



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF E.H. v. GERMANY

(Application no. 25914/21)

JUDGMENT

Art 6 § 1 (criminal) • Fair hearing • Conviction of a fifteen-year-old minor for aggravated murder partially based on his confession during police questioning without prior confidential parental consultation • Applicant's complaint limited to the alleged right to parental consultation • All reasonable steps taken to ensure the applicant was fully aware of his defence rights and could appreciate the consequences of his conduct

Prepared by the Registry. Does not bind the Court.

STRASBOURG

21 April 2026

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of E.H. v. Germany,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Lado Chanturia, *President*,
Jolien Schukking,
Lorraine Schembri Orland,
Anja Seibert-Fohr,
Ana Maria Guerra Martins,
Anne Louise Bormann,
Sebastian Rădulețu, *judges*,

and Hasan Bakırcı, *Section Registrar*,

Having regard to:

the application (no. 25914/21) against the Federal Republic of Germany lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a German national, Mr E.H. (“the applicant”), on 12 May 2021;

the decision to give notice to the German Government (“the Government”) of the application;

the decision not to have the applicant’s name disclosed;

the parties’ observations;

Having deliberated in private on 26 August and 7 October 2025 and 31 March 2026,

Delivers the following judgment, which was adopted on that last-mentioned date:

INTRODUCTION

1. The application concerns the criminal conviction of a minor based, in part, on a confession he made during questioning by the police. He made the confession and waived his right to legal counsel without having had the opportunity to consult his mother in private prior to being questioned and without having been informed of the possibility of such a consultation. The applicant relied on Article 6 § 1 of the Convention.

THE FACTS

2. The applicant was born in 2002 and lives in Berlin. The applicant was represented by Prof. A.B. Norouzi, a lawyer practising in Berlin.

3. The Government were represented by one of their Agents, Ms N. Wenzel, of the Federal Ministry of Justice and Consumer Protection.

4. The facts of the case may be summarised as follows.

5. The applicant, then aged fifteen, was suspected of having murdered a schoolmate, then aged fourteen, with a knife. In the days after the murder, which occurred on 7 March 2018, the police investigated the crime and

interviewed several friends and schoolmates of the victim and of the applicant as witnesses.

6. At around 8 a.m. on Sunday 11 March 2018, four days after the murder, six police officers arrived at the home of the applicant's mother, who had sole custody of him. Upon entering the flat several police officers went directly to the applicant's room, while the applicant's mother was asked by another police officer to follow him into the kitchen.

7. The applicant, who was found in his room, was then verbally informed by two police officers of, *inter alia*, his right to remain silent, his right to consult defence counsel and his mother's right to be present during questioning by the police. He was also handed a form informing him in writing about his right to remain silent and his right to consult defence counsel. The applicant signed that form.

8. At the same time the applicant's mother was informed in the kitchen by a police officer that her son was under suspicion for murder and that a search warrant for the flat had been issued. She was also informed of her right, as a parent of the accused, to refuse to give testimony.

9. While the above-mentioned information was still being communicated to the mother in the kitchen, the applicant was asked about the location of the murder weapon and other objects connected to the crime.

10. Shocked by the allegations against her son, the mother, after having been informed by the police officer of her rights, went to the applicant's room and confronted her son about the allegation in the presence of a police officer. The applicant did not reply. After his mother left the room, the applicant informed the officers where to find a backpack with his clothes and other objects from the day of the murder as well as where to find the murder weapon. He also indicated that he was willing to make a statement, but not in the presence of his mother, and started crying.

11. The applicant's mother was informed by a police officer of her son's willingness to make a statement and his wish for her not to be present. The officer also explained that she was allowed to be present during the questioning, even if the applicant did not want her to be there. However, the mother chose to respect her son's wishes.

12. When the applicant was being taken away by three police officers, his mother shouted out to him, saying "If you did it, I want you to say so. [The victim's] mother deserves to know!" The applicant did not reply.

13. The applicant and his mother were taken to the police station in separate vehicles. According to one of the accompanying police officers the applicant was shaking during the whole journey from the home to the interrogation room. The Regional Court subsequently noted that the mother was informed by a police officer about the right to defence counsel during her journey.

