



# Methodology

for a rights-based  
individual assessment of the needs of  
child victims of crime



LAW AND INTERNET  
FOUNDATION  
RESEARCH CENTER FOR LAW AND  
INFORMATION TECHNOLOGIES



**DEFENCE FOR CHILDREN**  
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# GRANT AGREEMENT

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# INTRODUCTION

## BACKGROUND

Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime has represented a shift in criminal law, by recognising that criminal proceedings should not only aim to convict perpetrators, but also to protect victims and enhance their rights. This approach has in many ways resulted from the convergence of two sets of concerns. Some countries had already introduced similar provisions enshrined in other international legal texts and the Directive came as an opportunity to unify and harmonise national legislation. At the same time, it also provided common principles and standards for European countries.

The first concern, linked to law enforcement, was the very low rate of conviction of offenders of certain crimes, often involving gender-based violence and violence against children, such as trafficking and sexual abuse. In such crimes, victims and their testimony are pivotal in providing evidence to prosecute and convict perpetrators. However, victims' relationship with offenders, the fear of retaliation and unwelcoming justice systems have made victims reluctant to speak up. In addition, ensuring that their testimony is used as evidence in a trial requires specific guarantees that need to be applied during the conduct of the interview.

The second consideration was related to the rights of victims in particular children and the imperative to protect them from the institutional violence,

which criminal proceedings can represent, with victims having to repeat their story several times, their credibility ostensibly put to the test, an intimidating and incomprehensible system, and none or insufficient measures taken to deal with the consequences of their involvement in such processes. This whole experience can lead to secondary victimisation, in which the child victim endures repeated trauma because of the way the justice system handles the case.

At the international level, various standards have been introduced over time to address both the imperative to conduct criminal proceedings with adequate evidence and the need to protect the rights of child victims involved. These have included the Convention on the Rights of the Child (1989) and its two Optional protocols (2000), the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (Palermo Protocol of 2000), the UN Guidelines on child victims and witnesses of crime (2005), the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention of 2007) and the Council of Europe Guidelines on child-friendly justice (2010). The Victims' Directive builds on these instruments, with a view to harmonise approaches among European Union (EU) Member States.

## OBJECTIVES OF THE METHODOLOGY

In this context, EU Directive 2012/29 sets forth a number of steps to be taken in national legal frameworks and practices to protect the rights of victims of crime. Specifically, it provides for an individual assessment of all victims of crime to identify their specific protection needs. For children, the Directive presumes that such protection needs to exist, due to their particular vulnerability. The Directive provides a number of overarching elements to be considered in determining protection measures to be taken and emphasises that the victim should be directly involved in the process. However, how the individual assessment should be carried out in practice falls under the competency of Member States and will ultimately depend on the way professionals interact with victims. Victims of crime are by essence vulnerable. Child victims are even more vulnerable, as they need additional support to exercise their rights and the crime, they have been subjected to will likely have affected their development.

The present methodology aims to provide guidance for professionals involved in the individual assessment of child victims' needs. Specifically, it aims to:

- Describe the provisions and principles enshrined in key international and European legal texts, which must be used as a reference in the protection of child victims of crime;
- Review the different elements to be taken into account when undertaking an individual assessment of a child's needs;
- Highlight promising practices, which may be used for information and to be replicated across Member States;
- Provide guidance and identify further sources for information and training, to be accessible to all relevant professionals.

## HOW THE METHODOLOGY WAS DEVELOPED

The methodology was developed in the context of the E-PROTECT project, aiming to enhance the protection of children who are victims of crime, taking as a reference the EU Directive and its transposition into legislation and practice in selected EU Member States, namely Austria, Bulgaria, Greece, Italy, and Romania. This methodology took into account the different analysis carried out during the implementation of the project and was primarily developed through an extensive consultative process with relevant professionals in the five Member States involved in the E-PROTECT project. In each country, various seminars were held with approximately 15 to 25 professionals, which have enabled to review an annotated outline of the methodology and collect views on their daily experiences and practices in assessing the needs of child victims involved in criminal proceedings, identify promising practices, and pinpoint existing gaps. Thus, the first draft of the methodology was built on national expert knowledge in the five EU Member States abovementioned.

A complete first draft of the methodology was produced, building on these consultations, on a mapping exercise conducted in project countries and a few additional ones on national approaches to the individual assessment, and on relevant existing tools. A second round of review was then conducted with professionals of the E-PROTECT partnership to seek their feedback on the methodology and their comments incorporated to develop a final version.

# CONTENTS AND ORGANISATION

The methodology primarily follows a chronological order for the steps to be taken to ensure a quality individual assessment of the protection and support needs of child victims, in line with a child rights-based approach, respectful of children's dignity, aiming to avoid secondary victimisation, and including children as full actors in the process.

- **Chapter 1** gives an overview of relevant international standards and provides conceptual clarity on the child rights-based approach and its key elements.
- **Chapter 2** tackles multidisciplinary and multi-agency collaboration, which needs to be put in place right from the beginning of the assessment process, explaining its relevance and suggesting ways to establish and promote such cooperation.
- **Chapter 3** concentrates on the procedural safeguards to be put in place prior to and during the individual assessment.
- **Chapter 4** examines how to conduct the individual assessment, with a focus on relevant approaches to interacting and communicating with child victims.
- **Chapter 5** considers the multiple training needs for professionals involved in the process.

The following figure provides an overview of the assessment process stage by stage, highlighting the key questions each assessment step will seek to address

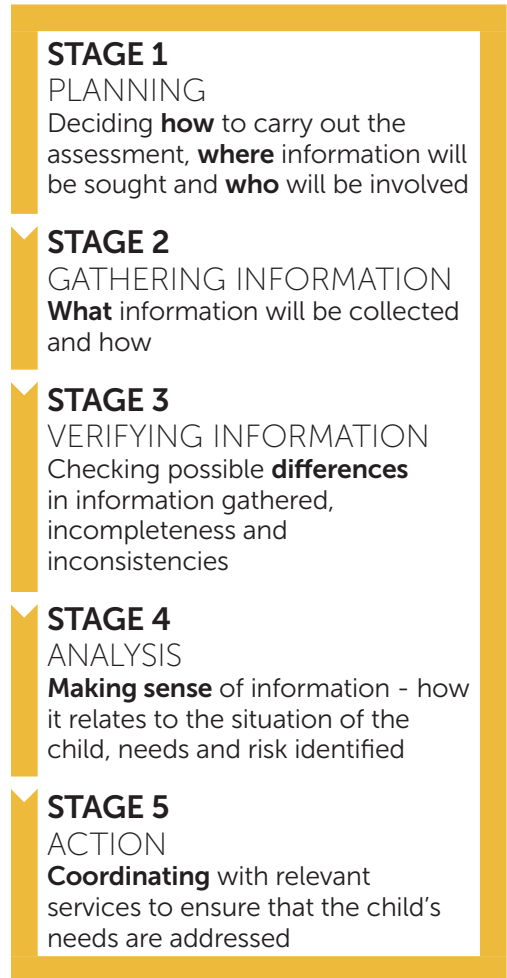


FIGURE 1

Basic stages of assessment

#### SOURCE

Adapted from Inter Agency Guidelines for Case Management & Child Protection – The Role of Case Management in the Protection of Children: A Guide for Policy & Programme Managers and Caseworkers, January 2014.

Do I have  
to repeat it again?



A CHILD VICTIM  
CAN BE REPEATEDLY ASKED  
TO EXPLAIN THE CRIME TO DIFFERENT  
UNKNOWN PROFESSIONALS



# 1 CHILD-SENSITIVE JUSTICE

## KEY OBJECTIVES

- Explain what the key international and European legal texts protecting child victims of crime are;
- Highlight the key principles enshrined in strategic documents such as the European Directive on victims of crime and the Convention on the Rights of the Child;
- Demonstrate how the principles, standards, and rights provided in the legal texts should be translated into quality standards for practice, as well as, professional models for practice.

## BRIEF OVERVIEW OF INTERNATIONAL AND EUROPEAN STANDARDS AND RECENT DEVELOPMENTS: KEY PRINCIPLES AND STRATEGIES

Today, a comprehensive body of standards and principles is in place, which has been adopted at European and international level<sup>1</sup> to protect and promote children's rights. Importantly, particularly with the adoption of the United Nations Convention on the Rights of the Child (CRC) in 1989, these standards reflect not only the need to protect children based on intrinsic vulnerabilities, but also an approach that recognises children's human dignity and their fundamental rights, and the responsibility of States and societies in ensuring that these rights are fulfilled. European and international standards emphasise the need to address children's rights in a holistic manner and

to place children's personal characteristics (age, maturity, disability status, country of origin, religion, communication difficulties or other) and individual circumstances (i.e. child's life, experiences, environment, nature or motive of crimes they suffered) at the heart of the processes. In order to design, plan, develop, and strengthen responsive and child-sensitive justice systems, it is essential to look at some of these key principles and strategies enshrined in the various legal texts and understand how they should be applied in practice.

<sup>1</sup> For a list of key international and European instruments, see Annex 1

## The European Directive on the rights, support and protection of victims of crime

Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishes minimum standards on the rights, support and protection of victims of crime, and replaces Council Framework Decision 2001/220/JHA. As set out in the Preamble (4), the aim of the Directive is “to revise and supplement the principles set out in Framework Decision 2001/220/JHA and to take significant steps forward in the level of protection of victims throughout the Union, in particular within the framework of criminal proceedings.” Indeed, the Directive lays out significant rights of victims, including child victims and standards for practice. The most relevant standards for child victims enshrined in the Directive include, but are not limited to, the following:

The individual assessment of victims should take into account the personal situation, immediate needs, age, gender, possible disability, and maturity of victims. The assessment should also account for the nature and previous experience of the crime;

- Children’s bests interests must be a primary consideration in all proceedings;
- Victims should be protected from secondary and repeat victimisation, intimidation and retaliation;
- Victims should have the right of access to appropriate support to facilitate their recovery and access to justice;
- Child victims have the right to have their views taken into account in decision-making processes affecting them; and to be heard in criminal proceedings;
- All victims are rights holders and must enjoy the same services and justice, without discrimination of any kind;

- Where possible, child-friendly environments, including professional practices and infrastructure, should be provided to child victims;
- Effective, respectful and responsive professionals’ practices must be in place, supported by adequate training.

The standards put forward by the Directive highlight the importance of focusing and adapting the services to the special and specific circumstances of each individual victim and to involve them in all decisions related to protection and support measures, to ensure that measures are appropriate, relevant and acceptable to victims. Secondly, the Directive recognises that children are full bearers of rights, which must be protected in legislation and realised through according practices.

The standards provided above are not exhaustive and should be interpreted in light of one another. The interpretation and systematic application of these principles should contribute to the implementation of *child-sensitive and child-friendly justice systems*, whose primary consideration is the fulfilment of the best interests of the child.

## CHILD-FRIENDLY JUSTICE DEFINITION

“Child-friendly justice” refers to justice systems which guarantee the respect and the effective implementation of all children’s rights at the highest attainable level, bearing in mind the principles and giving due consideration to the child’s level of maturity and understanding and the circumstances of the case. It is, in particular, justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity.”

IN COUNCIL OF EUROPE (2010)  
GUIDELINES OF THE COMMITTEE OF MINISTERS OF THE  
COUNCIL OF EUROPE ON CHILD-FRIENDLY JUSTICE

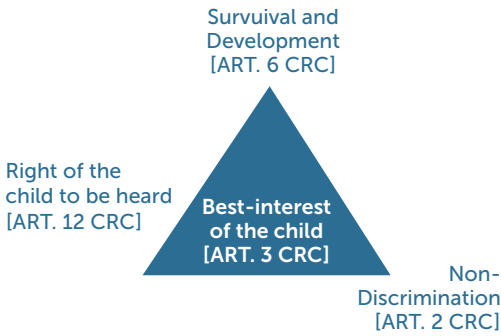
### The Convention on the Rights of the Child [CRC]

As mentioned above, the CRC is one of the key international legal texts promoting the rights of all children. The CRC sets out a number of rights to be applied

in all of children’s life settings and has also led to further interpretation of how these principles must be applied in practice.<sup>2</sup> While the CRC puts forward many rights, the United Nations Committee on the Rights of the Child, which is responsible for interpreting and monitoring the

<sup>2</sup> See for example the Council of Europe (2010) Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice or General Comment No. 10 (2007) on Children’s rights in juvenile justice, General Comment N° 12 (2009) The right of the child to be heard, General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration by the Committee on the Rights of the Child

implementation of the CRC, has identified 4 rights as Guiding Principles, meaning that these should always inform and guide the realisation of all other rights<sup>3</sup>. *The Guiding Principles will inform the remaining chapters of this methodology and be interpreted in the light of the rights and needs of child victims of crime.*



**FIGURE 2**  
The Guiding Principles of the Convention on the Rights of the Child

### Respect for the views of the child [ART. 12]

Possibly one of the most innovative concepts pushed forward with the adoption of the CRC was the principle of the respect for the views of the child. The now commonly known children’s right to participation addresses the importance of informing children and progressively involving them in decision-making processes affecting their life, both at an individual level and as a group. Furthermore, children have the right to participation in all decision-making processes affecting their life, including in the justice system.<sup>4</sup> The quality of the participation of children is dependent on a variety of circumstances, which becomes even more significant in the case of child victims. Key principles of child participation, such as transparent and informative processes, voluntary, relevant, child-friendly and

inclusive, must be applied, to ensure that the participation of children is meaningful and respectful.<sup>5</sup> The respect for the views of the child is enshrined in all the key international legal texts and in national legislation across European Union (EU) Member States. Therefore, it should be respected, protected, and fulfilled. This principle will be addressed in more detail in Chapter III of this Methodology.

### Best interests of the child [ART. 3]

The best interests of the child are enshrined in various international and European instruments, including the Charter of Fundamental Rights of the European Union. Article 3(1) of the CRC reads “in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.” This principle is of a fundamental character and, in general, should reflect what is the best for each individual child in a given situation. Due to the complexity of human nature and child well-being, the determination of the best interests of the child, particularly for child victims, must reflect a number of issues and considerations. Furthermore, as highlighted above, the principle of the best interests of the child should be applied in light of all other principles and articles of the CRC, therefore reading and applying the Convention from a systemic and ecological perspective. Below are two examples from EU Member States, providing guidelines on elements to take into account to determine the best interests of the child, enshrined in national legislation. The principle of the best interests of the child will inform the

<sup>3</sup> Committee on the Rights of the Child General Comments No. 5 (2003) on the general measures of implementation of the Convention on the Rights of the Child, para. 12; and No. 12 (2009) on the right of the child to be heard, para. 2.

<sup>4</sup> Committee on the Rights of the Child. General Comment N° 12 (2009) The right of the child to be heard

<sup>5</sup> Ibid.

various chapters of this methodology and will be given attention throughout, to help professionals.

## CHILD PROTECTION ACT BULGARIA

In Bulgaria, the Child Protection Act provides for a legal definition of the child's best interests. According to §1, p. 5, "the best interests of the child" is an assessment of:

- a. The child's feelings and desires;
- b. The physical, mental and emotional needs of the child;
- c. The age, sex, past and other specific features of the child;
- d. The danger or damage that has been done or is likely to be caused to the child;
- e. The ability of the parents to take care of the child;
- f. The consequences for the child upon change of the circumstances;
- g. Other things of importance to the child.

recognises children's right to develop to their full potential. This means that opportunities and protection should be provided in a way that is respectful of children's views, personality and individual circumstances. This has been mentioned before as a standard put forward by the EU Directive on the protection of victims and will be a focus of this methodology throughout. Strictly connected with children's right to life, survival and development is the principle of the evolving capacities of the child, which is of great relevance to the work with child victims. This principle should be understood as a developmental, participatory, and emancipatory concept, which "emphasises the right of children to respect for their capacities and transferring rights from adults to the child in accordance with their level of competence (...) and a protective concept, which acknowledges that because children's capacities are still evolving, they have rights to protection on the part of both parents and the State from participation in or exposure to activities likely to cause them harm."<sup>6</sup> Children's evolving capacities are determined not only by age and children's developmental stages, but also their life circumstances and experiences.

