CJEU also stated that '*the purpose of the rule that the addressee of an adverse decision must be placed in a position to submit his observations before that decision is adopted, is to enable the competent authority effectively to take into account all relevant information. In order to ensure that the person concerned is in fact protected, the purpose of that rule is, inter alia, to enable that person to correct an error or submit such information relating to his or her personal circumstances as will argue in favour of the adoption or non-adoption of the decision, or in favour of its having a specific conten*t'.[19] On the other hand, the right to defence also imposes obligations on the authorities. Accordingly, the authorities must pay due attention to the observations submitted by the applicant, carefully and impartially examine all the relevant aspects of the individual case, and give a detailed statement of reasons for their decision.[20]

17. In case C-300/11, *ZZ*,[21] the CJEU held that the failure to fully and precisely disclose the grounds on which a decision is taken must be assessed in conformity with the requirements under Article 47 of the Charter, and with respect to the requirements according to which limitations of rights shall genuinely meet the respective objectives, and shall be subject to the principles of necessity and proportionality as set out in Article 52 (1) of the Charter.[22] The CJEU stated that: '*it may prove necessary, both in administrative proceedings and in judicial proceedings, not to disclose certain information to the person concerned, in particular in the light of overriding considerations connected with State security*' (§54). However, '*in the light of the need to comply with Article 47 of the Charter, that procedure must ensure, to the greatest possible extent, that the adversarial principle is complied with, in order to enable the person concerned to contest the grounds on which the decision in question is based and to make submissions on the evidence relating to the decision and, therefore, to put forward an effective defence. In particular,* ***the person concerned must be informed, in any event, of the essence of the grounds on which a decision (…) is based****, as the*

[17] C-50/06, 7 June 2007, joined cases C-715/17, C-718/17 and C-719/17, 2 April 2020 , C-380/18, 12 December 2019.
[18] C-166/13, *Mukarubega*, 5 November 2014, §§43-47.
[19] See also C-249/13, *Boudjlida*,11 December 2014, C-383/13 PPU, M. G., N. *R.*, 10 September 2013, §35.
[20] C-166/13, *Mukarubega*, §48, C-269/90, *Technische Universität München*, 21 November 1991, §14.
[21] C-300/11, *ZZ*, 4 June 2013, §§50-54.
[22] See also T-53/03, *BPB*, 8 July 2008, §§31, 37, 40-41.

necessary protection of State security cannot have the effect of denying the person concerned his right to be heard (…)' (§65).[23]

18. Importantly, the CJEU makes the distinction between the 'essence of the grounds' on which the decision is based, and the evidence underlying the grounds. With regard to the former, the mere allegation of a national security threat is insufficient and it is necessary to reveal at least a minimum reasoning. The CJEU gives some further guidance on what the 'essence of the grounds' might entail in the *Kadi II* judgment; i.e. which information provided to the person concerned is satisfactory for the protection of their right of defence.[24] Accordingly, firms, persons and the exact times of events or any other allegation concerning the applicant's conduct giving rise to the threat of national security must be unequivocally identified by the authorities.[25] In contrast, such a partial disclosure is not applicable to the evidence underlying the grounds if that would '*compromise state security in a direct and specific manner, in that it may, in particular, endanger the life, health or freedom of persons or reveal the methods of investigation specifically used by the national security authorities and thus seriously impede, or even prevent, future performance of the tasks of those authorities*'.[26]

19. The effectiveness of the judicial remedy under Article 47 of the Charter requires that, as a general rule, the applicant must be provided the information and the grounds related to their person on which the decision on the rejection/withdrawal of their application/status is based. The cognisance of that information is necessary to make it possible for the applicant '*to defend his rights in the best possible conditions and to decide, with full knowledge of the relevant facts, whether there is any point in his applying to the court with jurisdiction, and in order to put the latter fully in a position in which it may carry out the review of the lawfulness of the national decision in question (…)*'.[27] Once the case is at the court, the applicant '*must have the right to examine all the documents or observations submitted to the court for the purpose of influencing its decision, and to comment on them*'.[28] According to the CJEU, if the parties to the procedure cannot have an opportunity to examine the facts and documents on which decisions concerning them are based, and on which they are therefore unable to state their views, this infringes their right to an effective legal remedy.[29]

20. Findings of the above mentioned cases were reiterated also in the recent CJEU case, C-158/21,[30] concerning the Hungarian legislation and practice with regard to withdrawal of international protection status based on national security risk. **The CJEU ruled that EU law precludes Hungarian legislation which provides that the person concerned or their legal representative can access the case file only after obtaining authorisation to that end, and without being provided with the grounds of the decision.** Where the disclosure of information placed on the file has been restricted on grounds of national security, **respect for the rights of defence of the person concerned is not sufficiently guaranteed by the possibility for that person of obtaining, under certain conditions, authorisation to access that information, together with a complete prohibition on using the information thus obtained for the purposes of the administrative procedure or any judicial proceedings.** Furthermore, in ensuring that the rights of