14. Upon arrival at the police station, the applicant's mother expressed a wish to be present during the questioning and entered the interrogation room

where the applicant was sitting in the presence of police officers. She asked him whether he really wanted to be alone during his questioning to which he replied yes, because it was “too embarrassing”. She subsequently left the room and waited outside.

15. Before the police questioning began, the applicant was handed a standard form, designed for adults, informing him of his rights, which he signed. He was also verbally informed of his rights:

“You were provisionally arrested this morning in your parental home. You are accused of having killed [the victim] on Wednesday, 7 March 2018. I already informed you, at your flat, that you do not have to say anything, but that you have the right to make a statement. At any time during the questioning you can request the presence of a lawyer or can at least contact a lawyer. Your mother is here, too. You have told me that you do not want your mother to be present during the questioning. You can change your mind about that at any time. Your mother has been informed of your wishes and has agreed to wait outside for the time being. You can request that evidence be taken in your defence. This means that if you tell us anything that could exonerate you, we are obliged to check it. If you are hungry or thirsty, if you need to use the toilet or if there is anything else, please let me know. Have you understood this information?”

The applicant confirmed that he had understood the information and was willing to make a statement. During the police questioning, which lasted around three hours, the applicant admitted to having committed the offence.

16. After the questioning the applicant and his mother had a short opportunity to talk, in the presence of a police officer, before the applicant was taken into pre-trial detention.

17. The criminal proceedings began on 25 September 2018 in the Juvenile Division of the Berlin Regional Court. On the third day of the trial the applicant’s defence lawyers objected to the confession made during police questioning being used as evidence. They claimed that the applicant had not been properly informed of his right to consult his parents and had not been given an opportunity to consult privately with his mother prior to being questioned by the police. They argued that the right of parents of accused minors to be present during the questioning of their child – a right explicitly provided for under section 67 of the Juvenile Courts Act (see paragraph 27 below) – corresponded with the right of accused minors to a private consultation with their parents. Given the similarities between the right to consult one’s parents and the right to consult defence counsel, they claimed that affected minors must be informed about their right to private consultation with their parents. The applicant and his mother had not been informed thereof. Given the particular vulnerability of minors a private consultation with their parents was a prerequisite for them to validly waive their defence rights or make an informed decision about whether to confess or remain silent. The defence lawyers further argued that if the right to parental consultation was violated the affected evidence had to be excluded, since the right served to protect the procedural position of accused persons.

18. On the sixth day of the trial, after hearing two police officers as witnesses concerning the circumstances of the search, arrest and questioning, the Regional Court rejected the motion to exclude the evidence and declared the confession of 11 March 2018 (see paragraph 15 above) admissible. The Regional Court found that no procedural violation capable of justifying an exclusion of evidence had occurred. It held that the applicant had been comprehensively informed by the police, in a manner understandable to him as a juvenile, of his right to remain silent, his right to consult defence counsel and his mother's right to be present during his questioning by the police. His mother had likewise been informed by the police of her right to refuse testimony, the right to consult defence counsel and her right to be present as the accused's mother during the police questioning (see paragraphs 8, 11 and 13 above). Furthermore, the mother had not been obliged to be present during the questioning against her son's express wishes. The Regional Court further held that the applicant's confession was admissible as evidence because the decision to make a statement had been taken of his own volition and it was his decision, rather than the parents' one, that was decisive. As regards the right to parental consultation, the Regional Court held that the rights of the applicant's mother as a parent had been sufficiently respected. The right to parental consultation was not equivalent to the right to remain silent, the right to refuse testimony, the right to consult defence counsel or the right to be present during questioning as it was not explicitly provided for by law but only accepted by some courts and in legal literature. Exclusion of evidence could not generally be justified by the mere failure to provide information which had not been required under constitutional or ordinary law. Only under very special circumstances would exceptions to this rule be required – for example, in the case of a juvenile whose development was clearly below average. Such exceptional reasons were however not present. The Regional Court further considered that the applicant's mother, even if not informed about a right to parental consultation, had been able to exercise such a right in principle in the present case, as she had had the opportunity to speak with her son both during his arrest in the flat and again prior to his police questioning (see paragraphs 10, 12 and 14 above). Moreover, the applicant and his mother had been repeatedly informed about the mother's right to be present during the questioning, which they had validly waived.