### Right to life, survival and development [ART. 6]

Children's right to life, survival and optimal development is a holistic right and needs to be understood in the context of the CRC in its entirety. It necessitates both pro-active and comprehensive measures to promote the child's well-being and life chances, as well as the provision of measures to protect the child from violence, abuse or, in the case of child victims, secondary and repeat victimisation, intimidation or retaliation. This principle

### Protection from all forms of discrimination [ART. 2]

The rights of all children should be respected, protected and fulfilled without discrimination of any kind, including "sex, race, colour or ethnic background, age, language, religion, political or other opinion, national or social origin, socio-economic background, status of their parent(s), association with a national minority, property, birth, sexual orientation, gender identity or other status."<sup>7</sup> Discrimination against children may take many forms, including due to gaps in

<sup>6</sup> Lansdown, Gerison (2005) The evolving capacities of the child. UNICEF Innocenti Research Centre. Florence

<sup>7</sup> Council of Europe (2010) Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice

## LAW 272/2004 ON THE PROTECTION AND PROMOTION OF THE RIGHTS OF THE CHILD

### ROMANIA

In Romania, the principle of the best interests of the child is also enforced in relation to the rights and obligations of the child's parents, other legal representatives, and any person to whom he/she has been legally placed (article 2, paragraph 3, Law 272/2004 on the Protection and Promotion of the Rights of the Child). In determining the best interests of the child, at least the following shall be considered:

- a. The needs of physical, psychological, education and health development, security and stability and family affiliation;
- b. The child's opinion, depending on age and degree of maturity;
- c. The child's history, having particular regard to situations of abuse, neglect, exploitation or any other form of violence against the child, as well as the potential risk situations that may occur in the future;
- d. The capacity of parents or carers to take care of the child's growth and care to meet their specific needs;
- e. Maintaining personal relationships with people to whom the child has developed attachment relationships.

legislation, the misinformation of administrative staff or negative attitudes by professionals dealing directly with children. Specific groups of children may be more vulnerable and therefore may need more targeted assistance, such as "migrant children, refugee and asylum-seeking children, unaccompanied children, children with disabilities, homeless and street children, Roma children, and chil-

dren in residential institutions."<sup>8</sup> The EU Victims Directive provides that "(in applying this Directive), Member States should ensure that victims with disabilities are able to benefit fully from the rights set out in this Directive, on an equal basis with others, including by facilitating the accessibility to premises where criminal proceedings are conducted and access to information."<sup>9</sup>

## INDIVIDUAL ASSESSMENTS AND SPECIAL PROTECTION MEASURES FOR CHILD VICTIMS OF CRIME AND SPECIFIC CRIMINAL OFFENCES

The adoption of legal instruments both at international level and in EU Member States on the protection of child rights, including within the justice system, has brought agreement on some common characteristics. Yet it has also prompted

dilemmas about how to translate children's rights and the principles aforementioned into practice. Studies carried out at European level show that many challenges are common across EU Member States. Likewise, the solutions identi-

<sup>8</sup> Ibid.

<sup>9</sup> Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. Paragraph 15

fied in one country may be applicable in other ones. Replication of any practices should take into account the surrounding institutional and national regulatory environment, as the implementation of principles and practices are strongly influenced by the culture of the country or work setting, the training of professionals, effectiveness of the systems already in place and so forth. Member States should look at good practices for inspiration and reflection about how their domestic systems can design, develop and strengthen systems towards a better protection of child victims of crime and the fulfilment of their rights.

### The concept of individual assessment of victims and special protection measures: what the EU Directive says

The EU Directive of the protection of victims of crimes put forward two key standards and procedures for the protection of victims: those of the individual assessment of victims and special protection measures. According to Article 22(1) of the Directive, the individual assessment of victims “aims to identify specific protection needs and to determine whether and to what extent they would benefit from special measures in the course of proceedings.”<sup>10</sup> Article 22(4) highlights that child victims “shall be presumed to have specific protection needs due to their vulnerability to secondary and repeat victimisation, intimidation and retaliation (...).” Child victims have the right to individual assessment of needs, as all other victims of crime. The individual assessment of each case is essential because the needs of victims differ taking into account a number of factors. The preamble of the Directive, in paragraph 56 explains that “individual assessments should take into account the personal characteristics of the victim such as his or her age, gender and gender identity or expression, ethnicity, race, religion, sexual orientation, health, disability, residence

status, communication difficulties, relationship to or dependence on the offender and previous experience of crime. They should also take into account the type or nature and the circumstances of the crime such as whether it is a hate crime, a bias crime or a crime committed with a discriminatory motive, sexual violence, violence in a close relationship, whether the offender was in a position of control, whether the victim’s residence is in a high crime or gang dominated area, or whether the victim’s country of origin is not the Member State where the crime was committed.” These elements will enable professionals to better identify individual needs and to tailor their practices, accordingly.

After the individual assessment of victims’ needs, special protection measures may be adopted both during criminal investigations and court proceedings. According to Article 23(2), special measures during criminal investigations include: “interviews with the victim being carried out in premises designed or adapted for that purpose; interviews with the victim being carried out by or through professionals trained for that purpose; all interviews with the victim being conducted by the same persons unless this is contrary to the good administration of justice; and all interviews with victims of sexual violence, gender-based violence or violence in close relationships, unless conducted by a prosecutor or a judge, being conducted by a person of the same sex as the victim, if the victim so wishes, provided that the course of the criminal proceedings will not be prejudiced.” In the case of child victims, the adaptation of premises and practices should follow the principles of child-friendly justice. Practical examples will be provided further below.

In relation to court proceeding, Article 23(3) calls to adopt “measures to avoid visual contact between victims and offenders including during the giving of evidence, by appropriate means including the use of communication technology;

<sup>10</sup> See Annex 2 for the full text of Article 22

measures to ensure that the victim may be heard in the courtroom without being present, in particular through the use of appropriate communication technology; measures to avoid unnecessary questioning concerning the victim's private life not related to the criminal offence; and measures allowing a hearing to take place without the presence of the public."

### Quality standards for individual assessment of victims' needs and the application of special protection measures

The E-PROTECT project has analysed how different Member States are applying the individual assessment of victims' needs and the application of special protection measures, as provided by the EU-Directive.<sup>11</sup> The analysis carried out in the framework of the project has resulted in the identification of quality standards and measures that can serve as practical guidance to inform systems and professionals on how to make practices and services more child sensitive and ensure that the best interests of the child are taken as a primary consideration through the individual assessment.

Some of the common quality standards that have been identified through national and international practices and experience are listed below:

- Practices that empower children;
- Enhancing the capacities of families to care for children who have been victims;
- The provision of comprehensive services to child victims, including, among other, psychosocial support, shelter and accommodation and counselling;
- Ensure that children's rights are effectively protected and advocated by professionals, independently of their cate-

gory;

- Ensuring the availability of specialised professionals, including child psychiatrists, cultural mediators, social workers and other, as appropriate;
- Effective multidisciplinary teams and referral systems, which protect children's rights in a comprehensive manner and avoid the repetition of examinations, interviews or other practices that are detrimental to children;
- Time-effectiveness of processes, considering that children have a different perception of time and the often lengthy cases pose a burden to children and may be another form of victimisation;
- Whenever special protection measures are applied towards a particular child, it is important to avoid situations where the child might be in a conflict of loyalty in terms of his/her parental figures and feeling guilty;
- The standardisation, harmonisation and effective implementation of protocols and practices across institutions, ensuring optimal quality standards for child victims;
- All professionals working directly with children, including judges, lawyers, forensic doctors and other, such as translators and other support staff, receiving specialised training of child-sensitive and child-friendly justice principles and practices.

<sup>11</sup> In the scope of E-PROTECT, the individual assessment of victims' needs and the application of special protection measures was assessed in the following Member States: Austria, Bulgaria, England and Wales, Finland, Greece, Germany, Italy, Portugal, Romania, and Spain.



## BARNAHUS INITIATIVE - BULGARIA

The *Vselena Centre* in Burgas provides comprehensive social services to child victims of sexual violence following a British model, based on SARC in Brighton, UK. The centre provides premises with a friendly atmosphere, medical services, psychological support and facilitates the contact with the police. The centre is working 24/7 and also maintains a telephone help line.

The *Zona ZaKmila Centres* in Shumen, Montana and Sofia, Bulgaria however, apply different approaches, including resilience and psychotherapy approaches. The individual needs assessment procedures follow the ecological approach where the child is put at the centre of all processes.

A significant practice emerged in the last decade, initiating in Iceland, which quickly extended to all Nordic European countries and has recently started in other EU Member States, namely the *Barnahus*.<sup>12</sup> This initiative very much applies in practice, in a holistic manner, the standards put forward in Articles 22 and 23 of the Directive, both during investigations and court proceedings. The main goal of the *Barnahus* is to avoid re-traumatisation of child victims through child-friendly and multiagency responses to violence against children. *Barnahus* recognises and was set up as a response to repetitive and unstructured interviews that were carried out with child victims, particularly those victims of sexual violence; the lack of child-friendly facilities and the need for more articulation and strengthened multiagency work. The so-called “Children’s Houses” set up child-friendly facilities, which take into account children’s needs as victims, including the protection from re-victimisation, but also their rights to privacy and to have their views taken into account in decision-making processes, in a manner that is respectful and in line with children’s dignity and individual circumstances.

A recent project named PROMISE has synthesized *Barnahus* Quality Standards, providing guidance for multidisciplinary and interagency response to child victims and witnesses of violence. The stan-

dards are summarised in the table below. Two examples of children’s houses are provided, as implemented in Bulgaria.

### BARNAHUS QUALITY STANDARDS<sup>13</sup>

- 1 Key principles and cross-cutting activities**
  - 1.1 Best interests of the child
  - 1.2 Right to be heard and receive information
  - 1.3 Avoiding Undue Delay
- 2 Multidisciplinary and Interagency collaboration in the *Barnahus***
- 3 Inclusive Target Group**
- 4 Child Friendly Environment**
- 5 Interagency case management**
- 6 Forensic Interview**
- 7 Medical Examination**
- 8 Therapeutic Services**
- 9 Capacity Building**
- 10 Prevention:** Information sharing, awareness raising and external competence building

<sup>12</sup> For the awareness raising video “Keep Me Safe - Children’s House in Iceland”, go here.

<sup>13</sup> The *Barnahus* Quality Standards Guidance for Multidisciplinary and Interagency Response to Child Victims and Witnesses of Violence, PROMISE project series may be consulted here.

# ADOPTING INTERNATIONAL STANDARDS AND GOOD PRACTICE EXAMPLES IN NATIONAL LAW, POLICY AND PRACTICE IN EUROPEAN MEMBER STATES

The transposition of the Victims' Directive in the selected Member States<sup>14</sup> is quite diverse, but it has nevertheless resulted in several changes in national regulatory frameworks through additional rights, the extension of the beneficiary group of already existent rights, and the systematisation of the existing provisions. For example, "Portugal and Spain used the transposition process to systematise the rights granted to victims of crime and introduced one single document that entails all rights granted to victims of crime. England and Wales' Victims' Code also lists all victims' rights in one single document."<sup>15</sup>

In order to apply the principles and standards enshrined in the EU Directive, Member States must transpose it into national legislation. In line with the requirement of the EU Directive, the national regulatory framework should also follow quality standards with a vision towards the implementation of effective services. In the case of child victims, quality standards should:

- Recognise the rights of all child victims regardless of the type of crime committed (very often legislation is fragmented according to the typology and seriousness of the offence, as well as, the services that should support children during the proceedings);
- Provide for the establishment of victims' support services targeting children, specifically;
- Ensure that all investigations and court proceedings should be accessible free

of cost for children. For example, "in Finland, victim charge is the money that is to be paid by the prosecuted offender to fund the support services of victims"<sup>16</sup>

- Provide for the establishment of specialised support, including psycho-social support;
- Provide for guardians or other key stakeholders to uphold the rights of victims. For example, "in England and Wales, a registered intermediary might help vulnerable victims (incl. a child victim) to give evidence in court and to the police. In a pre-trial hearing, the intermediary helps to establish ground rules for the interview, which have to be upheld during the hearing. Moreover, victims may visit the court before the trial date to familiarise themselves with the building and the court";<sup>17</sup>
- Set up special commissions to assess, monitor and evaluate the implementation of the standards enshrined in the EU Directive. For example, the legislation that transposed the EU Directive in Portugal, provided for the establishment of a Group to analyse the services provided to victims of violence;
- Regulate the execution of procedures including the individual assessment, specifying roles, functions, responsibilities and operational aspects.

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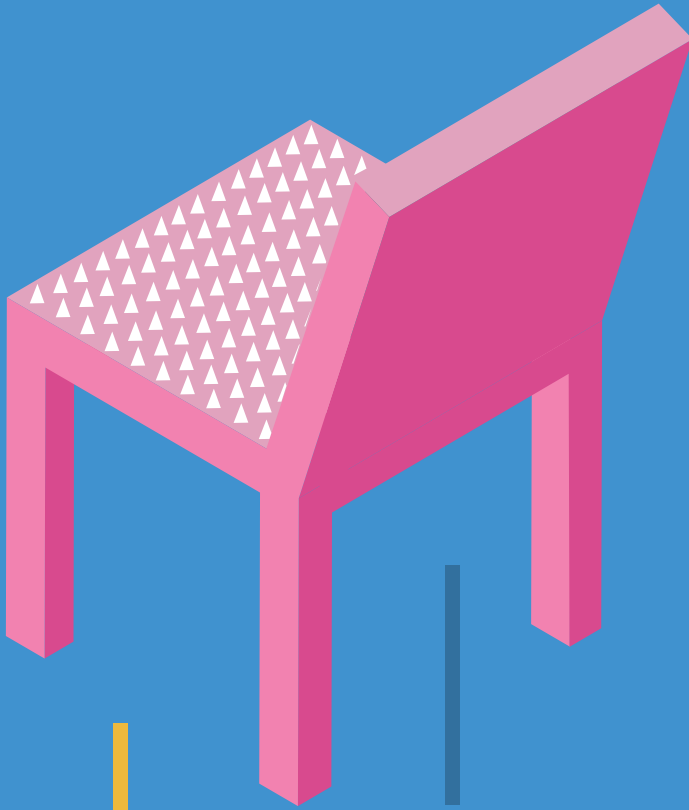
<sup>14</sup> In the scope of E-PROTECT, the transposition of the Victims' Directive in the following Member States was assessed: Austria, Bulgaria, England and Wales, Finland, Greece, Germany, Italy, Portugal, Romania, and Spain.

<sup>15</sup> E-PROTECT (2018). Pan-European Best Practice Report on Individual Assessment Methodologies of child victims of crime.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

Sit here



A CHILD VICTIM OF CRIME  
MAY BE INTERVIEWED  
IN A CHILLING COURTROOM

# 2

## MULTI-DISCIPLINARY AND INTERAGENCY COOPERATION IN THE INDIVIDUAL ASSESSMENT

### KEY OBJECTIVES

- Explain the critical value of multi-disciplinary and interagency cooperation for a comprehensive rights-based individual assessment.
- Highlight the multiple challenges multi-disciplinary and interagency cooperation presents.
- Propose avenues and concrete approaches to overcome these challenges and make cooperation more effective.
- Understand and build on the role of third persons.

### WHY IS MULTI-DISCIPLINARY AND INTERAGENCY COOPERATION ESSENTIAL IN THE INDIVIDUAL ASSESSMENT?

#### | Definition

Multi-disciplinary and interagency cooperation refers to various agencies in different disciplines working together in an integrated manner to support child victims. This approach builds on a constant collaboration between actors operating in various sectors, including health, education, justice, social and security sectors, towards outcomes for children. This approach reflects the holistic vision of the Convention on the Rights of the Child, which considers that all rights are indivisible and interrelated, calling for all government's sectors engagement in realising children's rights. There are

multiple reasons why multi-disciplinary and interagency cooperation is critical to identify and address the specific needs of child victims. The Victims' Directive emphasizes in several instances the importance of coordinated support services to victims covering a range of areas, in order to address their multiple needs. It also states that victims support services may not provide specialised expertise and professionalised support themselves, but can involve external expertise, for psychosocial counselling, for example.

## MULTI-DISCIPLINARY AND MULTIAGENCY COOPERATION IN EU DIRECTIVE 2012/29

### RECITAL 38 OF THE PREAMBLE

(...) Specialist support services should be based on an integrated and targeted approach which should, in particular, take into account the specific needs of victims, the severity of the harm suffered as a result of a criminal offence, as well as the relationship between victims, offenders, children and their wider social environment (...).