[23] This statement was reiterated in other CJEU judgments, including: C-277/11, *M*, §§82-88; joined cases C-584/10 P, C-593/10 P and C-595/10 P, *Kadi*, 18 July 2013, §§111-129. It must be noted that the CJEU also referred to this standard in a case not involving migration issues, i.e. C-437/13, *Unitrading Ltd*, 23 October 2014, §§19-21. Consequently, these standards apply to all cases concerning classified information, based on EU law, where Article 47 of the Charter is applicable

[24] C-300/11, ZZ, §§68-69; joined cases C-584/10 P, C-593/10 P and C-595/10 P, Kadi

[25] Joined cases C-584/10 P, C-593/10 P and C-595/10 P, Kadi, §§141, 143, 145, 147, 149.

[26] C-300/11, ZZ, §66.

[27] C-300/11, ZZ, §53; joined cases C-584/10 P, C-593/10 P and C-595/10 P, Kadi, §100; C-222/86, Union nationale des entraîneurs et cadres techniques professionnels du football (Unectef), §15.

[28] C-300/11, ZZ, §55.

[29] C-300/11, ZZ, §56.

[30] C-159/21, GM, 22 September 2022.

the defence are sufficiently guaranteed, **the power of the court having jurisdiction to have access to the file cannot replace access to the information placed on that file by the person concerned or their adviser.** EU rules also do not allow the asylum authority to systematically base its decisions on a non-reasoned opinion issued by security agencies, which have found that a person constitutes a danger to the national security.

21. As the above findings concern an asylum case, the Hungarian authorities are reluctant to apply it to the residence permit withdrawal and expulsion cases. However, two preliminary references concerning the same issues in residence permit cases are already pending at CJEU.[31]

22. In sum, based on EU law and relating jurisprudence, the applicant and their legal representative must have access to at least the essence of the factual grounds of the decision, containing information that is specific enough to enable the person to effectively challenge those allegations made against them in all circumstances, even in the event of national security considerations. Such information must be provided to the applicant to the greatest possible extent, and only a specific part thereof might be kept undisclosed for well circumscribed, particular reasons. It follows from all the aforementioned, that the domestic law and practice according to which access to the classified information during the proceedings is only provided to the court, and the applicant is left without any information about the grounds of the decision regarding the reasons for the national security consideration, contradicts EU law.

B.2. The nature and scope of the judicial review with regard to legality of the lawfulness of the classified data

23. Pursuant to the *ZZ* judgment, the **effective judicial review** with regard to the reasons invoked by the national authority regarding state security and the legality of the decision must entail the following measures: The national court must verify whether the data in question were lawfully classified as 'confidential' information; i.e. it must examine if state security stands in the way of disclosure. The domestic court examines all the grounds and the related evidence on which the decision was based. The court must determine whether reasons of state security stand in the way of such disclosure by carrying out an independent examination of all the matters of law and fact relied upon by the competent national authority; i.e. there is no presumption that the reasons invoked by a national authority exist and are valid. Judicial control must therefore not be purely formalistic.[32]

24. If the court concludes that there is no state security interest that would require the classification of the information in question, it authorises the national authorities to make a disclosure. If the authority does not disclose the information despite the instruction of the court, the court examines the legality of the decision by disregarding the undisclosed information.[33]

25. Provided that state security stands in the way of disclosure by claiming that disclosure of the information would genuinely jeopardise state security, the court must ensure that the person concerned is informed of the essence of the grounds which constitute the basis of the decision in question, and to draw conclusions from any failure to comply with that obligation to inform them.[34]

26. Within the EU context, the national courts will look into whether the alleged threat falls within the established definition of the national security concept, as according to the CJEU, the strict circumscription of the power of the competent national authorities is also ensured by the

[31] C-528/22 and C-420/22.
[32] C-300/11, ZZ, §§58-61
[33] C-300/11, ZZ, §§63-64.
[34] C-300/11, ZZ, §68.

interpretation which the case-law of the CJEU gives to the concepts of 'national security' and 'public order'.[35]

27. In case fundamental rights are at stake (e.g. right to family and private life), a necessity and proportionality test of the limitation must always be carried out.[36]

28. The interveners would also like to draw the Court's attention to *The Right to Know – A Legal Template on EU and International Law Regarding Disclosure of Classified Information in Asylum and Return Procedures Based on National Security Grounds*[37] and the *Legal note on Effective Remedies In National Security Related Asylum Cases, With A Particular Focus On Access To Classified Information,*[38]which present the relevant EU law and CJEU case law, as well as the pertinent provisions of the ECHR and the applicable case law of this Court.

29. In sum, where the underlying information is classified, the courts must be empowered to rule on the lawfulness of classification itself. If disclosure is justified, it has to order the provision of information to the person concerned. If the domestic authority does not comply, the court must disregard the classified evidence upon deciding the case. If classification is justified, the court has to ensure that at least the essence of the grounds as to why the national security threat is established is shared with the person concerned.

