

**Strategic litigation retreat**  
**FAIR project**

**Dates:** Wednesday 4 – Sunday 8 October

- Arrival day + ½ day for introductions
- Day 2, 3, 4: full days
- Day 5: ½ day for closing

**Objectives:** With the aim of fostering access to justice and enhanced respect of the rights of migrant children in the EU to:

- Deepen the knowledge of participants about international redress mechanisms
- Discuss current cases concerning the rights of migrant children that participants may seek to bring before international redress mechanisms
- Share good practices in strategic litigation
- Support lawyers use of international standards in their work on cases of migrant children
- Provide an opportunity for lawyers from 7 EU jurisdictions who are working on cases involving migrant children to meet each other, exchange experiences and foster their future cooperation
- Receive recommendations for strengthening the ICJ tool on choice of international redress mechanisms

**AGENDA**

**DAY 1: Wednesday, 4 October**

Venue: [Appart'city](#), 11 Avenue des Sablonnières, Ferney-Voltaire, France

13:00-14:00 Welcome and lunch

**14:00-18:30**

14:00-14:30	<b>Welcome and Introduction</b> , Sam Zarifi, Secretary General, ICJ Róisín Pillay, Europe Programme Director, ICJ
14:30-15:15	<b>Tour de table</b> Lawyers, experts and national partners
15:15-15:30	<b>Overview of the agenda</b> ICJ - Karolína Babická, Massimo Frigo
15:30-16:00	<i>Coffee break</i>
16:00-18:00	<b>Panel discussion on</b> <ul style="list-style-type: none"><li>• <b>European Court of Human Rights</b></li><li>• <b>UN Treaty bodies individual complaint procedures, particularly under the CRC</b></li><li>• <b>Collective complaint mechanism under the European Social Charter</b></li></ul> <b>Chair:</b> Jill Heine <b>Keynote speakers:</b> Thomas Straub, ECtHR /15 min/ Anna Batalla, UN Petitions Unit /15 min/ Benoit Van Keirsbilck, DCI Belgium /15 min/ <ul style="list-style-type: none"><li>- Brief introduction of international redress bodies</li><li>- General tips and advice to lawyers bringing cases to these international redress mechanisms</li><li>- Discussion</li></ul>

19:00 Dinner

## **DAY 2: Thursday, 5 October**

Venue: [Appart'city](#), 11 Avenue des Sablonnières, Ferney-Voltaire, France

### **9:00 – 18:00 Discussion of Lawyers' cases – in groups**

**Objective:** To share information about existing cases and trends, knowledge and ideas for strategies, including on relevant international standards and recommendations for possible international redress mechanisms

### **9:00-10:30 Break-out sessions**

<p><b>Case I. Family reunification</b> <b>Presented by:</b> Adriana Kessler, Julia Kraft, Matthias Lehnert (Germany) <b>Facilitator:</b> Jill Heine <b>Rapporteur:</b></p> <p><i>Access to family reunification for persons with subsidiary protection status was suspended until March 2018 in Germany</i></p>	<p><b>Case II. Direct provision</b> <b>Presented by:</b> Brian Collins (Ireland) <b>Facilitator:</b> Róisín Pillay <b>Rapporteur:</b></p> <p><i>The direct provision system restricts the rights of asylum seekers, leaving them for a lengthy period of time without adequate accommodation, suitable conditions, the right to work, etc. A complaint to ECSR considered.</i></p>
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10:30-11:00 Coffee break

### **11:00-13:00 Plenary session**

<p><b>Case III. Age assessment</b> <b>Presented by:</b> Carmen Moles, Jesus Gimeno, Albert Pares (Spain), Ivana Stojanova (Italy), Eleni Velivasaki (Greece) <b>Facilitator:</b> Massimo Frigo <b>Rapporteur:</b></p> <p><i>Age assessment conducted even when the child has a valid passport stating their age, children considered to be adults, which leads to lack of access to their rights as children. CRC issued interim measures in a number of these cases against Spain, which Spain has yet to implement Request for interim measures has also been sent to ECtHR. Similar problems with age assessment procedures arise in Italy and Greece.</i></p>
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13:00-14:00 Lunch