### RECITAL 39 OF THE PREAMBLE

Victim support services are not required to provide extensive specialist and professional expertise themselves. If necessary, victim support services should assist victims in calling on existing professional support, such as psychologists.

### RECITAL 62 OF THE PREAMBLE

Member States should encourage and work closely with civil society organisations, including recognised and active non-governmental organisations working with victims of crime, in particular in policymaking initiatives, information and awareness-raising campaigns, research and education programmes and in training, as well as in monitoring and evaluating the impact of measures to support and protect victims of crime. For victims of crime to receive the proper degree of assistance, support and protection, public services should work in a coordinated manner and should be involved at all administrative levels — at Union level, and at national, regional and local level. Victims should be assisted in finding and addressing the competent authorities in order to avoid repeat referrals. Member States should consider developing ‘sole points of access’ or ‘one-stop shops’, that address victims’ multiple needs when involved in criminal proceedings, including the need to receive information, assistance, support, protection and compensation.

**The individual assessment takes a comprehensive and holistic approach to the child victims and her or his needs, reflecting the indivisibility and inter-relatedness of the rights of children.**

The individual assessment aims to identify victims' specific protection needs and possible special measures required during criminal proceedings due to their particular vulnerability. It also seeks to determine the rights that might be violated as a result of the child's situation as a victim. For example, the right to education applies to each and every child regardless of their situation. But for a child victim, its realisation may be impaired if the child is far from home or in a foreign country, when going to school may represent a risk, and when the trauma experienced prevents learning.

As provided in the Directive, these needs will depend on the personal characteristics of the victim, the nature of the crime and the circumstances of the crime. Individual needs are multiple and wide-ranging. Identifying and addressing them therefore requires a coordinated approach among various actors from different disciplines.

The figure below provides a non-exhaustive list of possible dimensions to take into consideration when assessing a child victim's needs. These go beyond merely addressing the needs of the victim as part of the criminal justice process, but involve connecting these needs with the realisation of any

child's rights in general, considering the victim first and foremost as a child.

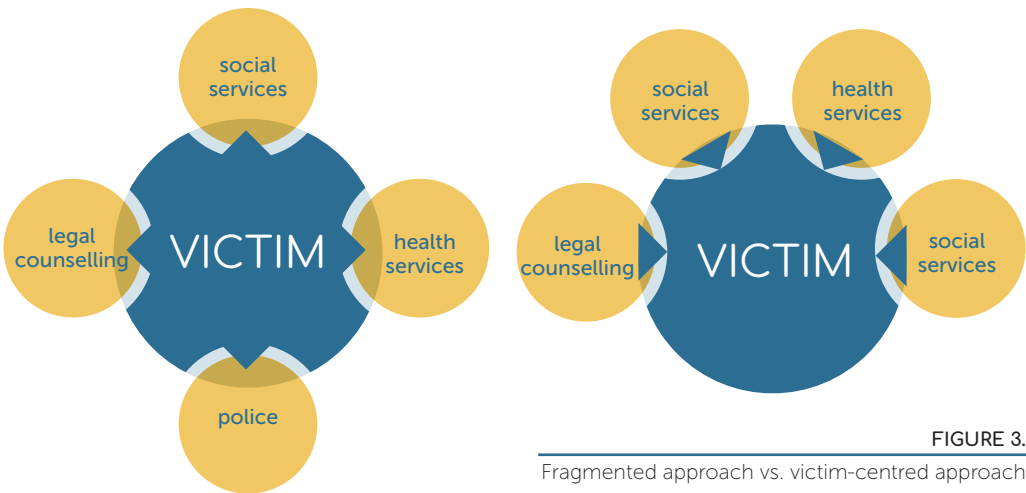
**Multi-disciplinary and interagency cooperation guarantees a plurality of views and combination of expertise on a given situation, which is critical in the determination of the child's best interests.** Multidisciplinary approaches to the individual assessment enable to gather different perspectives in order to draw a comprehensive picture of the situation and the different needs of the child victim. The involvement of professionals from different disciplines and various perspectives, and with different functions in the child protection system, helps to guarantee that the assessment leads to a balanced view of the child's situation. Social services professionals will primarily focus on psychosocial dimensions, while the police and justice sector will likely concentrate on the operational and legal dimensions of the case to protect the victim and seek conviction of the perpetrator.

As collegial decisions are made, they will better integrate the multiple dimensions of a child's situation.



**Multi-disciplinary and interagency cooperation enables the consideration of the child within a given environment and the identification and address of the needs of the child him or herself, but also that of the environment that supports her or him, in particular her or his family.** Vulnerability refers to a situation in which the environment in which the child evolves is unable to provide an adequate level of protection for the child to have her or his rights respected. Vulnerability results from the interaction between the characteristics of the child and the context. Assessing the level and nature of vulnerability for each child, and ways to address it, requires conducting a thorough analysis of the protection gaps within the child’s environment, but also the strengths and resources that can be built upon, holistically considering the specific characteristics of the child. An assessment of the family context in particular, whether it is in a position to support and protect the child, the root causes of possible deficiencies (social, economic, life’s events e.g. death, disease or disability of primary caregivers), and existing supportive factors (e.g. role of other relatives and the community), will often be at the intersection of forensic, social and psychological considerations.

**Multi-disciplinary and interagency cooperation is the condition for a victim-centred approach to the individual assessment, in line with effective case management practices.** A victim-centred approach gives priority to the needs of the victims and can be understood as “establishing appropriate mechanisms for the early identification of victims and provision of assistance and support, in cooperation with the relevant support organisations.”<sup>18</sup> The objective is to prevent victims from experiencing secondary victimisation through their interactions with a system whose logic is extraneous and insensitive to their particular situation. Effective multi-disciplinary and inter-agency work can protect children more effectively against secondary victimisation, to help avoid for example multiple interviews, tests or referrals. The onus is on various actors including service providers to coordinate the provision of support – not for the victim to run from one office to the next in order to obtain such support. For vulnerable victims like children, this is particularly essential, as they may not have the knowledge, capacity, and agency to reach out to respective service providers. For this reason, the Directive recommends the establishment of “one-stop shops” victims can turn to for comprehensive support.



**FIGURE 3.**  
Fragmented approach vs. victim-centred approach

**18** Report from the Commission to the European Parliament and the Council, Report on the progress made in the fight against trafficking in human beings (2016) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, 19.5.2016 COM(2016) 267 final.

## SOCIAL SERVICES PRESENCE IN PROSECUTOR'S OFFICES

### ITALY

Promising practices of cooperation between the justice system and the social welfare system in Italy have evolved ensuring the presence of social services within Prosecutor's offices. Thanks to protocols of collaboration with municipalities, some Prosecutors' offices have hosted an office run by social services. This office offers assistance to staff specialising in addressing offences committed against vulnerable groups, both in civil and in criminal cases. In criminal cases in particular, such an organisation allows for close cooperation between the prosecution, judicial police and social services, favouring both investigations and the protection of victims. Social workers operating in this office act upon a delegation by the prosecutor and offer their collaboration, for example by supporting the judicial police in cases which also require a social intervention (home visits, support in providing information etc.). In addition, this is an effective interface with local social services and health services when guardianship measures are required for persons involved in criminal procedures. Such support is also useful to collect information on available therapeutic programmes and adequate structures if needed for temporary protection measures.

In other settings, similar functions are carried out by social service staff assigned on a part time basis to work with the prosecutor's office in order to assist prosecutors and judges in civil and criminal matters.

Yet another model consists in adopting collaboration protocols with local authorities for the establishment of information and counselling offices for victims in Prosecutor's offices. The objective is to provide in-person support and be available to assist prosecution and the judicial police. In some cases, the office focuses on counselling and reception only, using the prosecutor's office premises. In such offices, other professionals may also operate, such as lawyers, social workers and psychologists, who can provide relevant information to the victim and advise them on legal options and in contacting other local services for health and psychological support.

#### SOURCE

CSM, Resolution on guidelines on organisational matters and good practices for conducting proceedings related to gender-based and domestic violence, 9 May 2018.

**Multi-disciplinary and interagency cooperation facilitates timely intervention in order to minimise the negative implications of a criminal offence on a child victim.** A key element of effective support to child victims is the timeliness of interventions. The sense of time is very different for children and for adults. Waiting for weeks or months before receiving support can severely impair a child's development, with significant long-term consequences. The coherence of multi-

ple interventions is also of critical relevance, as it ensures that various aspects of the child's development are considered, in line with the holistic approach mentioned above. A coordinated assessment and response help ensure that relevant support is provided in a swift and coherent manner, with various actors complementing each other's actions.

**Multi-disciplinary and interagency cooperation helps ensure the continuity**



**and consistency of interventions over time, taking a long-term perspective.**

The individual assessment happens at a given moment, usually when the child victim enters in contact with the criminal justice system, however children are likely to experience short and long-term needs. Institutions and agencies concerned will likely differ for immediate, emergency type of support and long-term assistance, therefore it is essential that their interventions be articulated and coordinated, to better support children. For example, immediate health care or placement in an emergency shelter will make way to long-term health monitoring and stable accommodation or alternative care.

The EU Directive recognises that victims, and especially victims in a vulnerable situation such as child victims, have a range of needs that span diverse areas and require expertise in various disciplines. It also acknowledges that such services may not necessarily fall under the scope of dedicated services for victims but require

coordination with other types of public interventions. Correspondingly, the identification of victims' needs in the individual assessment requires the involvement of various services and disciplines. In the same vein, in its General Comment No. 13, the CRC Committee calls for a "participatory, multi-disciplinary assessment of the short- and long-term needs of the child, caregivers and family".<sup>19</sup> While different experts should be involved, it is also essential to ensure that the child's views are heard and remain central throughout the process and the best interests of the child constitute a primary consideration. The child rights-based approach, as defined by the CRC Committee, emphasises the importance of considering the child as an actor rather than an object of protection, and of realising all of the rights of the CRC and its Optional Protocols in protecting children from violence. General Comment No. 13 also recalls that this approach is holistic and supports the various social systems the child is part of.

## PROTOCOL EVA OF THE STATE POLICE

### ITALY

The Protocol has translated into best practices guidelines for first interventions by law enforcement agencies in cases of gender-based violence. Following a report of gender-based violence, a "processing card" is produced, based on various forms police officers fill out and insert into a database. When police offers to intervene in a case, they have access to a range of information on the person having sent the report, existence of weapons in the house, and possible antecedents concerning the person involved, in order to better protect both the victim and police forces. During the intervention, trained police officers act with caution, listening to the parties in different rooms and assessing the possible presence of children and whether they have witnessed the events. Information is compiled for all cases, even those that do not lead to a formal complaint. The objective of the Protocol is to record elements in order to build a history of a given situation, in order to monitor the phenomenon and adopt an adequate strategy and possible measures to convict perpetrators and protect victims or persons at risk.

<sup>19</sup> Committee on the Rights of the Child, General comment No. 13 (2011), The right of the child to freedom from all forms of violence, paragraph 50.

# CHALLENGES IN MULTIDISCIPLINARY AND INTERAGENCY COLLABORATION

Multidisciplinary and interagency collaboration is confronted with several challenges.

**It may be difficult to have professionals from various disciplines, with different professional cultures and perspectives around the same table.** This aspect may be particularly salient when cooperation efforts are incipient, and professionals are used to working with peers from their own discipline. Understanding different viewpoints may take time and lead to disagreements on the understanding of a child's vulnerability, its root causes, as well as ways to address it. For example, communication may be uneasy between the police and social welfare services in some settings, due to the different logics they respond to. However, this challenge is also the strength of multidisciplinary approaches, enabling for confrontation of views and ultimately a deeper analysis of a complex situation.

**The involvement of agencies operating in different fields may also reveal different institutional cultures, sets of rules and budgetary and political constraints.** Different agencies may have distinct work protocols for the protection of children, so it will be essential to find strategies for the harmonisation of procedures and processes, in order to provide the most effective and rights-based services for victims. Even where legislation exists, it may not be implemented equally across the territory and by a range of different actors. Uneven capacities, including human and financial resources, between actors represent a significant challenge. Cooperation takes time and resources. It implies that the various actors involved work with similar standards. It also requires making space for effective communication channels and putting in place fast clearance/authorisation for internal processes as needed, so as to not slow down other stakeholders' action. For

example, when social reports are of low quality, the ability of other actors, including the courts, to fulfil their role is affected. Similarly, a common understanding of concepts, such as what constitutes child abuse, the notion of vulnerability, the role of the family, among others, is central to ensuring adequate coordination.

**The lack of a structured collaboration framework is likely to compromise the effectiveness of cooperation mechanisms.** Lack of clarity on respective actors' roles and responsibilities, as well as procedures and reporting mechanisms, is a major challenge in multi-agency collaboration. Often, actors from different agencies/institutions do not know each other and this affects efforts to maintain a fruitful multidisciplinary collaboration, even when the commitment is there. Not only does the lack of a structured mechanism hinder cooperation due to the lack of visibility of who does what, but unclear division of labour among several agencies and disciplines may also affect transparency and accountability, leading to inefficiencies. Where responsibility for action is spread across sectors and actors, the risk is to prompt concerns at the unfair division of tasks and insufficient recognition, and dilute accountability mechanisms, paving the way for inaction.

**Confidentiality is a central aspect of the rights of child victims.** Multidisciplinary and interagency collaboration should not affect this principle in the context of the needs' assessment and the provision of other services, accordingly. The division of tasks among services should therefore foresee relevant safeguards to guarantee that confidentiality is preserved depending on individual cases. For example, assessing needs in terms of education or shelter may not require knowing the full disclosure of the story of a child victim, including details of the crime s/he is a victim of. An understanding of her/

his administrative situation or the type of threats s/he might be exposed to may suffice to determine such needs.

**Cooperation patterns and effectiveness may vary significantly across the national territory.** Collaboration among professionals and agencies is often dependent on the local context and political will. In some geographical areas, some professional domains or institutions may lack interest for or resist to efforts to promote cooperation. Multi-agency collaboration may represent, for some, additional work-

load they are reluctant to take on, due to limited resources or competing priorities. For others, it may constitute a threat to their competency and authority in a specific field. In federal or highly decentralised States, in which social services are typically a competency of local authorities, discrepancies in procedures across geographic areas can represent a major challenge. The lack of a uniform reporting system to produce statistical data affects knowledge on the nature and scale of a given type of crime in the country and the children most at risk.

## MAKING MULTIDISCIPLINARY AND INTERAGENCY COLLABORATION EFFECTIVE

**Overcoming challenges to multidisciplinary and interagency collaboration requires acting at several levels.** It involves ensuring that the policy and legal framework is sufficiently harmonised to enable various actors to work together when dealing with a child victim. It also requires setting overarching approaches

and mechanisms to regulate interactions among partners towards set goals. Finally, it implies providing sufficient space and a conducive environment for individual initiative and collaboration as, ultimately, effective cooperation takes place first and foremost between people.

### “JOUR-FIXE” TO HARMONIZE PROCESSES OF FORENSIC PHYSICAL EXAMINATION

GRAZ, AUSTRIA

An essential prerequisite for enabling both the protection of victims of crime and the functioning of investigation and information processes lies in the openness and understanding by actors involved to the operational rules and framework of other stakeholders. For this reason, the research institute Ludwig Boltzmann Institute for Clinical Forensic Imaging in Graz organizes regular “Jour-Fixe” to harmonize the process of forensic physical examination of victims of violence and persons suspected of crime. At these meetings, representatives of the judiciary, medicine, psychology and victim protection exchange their perspectives and views in order to optimize and simplify their work processes.

**Multidisciplinary and interagency collaboration needs to be built around the centrality of the child and her or his best interests.** Consideration of the best interests of the child is the compass for decision-making the Convention on the Rights of the Child provides across disci-

plines, overcoming possible professional differences towards a common goal. Case-management further requires professionals to jointly work on a situation, putting the child at the centre, rather than fragmenting a given case among various disciplines and departments. This is a crit-

ical premise for collaboration to be effective. Chapter 4 of the present methodology elaborates on approaches needed for best interests' determination.