C. The requirements deriving from the obligation to take the best interest of the child as a primary consideration into account in procedures when an alleged risk or threat to national security is assessed and weighed in an immigration context

30. This Court had already held that there is a broad consensus in international law that in all decisions concerning children, their best interests must be paramount.[39] Reading this in conjunction with Article 53 of the Convention, it is only reasonable to arrive to the conclusion that the rights guaranteed by the UN Convention on the Rights of the Child (CRC) shall be given due consideration in cases concerning children. It is a long-standing principle of this Court that the Convention shall guarantee rights which are not "*theoretical or illusory but (…) practical and effective.*"[40] It shall then logically follow that in cases of children, the rights enshrined in the Convention shall be assessed in light of their particular vulnerability, bearing their best interest in mind as a primary consideration, relying on the authoritative interpretation of that principle by the UN Committee on the Rights of the Child, as enshrined in General Comment No. 14.

31. In the migratory context, children with families mostly share the legal fate of their parents. Should the parents be expelled, children will certainly be expelled too, as their right to reside in a State often derives from that of the parent. This is the case in Hungary, where third country national children with families are entitled to a residence permit for the purpose of family unity.

32. They may reside in Hungary in a transformative and highly consequential time of their life, with little to no connection to their country of nationality. In cases where children were born in the country or moved to Hungary at a very young age, that is certainly the case. It may occur that, while not being citizens, this country is the one they call home – since this is the country, which gave them their first memories. In such cases, the elements, which, according to this Court, fall under the scope of the right to private life,[41] overwhelmingly tie children to Hungary.

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[35] C-601/15 PPU, J.N., 15 February 2016, §64, C-467/02, Inan Cetinkaya, 11 November 2004, §43.
[36] Article 52 (1) of the Charter
[37] https://helsinki.hu/en/legal-template/
[38] https://ecre.org/wp-content/uploads/2022/05/Legal-Note-12.pdf
[39] Neulinger and Shuruk v. Switzerland, appl. no. 41615/07, §135.
[40] Airey v. Ireland, appl. no. 6289/73, §24.
[41] Von Hannover v. Germany (no. 2.) appl. nos. 440660/08 and 440661/08, §95., A-M. V. v. Finland, appl. no. 53251/13, §76, Bensaid v. the United Kingdom, appl. no. 44599/98, §47.

33. According to the CRC Committee, an effective access to all rights enshrined in the CRC are in the best interest of the child. In cases where the revocation of the derived right to stay of the child is based on a decision which is the result of a procedure lacking basic due process rights, as explained above, there is no indication that the impact of that decision on children will not be arbitrary. Allowing for this to stand would threaten the very aim of Article 8 of the Convention.[42]

34. Where the presence of a parent on the territory of a State raises an issue under national security, the ensuing procedure will necessarily raise an issue under the child's right to have their best interest considered primarily. The intervener submits that in such cases, the State's legitimate interest to protect national security and a child's best interest right must be reconciled.[43]

35. The best interest principle is a threefold concept: it is a substantive right, a fundamental, interpretive legal principle and a rule of procedure. The "primary" nature of the best interest of the child means that it shall not be assessed on the same level as other, often competing interests. In cases concerning national security or public order, it should also follow then that the rights and interests of children have to be given a heightened importance, and must be assessed first.[44] In a process aimed at reconciling the best interest of the child and national security, a State party shall, under the Convention, be required to carry out an individual assessment as to the consequences of the revocation of a child's right to stay and their possible removal, owing to the individual actions of the parent. **In such a procedure, the reasons substantiating the necessity to remove the parent in order to protect national security shall be weighed against the child's interest to remain in the country for the effective enjoyment of their rights enshrined in the CRC.** That is especially the case when the child has very little to no contact with their country of citizenship. In this process, children's right to be heard shall be respected, and their views must be taken into account according to their age and maturity.

36. The above-described balancing exercise can only be completed where the standards enshrined in EU law are respected. That is, the particular rights of children can only be upheld when at least the essence of the reasons why the parent is a threat to national security are disclosed. It is only then that the parties concerned will have a genuine opportunity to present reasons and arguments on the interplay between the protection of national security and the best interest of the child. Only then will it be possible for them to meaningfully participate in the procedure aimed at striking a fair balance between all competing interests, including that of the child.

37. In conclusion, in all cases concerning children, their best interest must be of paramount importance. In cases where concerns under national security are identified, the legitimate interest of the State and the best interest of the child concerned must be reconciled. In this, the due process rights of the parents, as guaranteed by EU law, must be respected and upheld, since they have a direct impact on the effective enjoyment of the fundamental rights of the child.

[42] Kroon and Others v. the Netherlands, appl. no. 18535/91, §31.
[43] Amuur v. France, appl. no. 19776/12, §50 *mutatis mutandis*
[44] UN Committee on the Rights of the Child, General Comment No. 14.