### **14:00-18:00 Break-out sessions**

#### **14:00-16:00**

<p><b>Case IV. Access to Citizenship, Friend to litigate</b> <b>Presented by:</b> Katie Manion, Doireann Nic Mhathuna (Ireland) <b>Facilitator:</b> Jill Heine <b>Rapporteur:</b></p> <p><i>Children in state care experiencing barriers in access to citizenship. Are not allowed to make these applications alone, only</i></p>	<p><b>Case V. Irregular status of parents of migrant children</b> <b>Presented by:</b> Ivana Stojanova (Italy) <b>Facilitator:</b> Massimo Frigo <b>Rapporteur:</b></p> <p><i>Authorisation of stay for undocumented parents of migrant children exists in Italy, but is often denied in case of previous convictions of the parents.</i></p>	<p><b>Case VI. Right to be heard, Access to a representative</b> <b>Presented by:</b> Albert Pares (Spain) <b>Facilitator:</b> Karolína Babická <b>Rapporteur:</b> Ilaria Paolazzi</p> <p><i>Representative of a minor not assigned – who should assume this role? Right to be heard in various situations involving public</i></p>
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<p>through guardians – the social workers, who might not be competent for this purpose. Many children are thus deprived from naturalisation. Also, Children cannot initiate legal proceedings independently, and require a next friend.</p>	<p>(comparison with other countries sought in this session).</p>	<p>administration not respected/child not always having a representative.</p>
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16:00-16:30 Coffee break

**16:30-18:00**

<p><b>Case VII. Access to third level education</b>  <b>Presented by:</b> Katie Manion, Doireann Nic Mhathuna (Ireland)  <b>Facilitator:</b> Róisín Pillay  <b>Rapporteur:</b></p> <p>Young migrants with a permission to reside based on exceptional or discretionary grounds are not eligible for funding for third level education (ie universities, institutes of technology and colleges of education).</p>	<p><b>Case VIII. Access to a work permit and residence status</b>  <b>Presented by:</b> Albert Pares (Spain)  <b>Facilitator:</b> Karolína Babická  <b>Rapporteur:</b></p> <p>A child in care only with a residence authorisation, but no right to work, no renewal of residence status after the age of 18 – child facing social exclusion.</p>
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**18:00-19:00 Wrap up:**

- 3 eye openers of the day
- Reporting from break-out sessions, Rapporteurs
- planning for tomorrow

19:00 Dinner

**DAY 3: Friday, 6 October**

Venue: Office Of The United Nations High Commissioner For Human Rights (OHCHR)  
Palais Wilson, Rue des Pâquis 52, 1201 Geneva, Switzerland  
ICJ – International Commission of Jurists, Rue des Bains 33, 1211 Geneva 8, Switzerland

7:50 (tbc) meeting in the hotel lobby

8:00 (tbc) joint train to Geneva

8:30-10:00	<p><b>Breakfast meeting with CRC and CESCR members (tbc)</b>  <b>Chair:</b> Livio Zilli (tbc)</p> <ul style="list-style-type: none"> <li>- Introduction of the work of the Committees, their members, their working methods and questions from the lawyers</li> <li>- Discussion of the situation of migrant children in the lawyers' countries – if there is interest from the Committees' members</li> </ul>
10:00-10:30	Coffee break
10:30-12:00	<p><b>Meeting with Benyam Dawit Mezmur, CRC Member</b>  Room: RS-181, ground floor  <b>Chair:</b> Ilaria Paolazzi</p> <ul style="list-style-type: none"> <li>- Detailed discussion on the Committee's work</li> <li>- Discussion with lawyers on the issues at national level</li> </ul>
12:00-13:00	Lunch – cafeteria Palais Wilson

13:00-15:00	<p><b>CRC inquiry procedure</b>  <i>Room: RS-181, ground floor</i>  Chair: Róisín Pillay  Keynote speaker: Orest Nowosad, Chief, Groups in Focus Section, Human Rights Treaties Branch, Human Rights Council and Treaty Mechanisms Division</p> <ul style="list-style-type: none"> <li>- Brief mention of other inquiry procedures before UN treaty bodies (CERD, CAT, CEDAW)</li> <li>- Rules of the CRC inquiry procedure</li> <li>- Possible joint inquiries by Treaty Bodies</li> <li>- Discussion</li> </ul>
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Walking tour of old town of Geneva (tbc)  
18:30 Dinner in Geneva