**Structured inter-agency collaboration is key to ensuring genuine and effective cooperation.** This does not necessarily imply establishing new structures but rather ensuring that those that exist fulfil their role in cooperation with other actors as needed. Clear systems need to be in place to organise collaboration among actors, such as optimal referral pathways. A clear division of tasks and flows among agencies involved will help guarantee that there are no overlap or loopholes, and that relevant actors know where they get information from, whom they report to, and how to interact with one another. Structured collaboration can involve a variety of tools. A central element of these tools is that they should be based on a "contract" detailing actors' roles and commitments, and which they clearly subscribed to. They should however feature sufficient flexibility to be adaptable to the heterogeneity of cases presented. Possible tools include:

- **Memoranda of understanding** typically set the objectives and areas of collaboration between various entities, which commit to working together towards such objectives. They usually consist in overarching agreements that set general principles for the collaboration but may not provide a significant level of details in relation to how collaboration will be performed on a daily basis. They provide the basis for common action on certain topics, with cooperation procedures to be described in the context of specific initiatives.
- **Cooperation agreements** generally consist in more detailed account of the commitments and responsibilities of various actors, including how cooperation will be organised and resource contributions. The objective is to address possible gaps that may hinder full cooperation in line with the legal mandate and obligations of each partner to the agreement. As a result, the roles and expectations should be clearer for all actors involved and thus, the services provided should be harmonised and more effective.

## MEMORANDUM OF UNDERSTANDING BETWEEN THE PROSECUTOR'S OFFICE, THE CITY AND THE STATE ADMINISTRATION

MILAN, ITALY

In Milan, a memorandum of understanding between the prosecutor's office, the city and the state administration was adopted in 2017. It sets a number of areas for strengthened collaboration including in the field of awareness-raising, mediation, sharing of a data management software and capacity-building, among others. The document provides for possible exchange of resources, such as the availability of computer support for the software. It foresees the creation of a working group responsible for the concrete implementation of the memorandum of understanding, taking into consideration the resources and imperatives of various parties to the agreement.

### SOURCE

Memorandum of understanding between the prosecutor's office, the city and the state administration in Milan, Italy (2017)

- **Protocols and standard operating procedures.** Protocols will usually set the actions that need to be taken in a given situation and specify which actor has primary responsibility for completing the action. Standard operating procedures typically involve an additional level of detail by specifying exactly how the protocol will be implemented. In practice, in the field of child protection

they both designate detailed modalities for cooperation between various entities, indicating the role and responsibilities of each actor and how, in very concrete terms, actors are required to communicate. The document will also generally include a definition of terms and concepts, which will provide the common framework for intervention.

## **CHILD PROTECTION PROTOCOL: JOINT OPERATING PROCEDURES BETWEEN NEW ZEALAND POLICE AND CHILD, YOUTH AND FAMILY DEPARTMENT AT THE MINISTRY OF SOCIAL DEVELOPMENT**

NEW-ZEALAND

The 2016 Child Protection Protocol in New-Zealand provides a detailed review of the respective roles and responsibilities of the police and social services and organises their cooperation through precise procedures. The Protocol covers the following areas:

- |                               |   |
|-------------------------------|---|
| <b>1.</b> Purpose             | <b>2.</b> Principles                                |
| <b>3.</b> Responsibilities    | <b>4.</b> When to use the child protection protocol |
| <b>5.</b> The process         | <b>6.</b> Further investigation considerations      |
| <b>7.</b> Information sharing | <b>8.</b> Conflict resolution                       |
| <b>9.</b> Quality assurance   | <b>10.</b> Training and professional development    |
| <b>11.</b> Review             | <b>12.</b> Signatories                              |
| <b>13.</b> Glossary of terms  | <b>14.</b> List of acronyms                         |

For example, in relation to communication between the partner entities, the Child Protection Protocol (CPP) organises in very concrete terms how such collaboration will be ensured: "Police and Child, Youth and Family must consult on all cases referred under the CPP. In addition, Child, Youth and Family [Department] and Police will hold a dedicated CPP meeting. This will be held at least monthly, or more frequently as required to discuss all current CPP cases. In order to ensure that meetings are productive and focused, the following standing agenda items for the CPP meetings have been agreed between Police and Child, Youth and Family:

- Update the CPP case list with any new referrals;
- Discuss updates for each case;
- Advise on any outcomes or case closures;
- Discuss any operational issues.

One set of agreed formal minutes, using the meeting minutes template will be taken for each meeting held and circulated to both organisations."

### **SOURCE**

Child Protection Protocol: Joint Operating Procedures Between New Zealand Police and Child, Youth and Family Department at the Ministry of Social Development available at <https://practice.orangatamariki.govt.nz/assets/documents/policy/assessment-and-decision-making/child-protection-protocol-2016.pdf>

# OUTLINE OF THE BARNAHUS LINKÖPING INTERAGENCY AGREEMENT

SWEDEN

- 1 Partners.** Defines the partners of the interagency agreement.
- 2 Purpose.** The purpose is defined as ensuring that retraumatisation and that undue delay is avoided. The section describes some of the key principles for the cooperation and handling of cases, including how children should be treated. It addresses the environment and the form of the multidisciplinary collaboration. It provides further for competence building and training to ensure high quality services.
- 3 Goal.** Defines the goals and deliverables of the Barnahus, such as ensuring that the best interests of the child are a primary consideration, ensuring child protection guarantees, professionalism and child-friendliness and preventing retraumatisation.
- 4 Target group.** Defines the target group.
- 5 Geographical scope.** Defines the geographical scope.
- 6 Commitments.** Lists the joint commitments of the participating services, including that they have to attend planning meetings, take responsibility for effective collaboration, ensure information, guidelines, routines and checklists are understood and used, support competence and capacity building and collaborate with other services. Describes the specific commitments of the respective services present in the Barnahus.
- 7 Staff.** Describes the staff structure and responsibilities.
- 8 Organisation.** Describes the organisational structure, including the roles of the steering group and the coordinator, and the liaison/working groups.
- 9 Finance and cost sharing.** Describes how the costs of the Barnahus are shared between the different partners, including the respective agencies' responsibility to ensure that there is appropriate equipment and staff.
- 10 Venue.** Describes the venue, including that it should be child friendly.
- 11 Documentation.** Describes how documentation is carried out, including the documentation of the respective services and joint protocols.
- 12 Privacy.** Describes the action that the respective agencies have to take to ensure privacy and data protection.
- 13 Follow up.** Defines how the Barnahus monitors budget and the joint and respective annual reports.
- 14 Competence.** Defines actions to be taken to ensure that all services respectively and jointly ensure quality and competence.
- 15 Agreement period.** Defines the agreement period.
- 16 Conflict resolution.** Describes how potential conflicts will be addressed.

## SOURCE

Barnahus Quality Standards Guidance for Multidisciplinary and Interagency Response to Child Victims and Witnesses of Violence, PROMISE project series

**Existing experiences have shown that it is essential to ensure that, while involving several actors, one actor takes the lead for such collaboration and is responsible for overseeing and following up on other stakeholders' involvement.**

While this actor may not have general hierarchical superiority, it needs to have the authority to manage the process in relation to the needs' assessment of child victims – and relevant follow-up actions. This helps to ensure transparency and the identification of accountability channels. This actor also has responsibility for managing confidentiality issues and sharing information strictly needed with relevant partners. In many countries, child protection services would have such a coordinating responsibility, but other actors in the health, judicial or social sector among others may also play this role. In some countries, the national child protection agency primarily operates as a supervisory, control mechanism for child protection actors. As a result, rather than being perceived as a resource by professionals involved, it can be seen as an authority prompting fear and mistrust. Instead, child protection agencies can valuably focus on promoting the implementation of child protection policies by fostering collaboration among professionals and agencies and supporting capacity-building on child protection across sectors. Legitimacy for such a leadership role is drawn from legislation and from the expertise it brings in the field of child protection to other professionals. The additional value is that it provides visibility and stability to child victims. A significant aspect of a child-friendly system is the possibility for the child to have the same interlocutor overtime, rather than having to deal with multiple actors. The Barnahus model foresees the appointment of one support person, responsible for ensuring interactions with the child and family and guaranteeing the continuity of actions and communications.

**Multi-agency collaboration needs to**

**rely on clear and solid accountability lines and mechanisms. The roles, capacities and duties of professionals involved need to be clearly laid out in line with their respective disciplines and the rules of the agency/institution they belong to.** Each actor needs to know whom it should report to, on what and how. Accountability can valuably be detailed in the agreement or protocol regulating respective contributions in the individual needs' assessment and in the implementation of relevant measures. Depending on the national system, accountability is likely to be with social services or with the justice system in charge of handling the criminal process. A monitoring mechanism for the functioning of multi-agency collaboration schemes also needs to be put in place and will typically involve responsible ministries. Comprehensive reviews of the way the system functions can be carried out on a regular basis, by the ombudsperson for children or national human rights institution, parliamentary oversight mechanisms and government audit offices.

## **VICTIM SUPPORT OFFICES** SPAIN

In Spain, Victim Support Offices offer a wide range of services, undertake the individual assessment of victims to identify their specific protection needs and coordinate other victim support services. Their teams are interdisciplinary and include judges, psychologists and social workers. The functioning of victim support institutions, mechanisms and guarantees are to be assessed on an annual basis by the Spanish Ministry of Justice.

### **SOURCE**

E-PROTECT (2018). In-depth review on the transposition of Directive 2012/29/EU in other MS

**Information sharing has to be regulated and clear data protection measures need to be established,** which on the one side protect the child personal data, but on the other side allow involved professionals to share information in order to avoid repeated questioning or testing. Confidential information should only be shared to the extent necessary to assess the child's situation in relation to the crime s/he has been a victim of and the relevant measures to be determined. For example, while an assessment of the abuse, its nature and its seriousness through medical examination can be shared by the medical practitioner with other professionals on the team, other health information that is not related to the crime and is irrelevant to the determination of protection and support measures should not be shared. Similarly, while educational services may need to know that a child needs to change school because they must be relocated by child protection services, the school does not need to know the nature or details of the crime.

Particularly due to the new data protection regulations, information exchange between authorities and institutions involved in cases involving erning child victims of crime got more complex. In Austria, for example, practitioners have reported that regulations are unclear to them. This insecurity results in inconsistent practices.

## LEGISLATION ON SHARING OF CONFIDENTIAL INFORMATION IN CHILD PROTECTION CASES FRANCE

Article L226-2-2 of the Social Work Code provides that persons bound by professional confidentiality involved in child protection are allowed to share among them confidential information in order to assess an individual situation and determine and implement protection and support measures for children and their family. Sharing of information on an individual situation is strictly limited to what is necessary to carry out the child protection mandate. Parents, the legal guardian, the child depending on their age and maturity are informed beforehand, in an adequate manner, except if this is contrary the child's interest.

Multi-disciplinary and inter-agency collaboration arrangements for the individual assessment mechanisms and procedures should not stop with the assessment but remain valid for the next phases of the handling of a case, namely the implementation and monitoring of measures adopted. The procedures put in place in the context of the assessment applies throughout the case-management process. While the individual assessment is a critical step in ensuring the rights of child victims, it should be seen as part of a continuum of interventions requiring the involvement of professionals across sectors.



This is  
no hobby



MANY YEARS CAN PASS  
BEFORE THE PERPETRATOR  
OF A CRIME AGAINST A CHILD  
IS CONVICTED

# 3

# PROCEDURAL SAFEGUARDS OF THE INDIVIDUAL NEEDS' ASSESSMENT

## KEY OBJECTIVES

- Review the procedural safeguards that need to be in place for the individual assessment to prevent secondary victimisation.
- Examine how these safeguards need to be applied with an approach that is respectful of child victims and their rights as children.

## RATIONALE FOR PROCEDURAL SAFEGUARDS DURING THE INDIVIDUAL ASSESSMENT

The justice system is primarily a system made by and for adults, which needs to be adapted to interact with children in an adequate and friendly manner. The goal is to prevent secondary victimisation and protect the child from intimidation and retaliation. Secondary victimisation happens when the contact with the justice system reinforces or repeats the trauma experienced by the victim as a result of the crime, when the system is insensitive to the situation of the victim, forcing the victim to repeat their story several times, to “re-live” the events, and not giving value to their views and accounts or even worse, blaming or causing feelings of blame in the victims for what happened to them. This does not mean that the victim’s story should not be verified, and the rights of the defence should not be respected. However, the system should ensure that the victims’ rights and dignity are always respected, even bearing in mind the requirements of criminal proceedings. Procedural safeguards need to take

into account children’s vulnerability due to their individual characteristics and the nature and circumstances of the crime, which will be unique to each case.

Procedural safeguards include two sets of considerations:

1. Safeguards to be put in place for the individual assessment of protection needs; and
2. Determination of safeguards to be put in place for criminal proceedings as an outcome of the needs’ assessment.

This chapter focuses on the first set of considerations, the safeguards that are required as the individual assessment is conducted (*Other aspects are dealt with in Chapter IV on the outcome and follow up to the assessment*).

While each case is unique, a number of safeguards are particularly important for all child victims, bearing in mind their stage of development and the fact that

they need support in exercising their rights. The study by the Fundamental Rights Agency on the perspectives and experiences of children involved in judicial proceedings as victims, witnesses

or parties in nine EU Member States has found a direct correlation between the level of support children receive and their feeling of respect for their privacy, safety and understanding of proceedings.



FIGURE 4

Importance of support received for feeling privacy was respected

SOURCE

Fundamental Rights Agency (2017). Child-friendly justice Perspectives and experiences of children involved in judicial proceedings as victims, witnesses or parties in nine EU Member States, p. 84.

## SAFEGUARDING PRINCIPLES

A number of overarching safeguarding principles apply to the individual assessment.

**Timeliness. The individual assessment should be carried out in a timely manner, considering the child’s individual situation and the type of decision to be taken.** Article 22 of the EU Directive explicitly mentions that the assessment must be timely. The rationale is that lack of adequate protection measures can have a dramatic impact on children and other vulnerable victims, putting them at risk of further victimisation. In appreciating timeliness, it is important to be mindful that sense of time is different for children and adults. The length of the trauma

and delays in protection measures can have highly adverse effects on the child’s development over the long-term. The faster relevant protective measures are adopted, the better the child’s resilience and ability to recover. A sound approach consists in having a two-step assessment. An initial assessment identifies the immediate measures that need to be taken to protect the child, such as placement in an emergency shelter or health treatment. A secondary, comprehensive assessment takes place shortly thereafter. In practice, various timeframes usually coexist, depending on the level of emergency of the situation and the specific aspects of the case requiring immediate attention or a more complex review.

## INITIAL ASSESSMENT

- ✓ Within 48 hours
- ✓ By the caseworker who will follow the process
- ✓ First contact
- ✓ Identification of nature of risks, risk level and timeframe for intervention
- ✓ Immediate physical protection health and safety
- ✓ Basic needs such as food, shelter, medical care
- ✓ Determination of frequency of monitoring

### SOURCE

Based on Inter Agency Guidelines for Case Management & Child Protection (2014). The Role of Case Management in the Protection of Children: A Guide for Policy & Programme Managers and Caseworkers, January 2014.

## COMPREHENSIVE ASSESSMENT

- ✓ Completed within one month
- ✓ In-depth and holistic view of the child's situation
- ✓ Identification of risks and harm factors but also positive influences, resources and strengths
- ✓ Child participation in the assessment
- ✓ Identification of comprehensive set of needs
- ✓ Follow-up action no later than two weeks after completion

### **Accessible information. The child should receive information in a language and in a way s/he understands.**

International and European standards emphasise that it is not enough to supply information - information should be accessible to children of different levels of maturity and understanding, or other characteristics, and in different formats. International standards primarily define accessibility of information from the vantage point of the rights' holder (recipient), taking an outcome perspective. Article 3(2) of the EU Directive contains a specific provision in relation to the accessibility of information to victims with disabilities, providing that Member States shall ensure the general accessibility of information and that communications "are given in a simple and accessible language" and "take into account the personal characteristics of the victim including any disability which may affect the ability to understand or to be understood." Importantly, even when

the child is represented by a legal representative, it is not enough that the child's representative understands the information. The Council of Europe Guidelines on child-friendly justice provide that "[a]s a rule, both the child and parents or legal representatives should directly receive the information. Provision of the information to the parents should not be an alternative to communicating the information to the child."<sup>20</sup> During the individual assessment, accessible information needs to be provided to the child and parents or legal guardians as relevant on the process, objectives and outcome of the assessment. The child and those accompanying her or him need to have the opportunity to ask questions and receive full and understandable answers.

**Information provided needs to be geared towards enabling the child to exercise their rights in the individual assessment, as well as in the criminal pro-**

<sup>20</sup> Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice adopted by the Committee of Ministers of the Council of Europe on 17 November 2010.