19. The following day of the trial the court heard as a witness the police officer who had questioned the applicant on 11 March 2018 regarding the applicant's confession during police questioning. On the eighth day of the trial the applicant made a new confession to the Regional Court. His confession before the court differed in some respects from his previous one, in particular concerning the pre-meditation of and the motive for the murder.

20. By a judgment of 22 November 2018 the Regional Court convicted the applicant of aggravated murder and handed down a youth sentence of nine years' imprisonment.

21. In line with its decision to reject the defence lawyer's motion for an exclusion of evidence (see paragraph 18 above), the Regional Court based its judgment in part on the applicant's confession of 11 March 2018 (see paragraph 15 above). It held that, while the first confession was credible, the second confession during the trial, and in particular the differences between both confessions, were an evasive defence, motivated by tactical considerations. The Regional Court therefore relied, in particular regarding the motive and pre-meditation of the offence, on the applicant's first confession. It considered that, based on the applicant's first confession, certain aggravating circumstances concerning his intent and motive were existent.

22. On 29 November 2018, the applicant lodged an appeal on points of law against that judgment. He argued that the right to parental consultation was a necessary prerequisite to ensure that accused juveniles could exercise their rights of defence. The physical and mental immaturity of minors left them vulnerable when they were in an unfamiliar situation in which they were being confronted by adults, and the support of an adult whom they trusted was required to allow them to behave like an adult in such a situation. It was further necessary that such support, in the form of a consultation, could take place in private so that parents and juveniles could have the benefit of their relationship of trust and could talk without inhibition. He further stated that for him there had been no opportunity to discuss with his mother, without a police officer being present, whether he should make use of his right to remain silent during the subsequent police questioning and whether he should insist on the involvement of defence counsel. The mother's "shouts" when the applicant was being arrested and before he was questioned by the police (see paragraphs 12 and 14 above) had neither constituted a conversation nor an exercise of the right to parental consultation. Moreover, neither the applicant himself nor his mother had been informed of the right to parental consultation. Violating the right to parental consultation was equivalent to violating the right to consult defence counsel; the courts should therefore have excluded the evidence.

23. On 13 August 2019, the Federal Court of Justice rejected the appeal on points of law. In its summary decision it left open the question of whether a right to parental consultation existed. It held that even assuming that such a right existed, a violation of it would not lead to an absolute exclusion of evidence but only to a conditional one, which would require balancing the competing interests, chief among which was the severity of the criminal charge. It considered that in the present case there were no indications of a violation capable of justifying excluding the evidence. The applicant's mother had been allowed to speak with her son and had given him her opinion about what he should do. Moreover, she could have been present during the questioning if the applicant had wanted her to be there. Therefore, the mother's parental rights and the applicant's vulnerability had been

sufficiently taken into consideration. The Federal Court of Justice also considered that even if the mother had been given the chance to speak with the applicant in private, she would not have advised him to behave any differently during the police questioning by, for example, advising him not to confess.

24. On 2 October 2019 the applicant lodged a constitutional complaint, invoking, amongst others, the right to a fair trial. He argued that the courts had misconceived the right to parental consultation and incorrectly admitted the first confession as evidence.

25. On 18 November 2020, the Federal Constitutional Court refused, without giving reasons, to admit the applicant's constitutional complaint for adjudication (file no. 2 BvR 1775/19).

RELEVANT LEGAL FRAMEWORK AND PRACTICE

26. Pursuant to Article 19 of the Criminal Code the age of criminal liability in Germany is fourteen. Perpetrators who, at the time of the offence, have reached the age of fourteen but not eighteen are referred to as "juveniles" and the Juvenile Courts Act is, pursuant to section 1 thereof, applicable to them. Pursuant to section 33 of the Juvenile Courts Act "[t]he juvenile courts shall have jurisdiction to hear cases involving youth misconduct".

27. Section 67 of the Juvenile Courts Act concerns the status of parents, guardians and legal representatives of juveniles in criminal court proceedings. The section, as in force until 17 December 2019, read, in so far as relevant, as follows:

"(1) In so far as the accused has a right to be heard, to ask questions and make applications, and to be present during investigatory acts, the same rights shall also accrue to the parent or guardian and to the legal representative.

(2) Where provision is made for notices to be served on the accused, the corresponding notice should also be addressed to the parent or guardian and to the legal representative.