**DAY 4: Saturday, 7 October**

Venue: [Appart'city](#), 11 Avenue des Sablonnières, Ferney-Voltaire, France

**10:00-13:00 Plenary session**

10:00-11:30	<p><b>Best practices in strategic litigation</b>  Chair: Róisín Pillay  Keynote speakers: Nuala Mole, AIRE Center (10 min), Benoit Van Keirsbilck, DCI Belgium (10 min)</p> <ul style="list-style-type: none"> <li>- What is strategic litigation?</li> <li>- Taking decisions about whether to bring a case before an international redress mechanism</li> <li>- Thinking strategically about litigation before international redress mechanisms</li> </ul> <p>Discussion</p>
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11:30-12:00 Coffee break

12:00-13:00	<p><b>How to use and access the Court of Justice of the European Union (CJEU)</b>  Chair: Jill Heine  Keynote speakers: Nuala Mole</p> <ul style="list-style-type: none"> <li>- Discussion</li> </ul>
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13:00-14:00 Lunch

**14:00-18:00 Break-out sessions**

**14:00-16:00**

<p><b>Case IX. Removal of Temporary Humanitarian Protection</b>  <b>Presented by:</b> Ann Marie Mangion (Malta)  <b>Facilitator:</b> Massimo Frigo  <b>Rapporteur:</b></p> <p><i>The state will remove Temporary humanitarian protection status unless individuals obtain their passport from country of origin by 31 October 2017; those that don't will face deportation.</i></p>	<p><b>Case X. Access to asylum, access to residence permit</b>  <b>Presented by:</b> Sergio Antonelli, Maria Rosaria Sciscio (Italy)  <b>Facilitator:</b> Karolína Babická  <b>Rapporteur:</b></p> <p><i>Police refused to accept the asylum claims of migrant children. Also case of police refusing granting a permit to a recognized refugee without a passport. Related cases.</i></p>
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16:00-16:30 Coffee break

**16:30-18:00**

<p><b>Case XI. Detention of a minor</b> <b>Presented by:</b> Eleftheria Mamatzaki (Greece) <b>Facilitator:</b> Róisín Pillay <b>Rapporteur:</b></p> <p><i>Unaccompanied minor detained for a long time – the prosecutor couldn't clarify the reasons for detention.</i></p>	<p><b>Case XII. Failure to identify a victim of trafficking</b> <b>Presented by:</b> Katie Manion, Doireann Nic Mhathuna (Ireland) <b>Facilitator:</b> Jill Heine <b>Rapporteur:</b></p> <p><i>Victim of trafficking (trafficked from Italy with a child) recognized as a refugee but not as trafficking victim – because the exploitation took place outside Ireland". Judicial Review proceedings pending in the High Court in May 2017.</i></p>
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**18:00-18:30 Wrap up:**

- 3 eye openers of the day
- planning for tomorrow

19:00 Dinner

**DAY 5: Sun 8 Oct**

Venue: [Appart'city](#), 11 Avenue des Sablonnières, Ferney-Voltaire, France

**LITIGATION STRATEGIES /wrap-up of the retreat**

9:00-10:30	<p><b>9:00-10:30 Plenary:</b> Sharing Information about issues and cases discussed <b>Chair:</b> Róisín Pillay, ICJ -</p>
10:30-12:00	<p><b>Group Work:</b> - Participants work in 3 groups to recommend updates to the <b>ICJ Litigation strategy tool</b> based on lessons learned during the retreat - Advantages and disadvantages of international mechanisms - Benefits and risks of bringing a case before an international body? Minimising the risks, Enhancing possibility of favourable results. <b>Group 1: Chair:</b> Róisín Pillay , <b>Rapporteur:</b> <b>Group 2: Chair:</b> Benoit Van Keirsbilck, <b>Rapporteur:</b> <b>Group 3: Chair:</b> Karolína Babická, <b>Rapporteur:</b></p>
12:00-12:45	<p><b>Plenary session</b> <b>Chair:</b> Karolína Babická, ICJ - <b>Reporting back from the three groups</b> - <b>Wrap up morning session</b></p>
12:45-13:00	<p><b>Wrap up, thank you, goodbye</b> Sam Zarifi, Secretary General, ICJ</p>

**ENDS**

13:00-14:00 Lunch

**Departures**