**ceedings.** A review of existing resources aimed at informing children of their rights has found that resources tend to remain too abstract. They focus on explaining in an accessible manner what the rights are rather than how children can actually use them to improve their situation.

These resources need to focus on contextualising the information provided and translating it into concrete choices. They should aim at empowering children to assert themselves and be heard, as integral to the child participation process.<sup>21</sup>

## GOALS AND MAXIMUM TIME LIMITS - BARNAHUS - ICELAND

**Suspicion of abuse, or disclosure from a child, should be reported immediately to the Child Protection Services (CPS).** Once a report has been received, **the CPS must take action to assess the situation of the child within a week, maximum 7 days. In acute cases,** in particular if the child is at risk, **the CPS acts on the same day, or at the latest the day after.**

The **mental health assessment** should ideally take place within 2 weeks after disclosure/reported suspicion. The time limit can be determined on the basis of an assessment of the child's characteristics, such as age, the child's situation, such as relation between the suspected perpetrator and the child, and other variables. For some children it is important to make the assessment and start therapy directly after the forensic interview, whereas in other cases, it is possible to wait 2-3 weeks. **The time period between disclosure/reported suspicion and mental health assessment should never exceed 4 weeks.**

**Medical examination** should take place between **2-4 weeks after disclosure/** reported suspicion, except in acute cases where medical assessment should take place within **72 hours** of the abuse.

The time limit for **[medical or mental health intervention for non-offending family/care-givers/support persons]** is **similar to that applying in the case of the child victim.** The therapist and doctors meet the non-offending parents/ caregivers at the same time as the child. If the non-offending parents/caregivers are in need of assessment and treatment, it is provided by the CPS outside of the Barnahus.

### SOURCE

PROMISE project series (2017). Barnahus Quality Standards Guidance for Multidisciplinary and Interagency Response to Child Victims and Witnesses of Violence (emphasis added)

Research on child-friendly justice conducted by the EU Fundamental Rights Agency gathered and compared the views of professionals and children in relation to the right to information during court proceedings. The table summarising findings highlights a number of common perspectives but also discrepancies

in practices and importance awarded to certain aspects. It is particularly informative for professionals in terms of children's expectations versus their own practices and beliefs.

<sup>21</sup> Helen Stalford, Liam Cairns and Jeremy Marshall (2017). "Achieving Child Friendly Justice through Child Friendly Methods: Let's Start with the Right to Information", Social Inclusion, 2017, Volume 5, Issue 3.

## REGISTERED INTERMEDIARIES

UK

The function of the Registered Intermediary is to facilitate communication during the police investigation and at trial between the vulnerable witness/defendant such as a child and others in the criminal justice process, such as police officers and advocates. The Registered Intermediary is responsible to the court and is an officer of the court. Registered Intermediaries are professionals with specialist skills in communication. They can come from backgrounds such as speech & language therapy and social work.

The role of the Registered Intermediary is to:

- a.** Conduct an assessment of the vulnerable witness's/defendant's communication abilities and needs.
- b.** Provide the investigating police officer with a preliminary report to enable planning for the interview.
- c.** Be present at the interview in order to advise and assist with communication.
- d.** Write a report for court about the communication needs of the witness/defendant.
- e.** Be involved in a Ground Rules Hearing with the trial judge and advocates to discuss and agree the recommendations in their court report.
- f.** Assist with communication when the witness/defendant is giving evidence.

The Registered Intermediary is a neutral and impartial figure. They do not discuss any aspect of the case with the witness/defendant. They do not alter questions and answers but may suggest an alternative form of question to facilitate understanding and communicate replies to the court as accurately as possible, without interpreting answers.

### SOURCE

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Registered Intermediaries assisting vulnerable witnesses and defendants with communication difficulties in the criminal justice system, information leaflet, UK Department of Justice, 2015

# RIGHT TO INFORMATION FROM CHILDREN'S AND PROFESSIONALS' PERSPECTIVES

## PROFESSIONALS' VIEW

## CHILDREN'S VIEW

### APPROPRIATE INFORMATION

Importance of information	It is very important for children to be sufficiently informed and understand proceedings. However, they often do not feel sufficiently informed and lack explanations, causing considerable insecurity and anxiety.
Clear rules on who gives information, when, on what, and how are necessary – but not necessarily implemented	There seems to be a wide range of practices. Information does not seem to be systematically provided throughout proceedings and often depends on personal initiatives by professionals and parents.

### PERSONS INFORMING CHILDREN

Victim support services are important source of information; professionals provided examples of such services providing practical information and preparing children for hearings	In several countries, victim and witness support specialists are not widely available or play too passive a role.
Judges usually give information at beginning of hearings	Children generally would like to receive more information from judges.
Parents are main or only source of information	Parents have a pivotal informative role, even if they are parties to the conflict or lack understanding of the proceedings themselves.
Hold ambivalent view of parents' role and suggest that professionals provide information	Children in general prefer to receive information from their (foster) parents and their role is very important to them. However, they also see that parents may try to influence them while giving information, particularly in civil proceedings. The most preferable option is to receive information from professionals and parents.
Emphasise importance of coordinated provision of information via a continuous support person	A child-friendly approach is necessary and building up a continuous relationship whenever possible. There are positive examples of legal counsel, legal guardians and ad hoc administrators, but they do not seem to be systematically appointed as children usually do not mention them

### TYPE OF INFORMATION

Information should focus on the phases of proceedings, children's rights, availability of support and outcome	Children consider it equally important to receive information about the presence of other persons (particularly parties to proceedings); professionals' functions; the extent of disclosure of the information provided; the availability of procedural safeguards; and behavioural rules during hearings. The presence of others is often ambivalently assessed and not necessarily appreciated during hearings, unless the persons show clearly that they represent the children's interests.
Importance of information about protective measures	If information about the reason for/use of protective measures such as video-links and video recordings is not clear, children feel unsafe even though those safeguards may be in place.

Notifications and summonses are usually not child-friendly	Children complain about often receiving these documents without explanation, making them feel like defendants. When this type of legal and procedural information is addressed only to parents, children tend not to read it.
Too much information is confusing	Children agree that too much information is not necessarily helpful and that it should focus on the proceedings and implications for their future, not too much on the legal background and details of the case

## MEASURES OF PROVIDING INFORMATION

Recommend using a range of child-friendly measures, such as toys and drawings, to illustrate the situation in court, who will be present and their roles	Children stress that friendly behaviour from professionals is as important as specific measures so that they can develop a relationship with them and easily contact them, particularly in civil proceedings.
Informing children through pre-trial visits to court is helpful	Children highly appreciate familiarisation with physical settings and people involved but information needs to be accurate and reflect the process on the day of the hearing.
Professionals should try to use child-friendly language when informing children	The majority of children report that professionals' lack of interpersonal skills, verbal and non-verbal, frequently made them scared or nervous. Children admit that they often do not understand the information given. They prefer persons of trust to give information so that they feel free to ask questions.
Written information should be provided in combination with counselling and support	Written materials are assessed positively if explained by an adult of trust together with a professional.

## CHILD-FRIENDLY INFORMATION MATERIAL

There is a lack of use of child-friendly material, particularly in civil proceedings	Children rarely reported receiving child-friendly material.
Professionals in some Member States provide examples of existing information material, mostly developed by NGOs	Existing leaflets and information packets are not consistently made available.

## TIMELY PROVISION OF INFORMATION

Not specifically addressed by professionals	Children stress the importance of receiving information early enough to be prepared for the different phases of proceedings.
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## ADAPTATION OF INFORMATION TO DIFFERENT NEEDS OF CHILDREN

Not specifically addressed by professionals	Special needs of children are not always met in the information process
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SHARED PERSPECTIVE PARTLY
  SHARED PERSPECTIVE
  DIFFERENT PERSPECTIVE

### SOURCE:

Fundamental Rights Agency (2017). Child-friendly justice Perspectives and experiences of children involved in judicial proceedings as victims, witnesses or parties in nine EU Member States, pp. 79-80.



## | Transparency

**The individual assessment needs to follow a transparent process** – while respecting the principles of privacy and confidentiality. This means that the child needs to be aware of how the assessment will be conducted, what will be decided and on the basis of which elements. The process has to be transparent for the child to be able to participate, feel respected, and be empowered. It is also and most importantly a basic element of the due process of law. Additionally, as mentioned above, children have a different perception of time than adults. In order to protect them from anxiety and additional stress from participation in different proceedings, and to ensure transparency throughout, it is also crucial to give appropriate information to children throughout the whole process about what is happening and what are the next stages, including feedback about outcomes of decisions or other elements of relevance.

## | Responsiveness

**The individual assessment needs to respond to the child's needs and be acted upon.** It cannot consist in a superficial assessment of the child's situation, with a set of measures applied on the basis of similar cases. Rather, the requirement of the Directive to take into account the child's characteristics and the specific nature and circumstances of the crime calls for protection measures that respond to the needs to each and every child. Responsiveness also means that once these needs are identified, effective and appropriate action is taken in a timely manner to ensure the child's actual protection.

## | Privacy and confidentiality

Privacy is a child's right, recognised in the Convention on the Rights of the Child. As such, it is intrinsic to the child's dignity and right to be respected like all human beings. In relation to child victims, privacy is a primary condition for the effective protection of child victims from possible retaliation and repeated victimisation. Guaranteeing the child's privacy includes:

- Restricting disclosure of information that may lead to the identification of the child and/or that is related to the personal characteristics of the child;
- Non-disclosure of documents related to the case;
- Ensuring the enforcement of legal and self-regulatory provisions preventing the media from releasing information that could lead to identification of the child and/or information about the child's personal characteristics and situation.<sup>22</sup>

Adequate measures need to be taken to ensure that information shared in the individual assessment about the child and her or his situation remains confidential. As examined in Chapter 2, a comprehensive individual assessment should involve a range of actors across disciplines and agencies. This implies that some confidential information will be shared among various professionals. As emphasised, sharing of information about a case among professionals should be regulated and strictly limited to what each professional needs to know to carry out its role. In many cases, parents and other legal guardians will need to be informed of the content and outcome of the individual assessment. Elements of the assessment may also be used in the proceedings and therefore be shared with the defendant as well. Yet again, it is essential to keep information sharing to a strict minimum, and to inform the child as to who will know what.

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<sup>22</sup> UNICEF (2018). National human rights institutions (NHRIs) Series: Tools to support child-friendly practices, Child-friendly complaint mechanisms.

## | Legal guardian

A child's legal guardian is usually her or his parents, or one of the parents. However, in cases where the usual legal guardian is the offender or if there is a conflict of interests between the child's

and the legal guardian, the judge will decide to appoint a new guardian for the child. In any case, the child should have the possibility to be accompanied by the legal guardian for the individual assessment, provided it is not against the child's best interests.

### COURT ASSISTANCE TO CHILDREN

#### AUSTRIA

In Austria child victims of crime have a right to court assistance. Court assistance, as a special victim support service, has been developed over the last 20 years in Austria and improved constantly. Court assistance means in principle to support (child) victims, mainly in cases of sexual, bodily and domestic violence during the entire criminal proceedings. This means not merely supporting the victim in the court proceedings, but rather initiating support – in the optimal case - before the crime is reported to the police and ending it after the court trial. It includes both psychosocial and legal assistance. Psychosocial assistance aims to support victims, including children, in coping with the complexities of criminal proceedings, such as what reporting a crime at the police implies, or what the court judgement means in a child-friendly language. It also includes accompanying the child in visits to authorities, the court trial, or preparation for the so-called contradictory procedure, which means that the victim gets examined in a different room from the alleged offender via communication technologies. Legal assistance comprises legal counselling and representation of victims of crime, specifically to ensure that the rights of the victim are upheld during the criminal proceedings. The main groups of victims for which the court assistance has been implemented are children, victims of domestic violence and victims of situative violence.

#### SOURCE:

E-PROTECT (2018), Individual Assessment Methodologies Report: Austria, p 20.

## | Legal representation

**Child victims are entitled to receiving assistance and support by a guardian / legal representative, if and where applicable.** Legal assistance comprises the various means that support a person in accessing a remedy. It includes legal representation and legal aid, which covers legal counsel and associated fees. Legal representation must ensure that the interests of the child are adequately represented. In daily life, children are legally represented by their legal guardians. Yet, legal representation in court and other

proceedings is different from the function of legal guardianship. International and European standards consistently provide that the child is entitled to his or her own legal representation that defends his/her interests, in cases where there is, or could be, a conflict between the interests of the child's legal guardians and the interests of the child. As the Council of Europe Guidelines underline, when children's and parents' interests may diverge, children have the right to their own legal counsel or representation. In such cases, competent authorities must appoint a guardian or independent rep-

representative to represent the views and interests of the child. The right to be independently represented is particularly important in proceedings where parents, family members or caregivers are the alleged offenders. While legal representation can be critical during proceedings, the child should also be entitled to legal representation and/or counselling during the individual assessment. The role of

children's lawyers is to defend children's voice and best interests at all stage of the proceedings, including in the determination of protection measures. Their role is also to act as a mediator, explaining the proceedings to the child. This implies that lawyers working in this field be adequately trained in communicating with children, listening to them, and determining their best interests.

## INTERNATIONAL CHILD SAFEGUARDING STANDARDS OF KEEPING CHILDREN SAFE

### Standard 1: Policy

The organisation develops a policy that describes how it is committed to preventing and responding appropriately to, harm to children

### Standard 2: People

The organisation places clear responsibilities and expectations on its staff and associates and supports them to understand and act in line with these

### Standard 3: Procedures

The organisation creates a child-safe environment through implementing child safeguarding procedures that are applied across the organisation

### Standard 4: Accountability

The organisation monitors and reviews its safeguarding measures

The Standards are based on the following set of principles:

- All children have equal rights to protection from harm.
- Everybody has a responsibility to support the protection of children.
- Organisations have a duty of care to children with whom they work, are in contact with, or who are affected by their work and operations.
- If organisations work with partners, they have a responsibility to help partners meet the minimum requirements on protection.
- All actions on child safeguarding are taken in the best interests of the child, which are paramount.

#### SOURCE

Keeping Children Safe, Accountability: International Child Safeguarding Standards <https://www.keepingchildrensafe.org.uk/how-we-keep-children-safe/accountability/accountability>

## |Child safeguarding policy

Legal systems in the EU contain a range of provisions aimed at protecting children and ensuring that any abuse or

maltreatment is addressed. However, numerous examples have shown that even organisations, institutions and professionals, whose role is to protect children and provide care to child victims

have been responsible of various forms of violence against children, willingly or unwillingly, and sometimes in the name of the child's best interests. For this reason, a movement (Keeping Children Safe) led by a coalition of organisations has advocated for the adoption of child safeguarding policies for all organisations and institutions working with and for children. Such policies aim to prevent possible harm made to children who enter in contact with the organisation, by setting rules for conduct, requirements for the recruitment of staff, mechanisms for complaints by the child or any other person knowing or suspecting that a child is being harmed, and accountability procedures. The value of child safeguarding policies is widely recognised, including by the European Commission.

Organisations and institutions conducting individual assessments of child vic-

tims need to consider developing and adopting such child safeguarding policies, in order to ensure that relevant safeguards are in place to prevent the child from being harmed in the process, hold professionals involved accountable in case their behaviour is inappropriate, and provide the child with a remedy if they consider their rights have not been respected in the process.

The child should have the possibility to have the decision reviewed. The individual assessment will lead to the determination of a set of protection measures as relevant. If the child and/or her or his legal guardians are unsatisfied with the decision made, they should have the possibility to have the decision reviewed. It implies that children are informed of the measures and remedies that exist if they disagree with a decision and receive the assistance needed to access those.

## **SAFEGUARDING CHILDREN POLICY CHILD AND YOUTH PROTECTION CENTRE**

ZAGREB, CROATIA

The Child and Youth Protection Centre in Zagreb has adopted an internal policy that sets a framework for the staff to comply with legal, professional and ethical requirements related to working with child victims and witnesses of violence. The framework includes considerations for safeguarding and protecting children.

This policy has implications on all areas of work of the Centre and ensures quality and transparency.

The policy outlines procedures to protect children, procedures for the multidisciplinary cooperation as well as assessment, treatment and forensic interviews.