(3) The legal representative's right to select defence counsel and to file for legal remedies shall also accrue to the parent or guardian."

28. Article 136 of the Code of Criminal Procedure regulates the questioning of an accused. It reads, in so far as relevant, as follows:

"(1) At the commencement of the questioning, the accused is to be informed of the offence with which he is charged and of the applicable criminal law provisions. The accused is to be advised that the law grants him the right to respond to the charges or not to make any statement on the charges and the right, at any stage, even prior to the questioning, to consult defence counsel of his choice. If the accused wishes to consult defence counsel prior to the questioning, he is to be provided with information which makes it easier for him to be able to contact such defence counsel. Reference is thereby to be made to any emergency legal services which are available. The accused is, further, to be advised that he may request evidence to be taken in his defence and, under the conditions of Article 140, to request the appointment of court-appointed defence

counsel in accordance with Article 141 § 1 and Article 142 § 1; in the latter case, reference is to be made to the obligation to pay costs as referred to in Article 465. In appropriate cases, the accused is also, as a rule, to be informed that he may make a written statement and of the possibility of victim–offender mediation.

(2) The questioning is to give the accused the opportunity to dispel the grounds for suspecting him and to assert facts which speak in his favour.

(3) During the questioning of the accused, consideration is also to be given to ascertaining his personal situation.”

29. Regulation no. 3.4.2 of Police Service Regulation 382 (*Polizeiliche Dienstvorschrift 382*), reads, in so far as relevant, as follows:

“Prior to being questioned for the first time, juveniles are to be informed of their rights under Article 163a § 4 and [Article] 136 of the Code of Criminal Procedure in a manner which corresponds to their stage of development. Their decision is decisive. Prior to taking their decision, they are to be granted the possibility of consulting a parent or guardian. This does not apply where this would pose a risk to the investigation of an illegal act. Consent of the legal representative to the juvenile’s decision is not required. The legal representative’s objection is immaterial, but must be recorded.”

30. The question whether a right to a private consultation between an accused minor and his or her parents or guardian exists in German law has not been decided by the Federal Court of Justice. It has left this question open in other decisions in similar cases. However, some lower domestic courts have accepted that such a right exists and have stated, in so far as relevant, as follows:

Celle Court of Appeal, decision of 25 November 2009, 32 Ss 140/09 (with further references)

“The ... duty to provide information arises ... from sections 2 and 67(1) of the Juvenile Courts Act in conjunction with Article 136 § 1 (2) and [Article] 163a § 4 of the Code of Criminal Procedure. In the area of juvenile criminal law and youth criminal procedure law, which is dominated by the idea of education, the not yet fully developed intellectual and moral maturity of the juvenile must be taken into account, which requires information on the rights of the defence to be provided with care, especially during interviews of suspects, because juveniles, owing to their age and maturity, are often unable to assert their right to remain silent *vis-à-vis* the law enforcement authorities without assistance, even if they are generally aware of the right to freedom of testimony. ... Police Service Regulation 382 no. 3.4.2 in the version of 1995 expressly states that before a decision is made as to whether the accused is to testify, he or she must be given the opportunity to speak to a parent or legal guardian and must also be given appropriate information.”

Saarbrücken Regional Court, judgment of 31 July 2009, 3 Ns 20 Js 26/08 (32/09) (with further references)

“In the opinion of the court, the defendant’s statements in his first police interview are not admissible as evidence because the [police] ... did not inform the legal representatives or legal guardians of the defendant, who was still a juvenile at the time, [that he was going to be interviewed], contrary to section 67(2) of the Juvenile Courts Act. In the opinion of the court, the controversial question of whether such an infraction results in a need to exclude evidence must be answered in the affirmative. It is criminologically established that juvenile defendants are significantly more ‘willing to

confess' than adults, meaning they are less able to make use of their freedom to testify and possibly to refrain from providing information about the case, even if they have otherwise been correctly informed of their right to remain silent. The right to consult legal guardians or legal representatives, which is reflected in section 67(1) and (2) of the Juvenile Courts Act, at the very least and in particular takes this circumstance into account and is therefore directly related to the freedom of choice of the juvenile accused with regard to his rights under Articles 136 and 163a of the Code of Criminal Procedure. In the view of the court, a breach of the obligation under section 67(2) of the Juvenile Courts Act is therefore of the same importance for the criminal proceedings as, for example, the failure to inform the accused of his right to consult with his defence counsel in violation of Article 136 § 1 (2) of the Code of Criminal Procedure. Consequently, an infraction - as in the present case - must therefore result in an exclusion of evidence, at least if the accused objects in the main hearing."