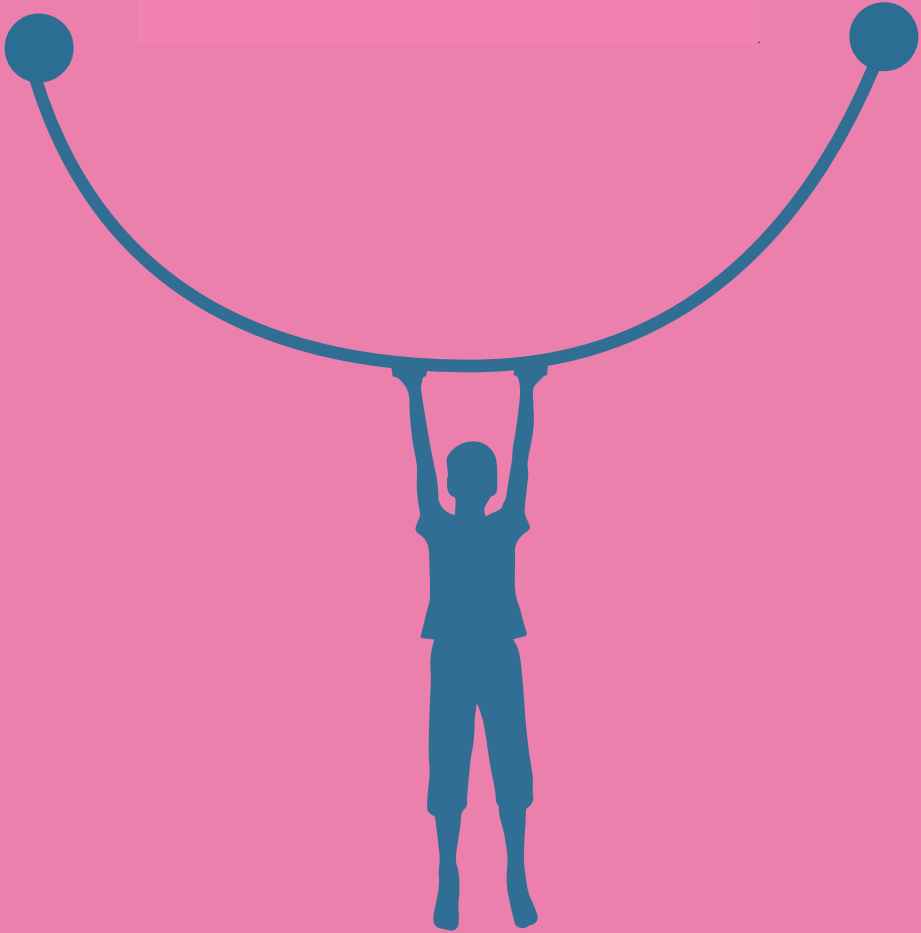
The policy also specifies minimum requirements for staff, ethical principles and key responsibilities. Procedures for recruiting staff, including screening, are also included.

### **SOURCE**

Extract from PROMISE project series (2017). Barnahus Quality Standards Guidance for Multidisciplinary and Interagency Response to Child Victims and Witnesses of Violence, p. 50.

# Hanging by a thread

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CHILD VICTIMS OF CRIME CAN WAIT MANY YEARS  
FOR A FINAL JUDICIAL DECISION

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# 4 INDIVIDUAL NEEDS' ASSESSMENT: THE DETERMINATION OF BEST INTERESTS OF THE CHILD

## KEY OBJECTIVES

- Explain how the determination of the best interests of the child takes place;
- Present elements to be considered by professionals, which determine the possible short and long-term effects to children who have been a victim of crime and that will help the professional to identify child's needs;
- Describe the importance of hearing the child's views and taking them into account, and provide guidance on how to enable the child to participate in the individual needs' assessment process;
- Discuss principles of child-friendly communication;
- Discuss the socio-ecological understanding of vulnerability and a human rights-based approach to assessing and mapping sources of vulnerability.

## DETERMINING THE BEST INTERESTS OF THE CHILD

Article 3(1) of the CRC reads: *"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."* As explained in Chapter 1 of this methodology, the principle of the best interests of the child is one of the guiding principles of the CRC and should be used for interpretation of all other rights set forth by the Convention and for guidance in all decision-making processes affecting children both individually and as a group.

As highlighted by the UN Committee on the Rights of the Child, "the concept of the child's best interests is aimed at ensuring both the full and effective enjoyment of all the rights recognized in the Convention and the holistic development of the child, (which should be understood) as a holistic concept, embracing the child's physical, mental, spiritual, moral, psychological and social development".<sup>23</sup>

This principle recognises the individuality of each child, therefore, the interpretation of the principle of the best interests of the child, should be done on a case-by-case basis and taking into account

**23** Committee on the Rights of the Child General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1). Para 4

the specific circumstances of the particular child.<sup>24</sup>

When determining the best interests of individual children, professionals of all institutions working directly with children should use the elements described in the table above, starting with an assessment of the specific circumstances that make

the child unique.<sup>25</sup> Professionals should be able to assess when some elements may not be relevant, whilst always keeping in mind that the decision should reflect what is in the best interests of an individual child and not what adults, including professionals, parents or guardians, think is in his or her best interest.

## ELEMENTS TO BE ASSESSED IN THE DETERMINATION OF THE BESTS INTERESTS OF THE CHILD

- a. The child's views;
- b. The child's identity;
- c. Preservation of the family environment and maintaining relations;
- d. Care, protection and safety of the child;
- e. Situation of vulnerability;
- f. The child's right to health;
- g. The child's right to education.<sup>26</sup>

## IDENTIFICATION OF SIGNS THAT CAN HELP TO IDENTIFY RISKS FOR AND NEEDS OF THE CHILD VICTIM

Exposure to a criminal offence can have a significant and immediate impact on the child's health and wellbeing, development and evolving capacities, behaviour and communication. Being a victim of violence and abuse, particularly during childhood, can also have long-term consequences. According to the World Health Organization (WHO) these may include "mental health problems (including post-traumatic stress disorder; physical health problems, such as cardio-vascular disease and cancer due to the adoption of health risk behaviours, such as smoking and harmful use of alcohol, as a means of coping with the psychological consequences of child maltreatment in particular; and impaired

social and occupational functioning. The burden of violence can extend to families, friends and public services that deal with the ongoing impacts of violence (e.g. criminal justice agencies and health, social and welfare services). Being a victim of violence can also increase an individual's risk of further abuse and of becoming a perpetrator of violence."<sup>27</sup>

There are several, interconnected elements that determine the possible short and long-term effects for children who have been a victim of a crime and that will help the professional to identify children's needs. These include, among other:

- The child's age, as the younger the

<sup>24</sup> Ibid. Para. 32

<sup>25</sup> Ibid. Para. 49

<sup>26</sup> Ibid. Para. 52

<sup>27</sup> WHO (2009). Reducing violence through victim identification, care and support programmes.

child, often the worse the impact;

- The child's personal characteristics (i.e. age, resilience, social support network, etc.), which enable children to deal with the traumatic event;
- Chronicity of the crime experienced (a longer exposure to violence/ criminal activity has more impact on the child's health and well-being);
- Severity of the crime experienced;
- Nature of the violence suffered, for example sexual violence and domestic violence will have different associated risks. The crime of sexual abuse of children has complex psychosocial risks, including the relationship between the perpetrator and the child;
- Group dynamics and involved loyalties have to be taken into account. For example, generally it is difficult that victims of human trafficking find their way to the police or victim protection organisation, because they are frequently anxious to betray those around them, for example their friends. This might constitute an obstacle to make use of support infrastructures.
- Degree of inclusion in the society and the degree of marginalisation which determines the future of the victim.
- The relation of the child with the perpetrator of the crime. For example, "in situations where the perpetrator of the crime is unknown, the child may feel more comfortable dealing with

the adverse effects of the victimisation situation, given the inexistence of an affective or familiar bond. However, if the perpetrator of the crime is someone close to the victim (for example, a family member or friend) or someone with whom the child has established bonds of affection, it may prove to be more difficult to overcome the negative effects of the violent situation experienced, since there was a relationship of trust and proximity to those who committed the crime."<sup>28</sup> Children may experience additional feelings of guilt, betrayal or confusion;

- In relation to domestic violence, it would be important to assess the level of risk to mothers of repeat domestic violence;
- The fear of retaliation:<sup>29</sup> "The child's fear of the perpetrator of the crime associated with the real or perceived possibility to become the victim of threats, blackmail and/or persecution after disclosure of the abuse situation, could potentiate the suffering psychological and discouragement in the victim"<sup>30</sup>;
- The EU Directive also calls particular attention to "victims of terrorism, organised crime, human trafficking, gender-based violence, violence in a close relationship, sexual violence, exploitation or hate crime, and victims with disabilities" (Article 22(3)).

## CONCEPT OF VULNERABILITY

The concept of vulnerability finds its etymological origin in the Latin noun *vulnus* ("wound"), which led to the Latin verb *vulnerare*, meaning "to wound". "Vulnerable" originally meant "capable of being phys-

ically wounded" (or "having the power to wound", which is now obsolete).<sup>31</sup> Child protection systems have been built upon the concept of risk, as well as, the inherent belief that children are vulnerable.

<sup>28</sup> APAV (2017). Manual CARE. Apoio a crianças e jovens vítimas de violência sexual. p. 86

<sup>29</sup> Article 15(3) of the Council of Europe Convention on the protection of children against sexual exploitation and sexual Abuse provides that the initial assessment should include the dangerousness and possible risks of repetition of the offences.

<sup>30</sup> APAV (2017). Manual CARE. Apoio a crianças e jovens vítimas de violência sexual. p. 86

<sup>31</sup> Merriam Webster Dictionary online



However, it is often the surrounding environment and/or the system, which puts children in a position of vulnerability by not considering and responding to their individual characteristics. Furthermore, whilst children must be protected, it is fundamentally important to recognise their developmental capacities, progressive autonomy and internal individual resources, such as resilience. Putting the emphasis on the vulnerability of the child may be detrimental to a process that ultimately seeks to restore and empower the child victim. Additionally, the international legal texts and national regulatory frameworks in Member States recognise children as rights holders, which calls for a shift in the way children are dealt with by the protection and justice systems.

In the advent of maltreatment, some children are more resilient than others. In order to recognise children's capacities and internal resources and to respect children's autonomy, it is crucial to understand what those elements are. Resilience can be fostered by protective factors, such as a child's capacity to:

- Rapid responsivity to danger;
- Precocious maturity;
- Dissociation of affect;
- Information seeking;
- Formation and utilisation of relationships for survival;
- Positive projective anticipation;
- Decisive risk taking;
- The conviction of being loved;
- Cognitive restructuring of painful experiences;
- Altruism; and
- Optimism and hope.<sup>32</sup>

In parallel, there are a number of present

in a child's life that make children more vulnerable or at risk. In order to ensure that the system is accountable to child victims, it is crucial to adopt a comprehensive, rights-based approach, which is informed by, inter alia, the determination of the best interests of each child, their views, evolving capacities, factors exposing them to vulnerability, resilience and other internal resources.

### Discussion of the socio-ecological understanding of vulnerability and human rights-based approach to assessing and mapping sources of vulnerability

*"The more we provide (children and) young people with opportunities to experience and accumulate the positive effects of protective factors (assets), the more likely they are to achieve and sustain mental well-being in later life."<sup>33</sup>*

When assessing the needs of individual children, it is essential to look at the context in which they live, in line with a socio-ecological understanding of vulnerability. "The ecological framework is based on evidence that no single factor can explain why some people or groups are at higher risk of interpersonal violence, while others are more protected from it. This framework views interpersonal violence as the outcome of interaction among many factors at four levels—the individual, the relationship, the community, and the societal. (...) The ecological framework treats the interaction between factors at the different levels with equal importance to the influence of factors within a single level."<sup>34</sup> This ecological framework may be anal-

**32** Mrazek PJ and Mrazek DA (1987). Resilience in child maltreatment victims: a conceptual exploration. *Child Abuse Negl.* 11(3):357-66

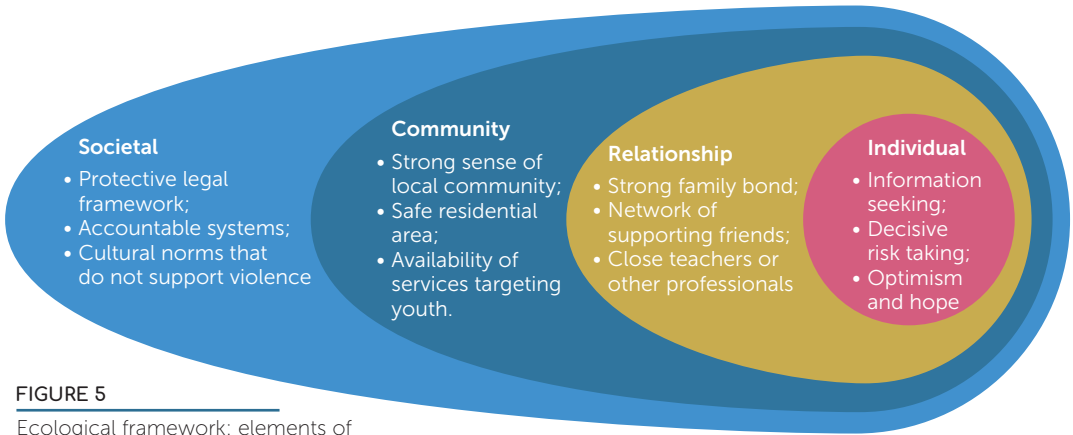
**33** Morgan A and Ziglio E (2007). Revitalising the evidence base for public health: an assets model. *Promotion and Education Supplement* 2 pp17-22

**34** WHO Violence Prevention Alliance. The ecological framework. Available at: <http://www.who.int/violenceprevention/approach/ecology/en/>, last accessed 27th August 2018

used in terms of risk factors or in terms of assets or resilience factors.

A socio-ecological understanding of vulnerability must identify both risk (negative) and resilience or other protective factors (positive) that influence and affect the child's life and internal coherence. A rights-based approach to mapping risk and resilience entails moving beyond a vulnerability-based approach, by identi-

fying resilience elements; and recognising that children are rights-holders, as aforementioned. This means that professionals should identify aspects of resilience and other assets both in children and the global context; and accentuate their positive abilities and capabilities, in order to increase their self-esteem and empower them to deal with risks and seek for help when in need.

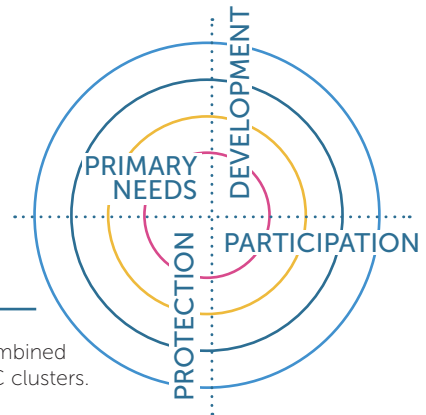


**FIGURE 5**  
Ecological framework: elements of protective factors at the individual, relationship, community and societal level

Figure 5 demonstrates a number of assets or other dimensions of protective factors, which may be available for individual children at the individual, relationship, community and societal level. Professionals assessing children's needs should thrive to identify these or similar dimensions, when carrying out the assessment, towards the identification of special protection measures that the child may need. For example, in a case where the perpetrator was someone unknown to the child, if s/he has a supportive family, the child's parents may be the best people to accompany the child during investigation or court procedures. If such persons of reference do not exist in the child's life or are unreliable, then the State may appoint a guardian, advocate or other professional. To give a second example, if the child was abused by someone in their own family and, therefore, it is very likely to be unsafe for the child to go back home, it

may be possible to identify another supportive relationship. If not, then appropriate support must be identified, including shelter and food.

Figure 6 shows how to integrate the ecological framework within a rights-based approach represented by the 4 CRC clusters namely primary needs, development, protection and participation.



**FIGURE 6.**  
Ecological framework combined with the 4 CRC clusters.

# COMMUNICATING WITH CHILDREN IN THE IDENTIFICATION OF THEIR NEEDS

This methodology has already highlighted some of the key principles concerning children's rights. Specifically, article 12 of the CRC imposes a duty on states *"to assure to the child who is capable of forming his/her own views, the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child."* Therefore, involving children in decision-making processes affecting their well-being or life is their *right*. In the case of child victims, ensuring that children effectively contribute with their views, raises the child's profile, shows respect and dignity to their individuality and indeed can empower children in a significantly disempowering situation.