THE LAW

ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

31. The applicant complained that the Regional Court had based its judgment and his criminal conviction on his confession during police questioning, even though he had not been informed of his right to consult his parents or been given an opportunity to privately consult with them prior to being questioned by the police. He alleged that the criminal proceedings had thus been unfair and in violation of Article 6 § 1 of the Convention, which reads, in so far as relevant, as follows:

"In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

A. Scope of the case

32. Given the specific legal argument raised by the applicant, namely that Article 6 § 1 of the Convention entailed a right of juvenile suspects to private consultation with a parent and that that was a necessary prerequisite for exercising and validly waiving their defence rights, the Court must at the outset determine the scope of the application.

1. General principles

33. The Court reiterates that, according to the Court's established case-law, the international system of protection established by the Convention functions on the basis of applications, be they governmental or individual, alleging violations of the Convention, and therefore does not enable the Court to either take up a matter irrespective of the manner in which it came to its knowledge or even, in the context of pending proceedings, to seize on facts that have not been adduced by the applicant – be it a State or an individual – and to examine those facts for compatibility with the Convention. That finding reflects one of the fundamental principles of procedure under

international and domestic (civil and administrative) law: *ne eat judex ultra et extra petita partium* (“not beyond the request”), it being understood that the *petitum* is the complaint submitted by the applicant. A case “referred to” the Court in the exercise of the right of individual application is determined by the applicant’s complaint or “claim” – which is the term used in Article 34 of the Convention (see, for the preceding sentences, *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 108-109, 20 March 2018).

34. The wording of Article 34 of the Convention indicates that a “claim” or complaint in Convention terms comprises two elements, namely factual allegations and the legal arguments underpinning them. These two elements are intertwined because the facts complained of ought to be seen in the light of the legal arguments adduced and vice versa (*ibid.*, § 110).

35. This relationship between the factual and legal components of a complaint is also relevant in the context of the exhaustion of domestic remedies. In cases involving issues of exhaustion in substance, the Court has, along with the factual situation presented in the light of national law, placed emphasis on the Convention arguments relied upon at the national level. The purpose of the exhaustion rule is to afford a Contracting State the opportunity of addressing, and thereby preventing or putting right, the particular Convention violation alleged against it. To genuinely afford a Contracting State the opportunity of preventing or redressing the alleged violation requires taking into account not only the facts but also the applicant’s legal arguments, for the purposes of determining whether the complaint submitted to the Court had indeed been raised beforehand, in substance, before the domestic authorities (*ibid.*, §§ 116-17). That is because “it would be contrary to the subsidiary character of the Convention machinery if an applicant, ignoring a possible Convention argument, could rely on some other ground before the national authorities for challenging an impugned measure, but then lodge an application before the Court on the basis of the Convention argument” (see *Azinas v. Cyprus* [GC], no. 56679/00, § 38, ECHR 2004-III).

2. Application of the above principles to the present case

36. The Court notes that the applicant, in his application, described in detail the factual circumstances of his arrest, his questioning by the police and the objection raised during the criminal proceedings to the confession being introduced as evidence. His legal submissions, however, were limited to the arguments that the proceedings had been unfair because his confession had been used as evidence even though a private consultation with a parent was a necessary prerequisite for exercising and validly waiving his defence rights and he had neither been informed about such a right nor been provided with a possibility to privately consult with his mother.

37. The Court further notes that the applicant also limited his legal argument in his constitutional complaint before the Federal Constitutional Court to the question of a “right to parental consultation” (see paragraph 24

above). In the same manner his appeal on points of law was, in so far as relevant, limited to the legal argument that the use of the confession as evidence had violated his “right to parental consultation” (see paragraph 22 above). Neither before the Federal Court of Justice nor before the Federal Constitutional Court did the applicant argue that his waivers of his rights to legal counsel and to remain silent had been invalid on any other grounds or that his particular vulnerability owing to his age had necessitated a protection other than a parental consultation to be afforded to him.