## Child-sensitive communication

**The first principle to adhere to when carrying out child-sensitive communication is the conditions under which the interview will take place.** These may include the following elements: child-friendly facilities, where the child will feel most at ease; respect for the principle of confidentiality; and ensuring that the child knows what is expected from him/her from the very beginning. Secondly, it is important to identify who will be the person carrying out the interview and for that person to get to know the child before the interview. In terms of "format", the interviewer should wear informal attire and a respectful attitude towards the child. In terms of knowledge, it is essential that the interviewed is experienced and understands what it implies to communicate with and, particularly, interview children who have been victims of crime. The penal procedure is based on the offence and the perpetrator, it is not victim oriented. Therefore, it is important to have special competenc-

es in interviewing children in every domain, including police and court.

**The principle of the evolving capacities of the child must be uphold, when communicating with children.** In general terms, the person interviewing the child should understand what to expect from children of different ages or capacities. On the other hand, children's life experiences, including exposure to chronic or other long-term illness or abuse or neglect may affect their maturity in a positive or negative way. Children may also become more resilient with certain experiences, but the same experience will have a different impact on different children. Taking into account the different levels of maturity, learning and abilities of different children, professionals must be learned in various methodologies for engaging with children. For example, communication with children may not necessarily take place through verbal means. In the individual assessment, it may be useful to offer children various ways to express their needs and open up about their experiences – body language, drawings, emotion cards, and role-plays with puppets are examples of alternative ways of communicating. Some children may also need more time to disclose the events that happened to them. Child-sensitive communication must therefore recognise the child's individual circumstances and adapt the interview to their needs. Other considerations, such as gender considerations may also be of relevance, for example the need to have female staff conduct the interview, may be of particular importance depending on the nature of the crime and on the gender of the victim.

Representatives of several major forensic interview training programs in the US agree that understanding the disclosure process is critical for both the investigative process and child protection outcomes.

Experts also emphasise that each child goes through a different process of disclosure. This has major implications for the role of the interviewer, as there is no single method for reaching out to all children,

as all trauma and experiences are distinct, based on the child's story.<sup>35</sup> Child-sensitive communication must acknowledge this and adapt the interview to the needs of every single child as appropriate.

## GENUINE PARTICIPATION OF CHILDREN<sup>36</sup>

- Inform** Children and young people need to be given all the information necessary to take part in the decision. You will need to make sure that the information is accessible to all children: the language should not be over-complicated, and you should take into account different needs (such as provision in easyread or other languages).
- Discuss** Children need to be given time and space to think through and discuss the issues. For younger children, or those less able to participate and to discuss, you may need to provide facilitation.
- Listen** You – and they – need to be able to listen! They should be helped to listen to each other, and you must make sure you listen to any ideas they want to input into the process.
- Consider** If an adult is making the final decision, you need to make sure that the young people's ideas and preferences are given due weight. The fact that the ideas come from the young people is important and may sometimes weigh more heavily than whether or not you agree with their opinion.
- Feedback** This is particularly important when the final decision has been made by adults. Young people need to be informed how their ideas and wishes were considered, and if they were not accepted, why this was the case.

**Moreover, the cultural dimension when conducting an interview** is more and more relevant: Particularly when children are from a different culture, words might have a different meaning for them – e.g. the right to remain silent when questioned about whether a close relative committed a crime. Furthermore, if a child does not speak the national language than it is necessary to get as fast as possible a translator

that is suitable to the task at hand, include child protection considerations. In this decision the gender of the translator also plays a focal dimension for the communication with children.

**Child-sensitive communication must also recognise what practices of engaging with children can be harmful.** For example, it is recognised that repetitive interviews and tests of child victims

<sup>35</sup> Juvenile Justice Bulletin (2015). Child Forensic Interviewing: Best Practices. US Department of Justice. Office of Juvenile Justice and Delinquency Prevention.

<sup>36</sup> Council of Europe and SOS Children's Villages (2013). Securing Children's rights: A guide for professional working with children in alternative care.

should be avoided to prevent re-victimisation and further harm. Repetitive interviewing may also have other negative outcomes, such as the reliability of the child's statements. Some child-friendly methods have been designed and adopted into countries' national regulatory frameworks, such as statements for future memory, video recording, and other.

**Children should be informed in detail about all the stages of the judicial proceedings, the whereabouts and duration of the assessment, as well, as the possi-**

**ble outcomes and the realistic expectations about the entire process.** As emphasised in the previous chapter of this methodology, children should be provided this information in a way that is understandable to them and feedback should be given concerning all decision-making processes for which children's views were sought. All information should always be explained in accordance with the child's age, maturity and level of understanding. For more information about elements of a genuine participation of children, see the table below.

## IMPLEMENTING CHILD-FRIENDLY JUSTICE PORTUGAL

The Academy of Lawyers (Lisbon Region) published a **Good Practice Guide on Listening to Children in court proceedings** in 2017. This Guide is in line with the Council of Europe Guidelines on Child-Friendly Justice and informed by international evidence. The handbook starts with a description of the legal framework, followed by theoretical and practical considerations for listening to children in court proceedings, including matters related to the environment, interview techniques, aspects to consider from the perspective of the child and the interviewer. The guide ends with a post-interview checklist to allow the interviewer to monitor procedures and identify possible future aspects of his/her own practice.<sup>37</sup>

This manual is a follow-up of two books prepared for and adapted to children on what to expect during court proceedings, namely the child-friendly book **"João goes to court"**<sup>38</sup>; and the book **"The day Mariana did not want"**<sup>39</sup>. These books and guide are part of a more comprehensive approach to implement child-friendly justice in the country, by the Portuguese Centre for Judicial Studies on Child Hearings, which has promoted training and research, including innovative aspects such as the pilot study on **"The use of intervention dogs to facilitate the hearing process in child courts."**

### SOURCE:

E-PROTECT (2018). Pan-European Best Practice Report on Individual Assessment Methodologies of child victims of crime.

**37** Rute Agulhas e Joana Alexandre (2017). Audição da Criança. Guia de Boas Práticas. Conselho Regional de Lisboa da Ordem dos Advogados

**38** Rute Agulhas e Joana Alexandre (2016). O João vai ao Tribunal.

**39** Rute Agulhas e Joana Alexandre (2016). O dia que a Mariana não queria.

## INTERVIEWING CHILDREN UNDERGOING PROCEEDINGS, PRACTICE EXAMPLE

### SPAIN

The intervention by some stakeholders, including Victims Support Offices in Spain, seems to be progressive in the way towards the implementation of the provisions of the EU Directive and good practices on child-friendly justice.<sup>40</sup> "In Spain, **child-friendly rooms** are sometimes used during the pre-trial phase at both victim support services and court-based locations. Specifically, interviewees (children who have undergone proceedings) mentioned *Fundación Márgenes y Vínculos* in different Andalusian cities, a victim support service that carries out psychological assessments and therapy for child victims of sexual violence; the Andalusia victim support service (*Servicio de Apoyo a las Víctimas de Andalucía, SAVA*); and the family support service (*Servei d'Assessorament Tècnic en l'Àmbit de Família, SATAF*) provided by the Catalan administration via family courts. Interviewees most frequently mentioned *Fundación Márgenes y Vínculos*, where they described rooms as being decorated in a child-friendly manner: with a smaller table for younger children, drawing materials and boxes filled with toys for children of different ages. Some of the rooms also have recording devices. Children generally assessed these premises positively, as they are outside the court environment and have child-friendly waiting and hearing rooms. Children also appreciated the pleasant, calm atmosphere and having only one professional (the psychologist) present for the conversation."

#### SOURCE

FRA (2017). Child-friendly justice Perspectives and experiences of children involved in judicial proceedings as victims, witnesses or parties in nine EU Member States.

### Evidence-based interviewing protocols for hearing child victims of crime

There are different protocols available for carrying out child forensic interviews. These protocols take into account the specificities of communicating with children. For example, semi-structured interviews may be used to adapt the communication style and interaction with the child, in light of the personal circumstances and characteristics of each individual child. Building a rapport with the child is essential to ensure that her/his dignity, trust and protection needs are ensured. This means that, for example, carrying out a forensic interview, may be

done in the sequence of several sessions, to allow both for the child to feel that s/he is in a safe environment and for better insight as to whether or not abuse has occurred. Additional supportive measures may need to be adopted, such as non-suggestive techniques during interviews with children to prevent any bias in the testimony. As an example, it is important to be well-informed as to what terms should be avoided when interviewing children.

The forensic interview is carried out as a component of a comprehensive child abuse investigation. A number of professionals of different categories will be involved in the investigation and each of them may benefit from the information

<sup>40</sup> E-PROTECT (2018), In-depth review on the transposition of Directive 2012/29/EU in other MS.

obtained during the interview.<sup>41</sup> This is crucial to recognise, as to better organise the way information is gathered, used and shared. Taking into account that often there is scarce evidence as to the crime committed, the story of the child is very valuable to the investigation. There

are a number of evidence-based interview protocols for hearing child victims of crime at international level<sup>42</sup>. Other techniques may also be used in order for the child to tell his or her story, in a more protective way. For example, narration techniques can be used<sup>43</sup>.

## FORENSIC INTERVIEWS WITH CHILDREN DEFINITION

“A forensic interview of a child is a developmentally sensitive and legally sound method of gathering factual information regarding allegations of abuse or exposure to violence. This interview is conducted by a competently trained, neutral professional utilizing research and practice-informed techniques as part of a larger investigative process.”

### SOURCE

Juvenile Justice Bulletin, (2015) Child Forensic Interviewing: Best Practices. US Department of Justice. Office of Juvenile Justice and Delinquency Prevention

While there exists a clear need for protocols and improved training in how to use existing protocols, it is of utmost importance to have at any time the individual case in mind and to adapt to its individuality and not just rigidly stick to an interview guideline and protocol. Considering the heterogeneous needs of victims, a strict and standardised protocol could not be adequately assessing and grasping this diversity. It could be helpful to think and re-think through the case, but de facto it cannot replace the individual case-management. Furthermore, such (standardised) protocols have to be

well-edited so that professionals are clear why they ask specific questions in a particular way. To ensure this, trainings are necessary to teach them how to use such guidelines and protocols. Therefore, the competence and capacity of responsible officials and individuals is of high importance. Interview guidelines and protocols are of importance, but not in the form of checklists, as the later bear the danger to lose sight of the individual cases. Protocols should allow professionals to react towards different cases and case constellations.

<sup>41</sup> Ibid.

<sup>42</sup> See for example the National Institute of Child Health and Human Development (NICHD) Protocol: Interview Guide or the resources of the National Children’s Advocacy Centre

<sup>43</sup> For more information see RESILAND Project at: <http://www.resiland.org>, last accessed 29th August 2018

## Creating a child-friendly environment

All principles of child-friendly justice ultimately aim to protect and empower children within a process that can be very intimidating. Child-friendly principles refer not only to what methodologies should be applied by professionals, but also in relation to procedures and settings, including the court.

In addition to the Victims' Directive, Article 35.1.b of the Lanzarote Convention provides that *interviews with the child take place, where necessary, in premises designed or adapted for this purpose*. The setting where procedures take place often make children, and adults alike, feel uncomfortable. To decrease this risk, a number of Member States have adopted special spaces where interviews and other communications with children take place and that are specifically designed for that purpose. The interview may take place in a child-friendly facility built for the sole purpose of assisting child victims (i.e. such as the Barnahus). In this case, the facility will most likely already cover many aspects related to a child-friendly environment, such as physical access, ensuring that children with disabilities have easy access to the facilities; a friendly waiting room, with toys or other materials adapted to children of different ages or different rooms for children of different age groups; and friendly staff in the reception area. The atmosphere and toys/games provided should make the children feel calm and serene. Even more importantly, professionals' attitudes will be determinant in the child-friendliness of the space. Welcoming professionals that demonstrate respect for the child's views and dignity are essential to make the child feel comfortable and open to tell her or his story. Concerning the officials interacting with children, it is now

internationally recognised that adults should wear less formal attire. It is also crucial that during all proceedings, all professionals interact with children with respect and sensitivity.<sup>44</sup> Where the interview takes place in a common facility with other services, additional measures should be taken to protect children (i.e. a separate entrance for children and families) or other measures.

To give one example, although such spaces exist in the Police Departments for Minors in Greece, the child victims undergo the same control procedures when entering the Department, and find themselves surrounded by officers in uniforms and adult offenders, in the same structures, which can have a negative impact on their wellbeing and affect the entire investigation procedure. In this case, a special access for children and families could be prepared, to prevent such situations. Concerning courts, the Council of Europe Guidelines on Child-Friendly Justice provide that "before proceedings begin, children should be familiarised with the layout of the court or other facilities and the roles and identities of the officials involved."<sup>45</sup>

## Correct protocolling of the interview

Protocols can be quite useful to establish a common understanding of truth or reality between the interviewer and the victim (an agreed basis of common understanding), or also to adapt to the victim's language (e.g. to be careful how the victim calls the suspected person and to apply these vocabularies as a basis for the communication at court, the police or other setting). Protocols of interviews, however, must be taken with great care. For example, it is important to note the testimony of the child word-for-word

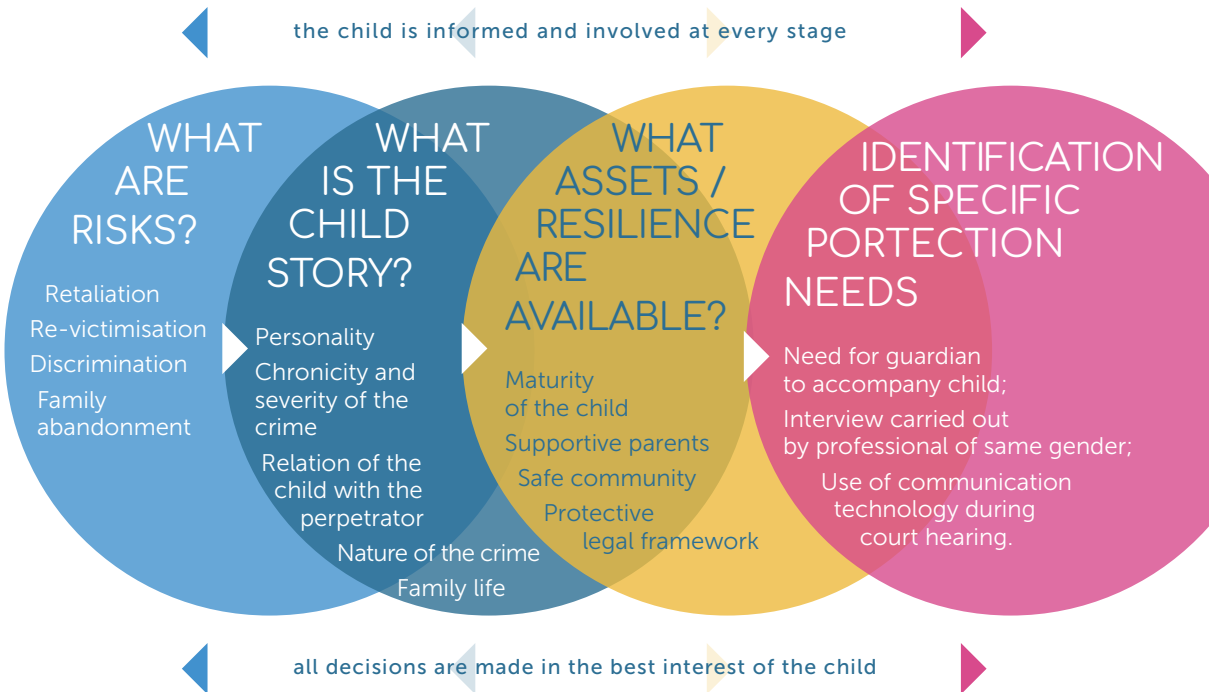
<sup>44</sup> Ibid. Para. 57

<sup>45</sup> Council of Europe (2010) Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice. Para. 55



and also capture the questions, which were posed. When a translator is involved, it is important that the translator is also trained in this regard: S/he should translate word-for-word and also translate unfinished sentences. Protocols of interviews may be needed by a psychologist in trial who has to determine the quality of the child's testimony. More-

over, it is important that the interviewer also notes his/her personal perception of the child witness during the interview, for example, was the witness showing shame, shyness or other relevant feelings or actions of significance. This information will be of relevance for other professionals who might have to talk to the victim at a later stage.