38. The Court notes, notwithstanding its extensive case-law on the particular vulnerability of juvenile defendants in criminal proceedings and the protection which they must therefore be afforded (see paragraph 50 below), that the present application concerns neither the general validity of the applicant’s waiver of certain defence rights during the pre-trial stage of the criminal proceedings as such nor whether he had to have been provided with legal counsel at that stage of the proceedings. The applicant limited his complaint to the legal argument that he should have been provided with an opportunity to privately consult with his parents prior to being questioned by the police, or at least have been informed of such a right. Based on the applicant’s legal argument the Court is only called upon to assess whether the lack of a private consultation between the applicant and his mother before making a decision on defence rights, and the fact that he was not informed of the possibility of such a consultation, was in violation of Article 6 § 1 of the Convention.

B. Admissibility

39. The Court notes that the application is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

C. Merits

1. The parties’ submissions

(a) The applicant

40. The applicant accepted that the authorities had taken some measures, in particular during the court proceedings, to take account of his age. However, he argued that those measures had not been sufficient in the light of his level of maturity and his intellectual and emotional capabilities. He pointed out that, according to international empirical studies, minors were not only more eager to confess but also made more false confessions than adults. The studies also showed that minors were more likely to waive their defence rights. Those results were based on a multitude of facts, such as age, level of maturity, lack of knowledge and understanding, and/or intimidation, which led in essence to a situation where minors, even if correctly informed about

their right to remain silent, were often not mentally strong enough to assert their right to remain silent *vis-à-vis* the interrogators.

41. The right to parental consultation was the appropriate measure to mitigate the disadvantages under which minors laboured in such situations, when compared with adults. While such consultations were not aimed at providing them with legal advice, they provided minors with an opportunity to obtain advice from a person they could trust and relate to, to compensate for the particular vulnerability of young people and to reduce the emotional stress of the situation. Thus, a confidential consultation with a parent in a protected space was a prerequisite for exercising other defence rights, such as the right to remain silent or to consult a lawyer, if they were not to wither away to mere theoretical possibilities. In addition, for the right to parental consultation to be practical and effective, minors also had to be informed of its existence.

42. In the present case, neither the applicant nor his mother had been informed of such a right nor been given a chance to have a confidential conversation before the police questioning. The shouts and comments made by the applicant's mother (see paragraphs 12 and 14 above) could not be considered a conversation or consultation and in addition took place in front of police officers. That failure to provide the applicant with a protective space was at odds with the aim of the right to parental consultation as it destroyed the relationship of trust and any police officers present during a consultation could be heard as witnesses during court proceedings about the content of such a conversation.

43. That initial defect of the criminal proceedings had not been mitigated later on. The Regional Court and the Federal Court of Justice had considered the applicant's confession during the police questioning to be admissible evidence and the Regional Court had relied on it, in particular, regarding the motive of the murder. Furthermore, the applicant had only confessed during the court proceedings (see paragraph 19 above) under the influence of the Regional Court's decision that his first confession had been admissible (see paragraph 18 above). Therefore, the confession during police questioning had shaped the entire criminal proceedings and had had a decisive effect on the determination of the motive for the offence.

(b) The Government

44. The Government argued that the applicant's young age, level of maturity, his intellectual and emotional skills, and his resulting vulnerability had been adequately taken into account, both during the arrest and police questioning and in the further course of the criminal proceedings. He had been made aware of the charges against him and had been comprehensively informed – verbally and in writing – of his rights, in particular his right to remain silent, his right to legal counsel and his right to have his mother present during questioning. The verbal information on the applicant's rights

had been tailored to him and had been delivered in a manner appropriate to his age. The police officer in charge of the questioning, who had previously worked in the field of “adolescent group violence” and completed a training course on how to question children and juveniles, had considered the applicant to be of an appropriate maturity and intelligence for his age and had observed that he listened attentively and nodded when being informed of his rights. After having expressly confirmed that he had understood his right to remain silent, his right to consult defence counsel and his right to have his mother present, the applicant had decided to make a statement without his mother or defence counsel present.

45. The applicant’s mother had been informed of the allegations against her son and had been informed of her right to refuse testimony, her right to consult a lawyer and her right to be present during police questioning. Despite being aware of those rights, she had accepted the applicant’s decision and had not subsequently insisted on being present during his questioning.

46. The Government accepted that, given the vulnerability of children, State authorities were obliged to make additional efforts to ensure that children had a sufficient understanding of the proceedings and of their rights in order to enable them to make an effective defence. The Government argued, however, that that did not necessarily have to take the form of a confidential parental consultation. An effective defence was better ensured by defence counsel, who was more capable of providing legal advice and guidance on how to testify and whether to exercise the right to remain silent. In many cases parents lacked the requisite legal knowledge and might themselves be incapable of making rational decisions because of their own emotional involvement and feeling of shock.

47. Moreover, a right to confidential parental consultation had not been expressly provided for in the Convention or in other international treaties, and was absent from the legal order of most member States. Nor was such a right enshrined in German law, even though it was accepted in German legal literature and has been assumed to exist by some German courts. The Federal Court of Justice had, however, so far not decided whether such a right existed.

48. Even assuming that Article 6 of the Convention did oblige State authorities to ensure a confidential parental consultation and to accordingly inform the relevant persons of such a right, an overall assessment of the fairness of the criminal proceedings would still be necessary. In this regard the Government submitted that the applicant and his mother had had opportunities to talk before the police questioning, that the applicant had expressed his wish to confess multiple times, that he had had the opportunity – with the assistance of a lawyer – to challenge the use of the confession during the court proceedings, that the Regional Court and the Federal Court of Justice had examined the question of whether the confession was admissible evidence, that the applicant had made a second confession in court and that the confession made by the applicant during police questioning had

been decisive not for the question of whether he had committed the offence but rather for that of whether it had been premeditated. Therefore, they argued that an overall assessment of the proceedings showed that the proceedings had, in any event, been fair.

2. *The Court's assessment*

(a) **General Principles**

49. At the outset the Court observes that, even if the primary purpose of Article 6, as far as criminal matters are concerned, is to ensure a fair trial by a “tribunal” competent to determine “any criminal charge”, it does not follow that the Article has no application to pre-trial proceedings. Article 6 may be relevant before a case is sent for trial if and in so far as the fairness of the trial is likely to be seriously prejudiced by an initial failure to comply with its requirements (see *Panovits v. Cyprus*, no. 4268/04, § 64, 11 December 2008; *Öcalan v. Turkey* [GC], no. 46221/99, § 131, ECHR 2005-IV; and *Imbrioscia v. Switzerland*, 24 November 1993, § 36, Series A no. 275).

50. As regards juvenile defendants, the Court has held that the criminal proceedings must be so organised as to respect the principle of the best interests of the child. It is essential that a child charged with an offence is dealt with in a manner which takes full account of his or her age, level of maturity and intellectual and emotional capacities, and that steps are taken to promote his or her ability to understand and participate in the proceedings (see *V. v. the United Kingdom* [GC], no. 24888/94, § 86, ECHR 1999-IX; *T. v. the United Kingdom* [GC], no. 24724/94, § 84, 16 December 1999; *Panovits*, cited above § 67; and *Adamkiewicz v. Poland*, no. 54729/00, § 70, 2 March 2010). The right of a juvenile defendant to effective participation in his or her criminal trial requires that the authorities deal with him or her with due regard to his or her vulnerability and capacities from the first stages of his or her involvement in a criminal investigation and, in particular, during any questioning by the police. The authorities must take steps to reduce as far as possible the child's feelings of intimidation and inhibition and ensure that he or she has a broad understanding of the nature of the investigation, of what is at stake for him or her, including the significance of any penalty which may be imposed, as well as of his or her rights of defence and, in particular, of his or her right to remain silent (see *Blokhin v. Russia* [GC], no. 47152/06, § 195, 23 March 2016). A waiver by an accused minor of an important right under Article 6 of the Convention can only be accepted where it is expressed in an unequivocal manner after the authorities have taken all reasonable steps to ensure that he or she is fully aware of his or her rights of defence and can appreciate, as far as possible, the consequences of his or her conduct (*ibid.*, § 68).

(b) Application of the above principles to the present case

51. As described in detail above (see paragraphs 31-38 above), the applicant has limited his complaint to the specific argument of an alleged right to parental consultation. The Court notes that in its judgment in the case of *Blokhin* (cited above, §§ 77, 82-84, 86 and 207) it concluded, with reference to international law materials, that according to the basic principles set out in international sources a minor should be guaranteed legal or other appropriate assistance when interviewed by the police. It has also held in other judgments that the assistance of, for example, an interpreter, lawyer, social worker or friend, might be necessary for a minor to understand the general thrust of what is said in court proceedings (see *S.C. v. the United Kingdom*, no. 60958/00, § 29, ECHR 2004-IV) or of what is said by the arresting officer and during the minor's questioning by the police (see *Panovits*, cited above, § 67). However, these considerations concerned the assistance that should in certain circumstances be afforded to a minor and the presence of parents or guardians during the early stages of criminal proceedings, but not the alleged right to a private consultation between a minor and his or her parents.

52. It is established case-law that Article 6 § 1 of the Convention requires that criminal proceedings against juvenile defendants are organised so as to respect the principle of the best interests of the child, that steps are taken to promote their ability to understand and participate in the proceedings, that they are dealt with with due regard to his or her vulnerability and capacities from the first stages of their involvement in a criminal investigation and, that the authorities take all reasonable steps to ensure that they are fully aware of their rights of defence and can appreciate, as far as possible, the consequences of their conduct (see case-law summarised in paragraph 50 above). The Court will therefore assess whether the authorities have taken all reasonable steps to ensure that the applicant was fully aware of his rights and could appreciate, as far as possible, the consequences of his conduct before being questioned by the police.

53. Turning to the facts of the present case, the Court observes that the applicant was fifteen years old when the police took him to the police station and questioned him (see paragraphs 5, 6, 13 and 15 above). It also notes that the applicant did not allege that he could not appreciate the consequences of his conduct.

54. As regards the steps taken by the authorities, the Court observes that it is not disputed between the parties that the applicant was informed by the police about his right to remain silent and his right to consult defence counsel (see paragraphs 7 and 15 above) and that the police officers correctly fulfilled their legal obligations under the Code of Criminal Procedure to inform the applicant and his mother about their rights (see paragraphs 27 and 28 above). It also notes that the applicant expressly confirmed that he had understood the information about his rights (see paragraph 15 above), and the Government's

undisputed submissions that the police officer who so informed the applicant had experience with juvenile defendants, had completed a training course on how to question children and juveniles, had considered the applicant to be of an appropriate maturity and intelligence for his age and had observed that he had listened attentively (see paragraph 44 above). The Regional Court also concluded that the applicant had been comprehensively informed about his rights by the police, in a manner understandable to him as a juvenile (see paragraph 18 above). Moreover, the Court observes that the police informed both the mother and the applicant that the former could be present during the police questioning (see paragraphs 7, 11, 15 above), but that the applicant decided not to avail himself of her assistance and the mother chose to accept her son's wishes (see paragraph 11, 14 and 15 above). Moreover, the police officer informed the applicant that he could change his mind about her presence at any time (see paragraph 15 above) and the mother was informed that she could be present even if the applicant did not want her to be there (see paragraph 11 above).

55. The Court further notes that while German law provides parents or guardians with the right to be present during criminal proceedings and investigative measures (see paragraph 27 above), the question whether a right to a confidential consultation between an accused minor and his or her parents or guardian exists in German law has not been decided by the Federal Court of Justice and the existence of such a right has so far been accepted only by some lower domestic courts (see paragraph 30 above). In this regard, the Court also acknowledges that the Federal Court of Justice, when considering the applicant's appeal on points of law, concluded that even assuming that such a right existed, a violation of it would not lead to an absolute exclusion of evidence and that in the present case there were no indications of a violation capable of justifying the exclusion of the evidence at issue. It further held that the mother's parental rights and the applicant's vulnerability had been sufficiently taken into consideration (see paragraph 23 above).

56. Lastly, the Court notes that the applicant has not argued that he was coerced or forced in any way to confess by the police.

57. In the light of the above considerations the Court concludes that the authorities took all reasonable steps to ensure that the applicant was fully aware of his rights of defence and could appreciate the consequences of his conduct.

58. The foregoing considerations are sufficient to enable the Court to conclude that there has been no violation of Article 6 § 1 of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been no violation of Article 6 § 1 of the Convention.

E.H. v. GERMANY JUDGMENT

Done in English, and notified in writing on 21 April 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı
Registrar

Lado Chanturia
President