**FIGURE 7.**  
The pathway towards the identification of children's protection needs<sup>46</sup>

### Identification of specific protection needs

The identification of specific protection needs should follow all of the steps already explained throughout this chapter, including assessing the different elements for the determination of the child's best interests, identifying the possible risks posed to children during investigation or court procedures, understating the child's story and assessing assets and resilience. This process should be

carried out by informing children, involving them and determining their best interests throughout all stages of the process. Procedural safeguards and practical measures, including but not limited to, adapting methods to children's age, maturity, needs and evolving capacities; and ensuring a child-friendly environment should be put in place to support and improve the whole process in a manner that is respectful to each child.

<sup>46</sup> Inspired by: Council of Europe (2013). Securing children's rights

## COLLABORATION WITH THIRD PERSONS INVOLVED IN THE PROCESS SUCH AS PARENTS, GUARDIANS, SUPPORT PERSONS

The individual assessment process focuses on the child victim. However, the child evolves in a given environment, in which key figures have a primary role, in particular (non-offending) parents, other legal guardians and/or caregivers, and other support persons. In General Comment No. 13, the Committee on the Rights of the Child calls for their full involvement in the assessment process. Their involvement is necessary in several respects:

- As key informants, they help understand the child's characteristics and the circumstances of the crime and evaluate the protective factors and risk factors that will help determine the child's protection needs.
- By being directly impacted by the crime the child has been subjected to, they also have a range of needs that must be considered and addressed. For example, threats and retaliation are likely to concern the family as a whole, and not solely the child. The family may have experienced trauma as a result of the child's suffering and require adequate support.
- As primary supporters for the child, caregivers need to be assisted and strengthened to enable them in turn to help meet the child's needs in a particularly difficult situation. Their involvement provides the ground for effective interventions.
- Caregivers play an important role in informing the child victims about the proceedings and possible measures adopted for her or his protection. They therefore need to be kept informed throughout the process about all relevant aspects, including the outcome of the individual assessments.
- Legal guardians have the legal capacity to make decisions on behalf of a

child. Medical treatment, disclosure of confidential information in dealing with the case, and a number of other aspects may require parental or legal guardian's consent depending on national legislation.

- Caregivers provide day-to-day guidance to children in all aspects of their lives. They orient a child through what s/he can and cannot do, should or should not do. For child victims of crime, this guidance role is of paramount importance.

Where parents and other caregivers are the offenders, have contributed to the offence or critically failed to protect the child, or when it is not in the child's best interests to involve them, a legal guardian will be appointed, as examined in Chapter 3.

## INVOLVING THE FAMILY AT BARNAHUS - ICELAND

**Exploratory interviews in suspected child sexual abuse cases are conducted when the child's disclosure is weak or ambiguous, when the alleged offender is below the age of criminal responsibility and in cases where the child makes a disclosure but refuses to reveal the name of the perpetrator.**

Siblings of victims of child sexual abuse may be referred to the Barnahus for exploratory interviews in cases where the perpetrator is in the victim's circle of trust and has had access to them. Such exploratory interviews may be conducted even when the siblings have not disclosed any sexual abuse.

After the exploratory interview, the child remains in one of the waiting rooms at the Barnahus while the non-offending parent(s) or caregiver(s) speak to the interviewer and the child protection worker. During this meeting, the interviewer goes through the main points of the exploratory interview and gives advice on how to deal with issues that may have come in the interview. This can for example include how to address changes in the behaviour of the child or recommendations about steps to take in order to protect the child in the future.

### SOURCE

PROMISE project series (2017). Barnahus Quality Standards Guidance for Multidisciplinary and Interagency Response to Child Victims and Witnesses of Violence.

## OUTCOME OF AND FOLLOW-UP TO THE INDIVIDUAL ASSESSMENT

The individual assessment is only the start of a process for child victims in their path to recovery. The present methodology focuses on the individual assessment itself and how protection needs will be identified. The present chapter reviews some of the key elements to be considered following the assessment for the implementation of measures. This step builds on the assessment process and may actually be carried out simultaneously, for example when emergency measures are implemented while a more comprehensive assessment is taking place.

### Protective measures and their implementation

The Victims' Directive provides for a number of measures to be taken during criminal proceedings to ensure the protection of victims, based on the individual assessment. A number of these mea-

asures concern all victims in a vulnerable situation (Article 23 of the Directive). Others specifically concern child victims (Article 24). They both apply to children.

The measures listed in the Directive are those that apply in the context of judicial proceedings, with a view to protecting the child from harm as a result of proceedings. However, as reviewed in Chapter 2, a child victim of crime will have a range of needs that go beyond those strictly related to the judicial process. It is therefore important to adequately plan the actions and measures to be taken as a result of the assessment, in order to ensure that they are implemented in a timely manner and in an effective way.

The EU Fundamental Rights Agency research on children's perspectives on their involvement in judicial proceedings found however that protection measures foreseen in the Directive are unevenly

implemented across countries. It reports that “many children found that the necessary procedural safeguards are not in place. The majority of children conveyed that they felt frightened and unprotected during judicial proceedings. The defendant being present was their main source of fear, followed by professionals’ inappropriate behaviour, intimidating environments, wide information sharing and a general lack of confidentiality.”<sup>47</sup> The research indicates that numerous children reported meeting alleged offenders in the course of proceedings, even when protection measures were supposedly in place, often because the court premises were not organised so that chil-

dren would have dedicated areas where would not risk meeting the defendant. Video testimonies can also prompt fear, when the child is testifying in a room located near the courtroom and the physical presence of the defendant can still be felt.

This demonstrates that it is not only by virtue of adopting a set of relevant protective measures that the child can be effectively protected and feel protected during proceedings. Ensuring the effectiveness of these measures will usually require an in-depth transformation of how the justice operates in the child victim’s best interests.



FIGURE 9. Management of the case to address the child victim’s needs over time

### Management of the case to address the child victim’s needs over time

As explained in Chapter 2, a victim-centred approach requires case-management practices in the organisation of service provision, to ensure overall consistency and facilitate access to support and assistance. In this context, the process for the implementation of measures is expected to use the same structures and mechanisms as the individual assessment. This is particularly important to ensure that there is a continuum of support.

**Following the completion of the assessment, a case plan is to identify the interventions needed to address the needs detected.**<sup>48</sup> The plan should specify the actions that must be implemented, those responsible for implementing them and providing needed services, and the timeline for implementation. At this stage of the process, needs identified are to be translated into concrete requirements in terms of service provision to address needs. For example, the identified need for mental health care could be formulated in terms of the structure responsible for providing such care, who will be provided such care (the child and possibly her/his family) and frequency of

<sup>47</sup> Fundamental Rights Agency (2017). Child friendly-justice: Perspectives and experiences of children involved in judicial proceedings as victims, witnesses or parties in nine EU Member States

<sup>48</sup> This section largely builds on Inter Agency Guidelines for Case Management & Child Protection (2014). The Role of Case Management in the Protection of Children: A Guide for Policy & Programme Managers and Caseworkers.

Protective measures in the EU Directive and their implementation



sessions overtime. Like for the assessment, case planning should involve the child and the (non-offending) family or any relevant support person. The child and caregivers should be consulted in its development and be fully informed of its contents.

**An actor should be identified with the responsibility to monitor follow up actions.** This actor should be in charge of

This is an essential element to make the child and caregivers feel safe and supported, and to develop their trust in the system. Since protection measures often involve several agencies, it is important that this actor has the authority and the means to demand action from others.

Organising the provision of services to a child usually involves a referral, in which the professional acting as the main fo-

cal point for the case introduces the child victim to the necessary services. In many cases, such services are provided in a different location and managed by a different actor than those involved in the individual assessment. It is therefore important to build a formal and/or informal network of social services' providers to collaborate with when addressing cases of child victims. Ideally, this would entail a formal referral mechanism, or inter-agency agreement including information-sharing rules, as described in

Chapter II in relation to the individual assessment. However, structures like Barnahus provide such services under the same roof, supporting better accessibility, coherence and follow up of service provision.

**The case plan needs to foresee follow-up checks**, to ensure that the child victim and caregivers as relevant are actually receiving support and assistance as planned and to assess possible evolutions of the situation.

## CONTINUOUS SUPPORT AT BARNAHUS ICELAND

After a child has gone through an exploratory or a court hearing interview, the Barnahus team decides whether the child requires further services in the Barnahus (e.g. a medical examination or therapeutic services). Therapeutic services are always offered when a child discloses abuse. (...)

A case worker from the Child Protection Services coordinates the multidisciplinary team ensuring the continuous support and follow up with the child and his/her family/caregiver(s). The Barnahus staff is responsible for the treatment services provided to the child and up to three sessions for the non-offending parents/caregivers. This involves a regular communication with the case workers from the Child Protection Services. This collaboration allows for the cooperation with the Child Protection Service caseworkers to ensure the welfare of children and families who receive services at the Barnahus. (...)

After the assessment, an individual treatment plan is developed to guide the continued service provision at the Barnahus. If the child lives outside the capital area, the follow-up services are provided in the child's home community according to the treatment plan.

### SOURCE:

PROMISE project series (2017). Barnahus Quality Standards Guidance for Multidisciplinary and Interagency Response to Child Victims and Witnesses of Violence.

**The situation of child victims may change over time.** Follow up assessments should be foreseen and organised, in order to provide adequate support as needed in the long term. For example, the trauma suffered by a young child victim of crime may resurface during adolescence and require attention. Risk and protective factors surrounding the child may evolve. An agency should have responsibility for monitoring the child's sit-

uation at least until s/her is 18 years old, and in adult years as relevant. The frequency of such assessments will be determined based on each individual situation. They are likely to be more frequent at the beginning of the process and may have larger intervals as the recovery process and the nature of risks evolve positively.

## EXAMPLES OF FOLLOW-UP ACTIONS IN LINE WITH THE CHILD'S SPECIFIC CASE

- ✓ Checking the child received needed medical support
- ✓ Checking the child has registered to a school
- ✓ Checking how mediation of the parents has influenced their behaviour towards the child
- ✓ Checking that the child's relationship with the parents is improving
- ✓ Checking that the child continues to attend school
- ✓ Checking if the breathing techniques you taught the child to help them relax have helped.

FOLLOW-UP CAN TAKE PLACE IN A VARIETY OF WAYS.  
SOME OPTIONS YOU CAN CONSIDER INCLUDE:

**Meetings** with the child and / or family.

**Home visits** Before carrying out a home visit it is important to establish what the purpose of the visit is, and how the visit will be used to support the child and their family.

- Scheduled home visits – if appropriate, home visits may be part of the case plan for direct service delivery and follow-up. You must consider the repercussions of home visits to ensure that the child/family is not exposed to harm (for example by drawing the attention of neighbours/community to the child and their family).
- Ad hoc home visits - these can be particularly important for following-up the situation in the home and are useful when the home environment is volatile, or levels of care are low. Ad-hoc home visits may provide a better opportunity to observe the child or to find the child alone if parents/caregivers have previously refused an individual interview.

**Phone calls** these may be necessary for care placements that need follow-up in the initial stages and can be useful for children living in remote areas.

**Confirmation** from a relevant service provider that the child who was referred to their service actually received the service.

**Informal community-based follow-up**, e.g. contacting the child's teacher if they are involved in supporting the child as part of the case plan, or follow-up through community groups (with due respect for privacy and confidentiality).

### SOURCE:

Inter Agency Guidelines for Case Management & Child Protection (2014). The Role of Case Management in the Protection of Children: A Guide for Policy & Programme Managers and Caseworkers.

# Who accompanies me?



IT IS CRUCIAL THAT A CHILD VICTIM  
BE ABLE TO RELY ON  
SKILLED AND SPECIALIZED PROFESSIONALS  
DURING THE ENTIRE PROCEEDINGS



# 5 TRAINING NEEDS OF OFFICIALS AND PROFESSIONALS INVOLVED IN THE INDIVIDUAL ASSESSMENT AND DECISION-MAKING PROCESS CONCERNING SPECIAL PROTECTION MEASURES

## KEY OBJECTIVES

- Explain the importance of training of officials and professionals working with and for children;
- Demonstrate what training entails; and
- Describe practical options for ensuring ongoing training: initial training, continuing education and collaboration with civil society.

## THE IMPORTANCE OF TRAINING OF OFFICIALS AND PROFESSIONALS WORKING WITH AND FOR CHILDREN

As explained in Chapter 4 of this methodology, children live within a wider socio-ecological framework, which includes the individual, relationship, community and societal levels. All measures aiming to protect children and to uphold their rights must be understood in this

sense. For example, in order to implement a child-friendly justice system, appropriate legislation, policies and regulations must be in place. Secondly, appropriate programmes and procedures should be set up, such as child-friendly interviewing rooms, multidisciplinary programmes

such as the Barnahus or victim support services. Thirdly, all professionals dealing with children, including the police and court staff, lawyers, prosecutors, judges and other practitioners involved in supporting child victims must receive appropriate and specialised training. Additional guidance, job aides, supportive supervision or other tools, as relevant, should support training and professional practice.

The appropriate training of officials and professionals is a central aspect of a child-sensitive justice system for victims of crime and it is of particular relevance to the assessment of individual needs, which is the key focus of this methodology. A system in which children feel

safe, listened to, and supported, primarily rest on the people who interact with them and/or make decisions concerning their situation and well-being. While professionals involved in the justice system may have extensive legal or other training in their respective fields, specific training on the rights and needs of children, and on how to communicate with children, is critical to prevent secondary victimisation, as well as, to collect evidence in particular through testimonies. Indeed, the protection of children and the realisation of their rights are strictly connected to the good and well-coordinated functioning and effectiveness of all parts that make up the justice and child protection systems.

## THE RESPONSIBILITY TO PROVIDE TRAINING

In the legal analysis of article 19 of the CRC on the right of children from the protection of all forms of violence, the Committee on the Rights of the Child states that it is of the responsibility of State Parties to: (...)

- a. Provide initial and in-service general and role-specific training (including inter-sectoral where necessary) on a child rights approach to article 19 and its application in practice, for all professionals and non-professionals working with, and for, children (including teachers at all levels of the educational system, social workers, medical doctors, nurses and other health professionals, psychologists, lawyers, judges, police, probation and prison officers, journalists, community workers, residential caregivers, civil servants and public officials, asylum officers and traditional and religious leaders);
- b. Develop officially recognized certification schemes in association with educational and training institutions and professional societies in order to regulate and acknowledge such training;
- c. Ensure that the Convention is part of the educational curriculum of all professionals expected to work with and for children.

The training initiatives can be initiated and implemented by both State and civil society actors under the responsibility of the State.”

### SOURCE:

Committee on the Rights of the Child. Paragraph 44(d) General comment No. 13 (2011) The right of the child to freedom from all forms of violence

systems<sup>49</sup>, other gathered from professionals and reports generated by international and national organisations.

The need to increase the number of training programmes for all professionals actively involved in child protection constitutes a top priority, as suggested by the different phases of the E-PROTECT project, including the various national seminars held with child protection and other professionals in the partner Member States. Efforts to train and exchange expert knowledge should not be scarce, but rather concerted and relevant seminars should be held on a regular basis by the State and not only in the framework of European projects or other private ini-

tiatives. As an example, in Greece Article 70 of Law 4478/2017, which transposed Article 25 of the EU Directive provides that professionals should be trained, without offering details. However, ultimately the key issue is that training is not systematically carried out in practice. For example, in Italy, the feedback from the national seminars held also shows a gap concerning adequate specialist and continuous training of professionals belonging to different disciplines, which is not guaranteed. Furthermore, some professional figures, such as, for example, child neuropsychiatrists or qualified cultural mediators, are missing from the justice and child protection systems.

## CHILD HEARINGS, EVIDENCE PORTUGAL

“Children continue to be heard several times and by various people, according to a multiplicity of interview techniques, and in advanced stages of investigation. Child hearings do not meet, with few exceptions, the reservation and protection requirements of the witness and the judicial facilities are not properly prepared.”<sup>50</sup>

(Other) Empirical studies in the country have shown that “children who are victims of intra-family sexual abuse are heard on average eight times.<sup>51</sup> This repetition is the aspect of the judicial process that children consider more painful. Even in processes where there are physical and biological signs of sexual abuse, children are heard 4-9 times. (...)

The testimony of children, when they are young, is neither collected nor valued, which gives rise to a filing rate of more than 60%, according to a study already cited, based on data provided by the Institute of Legal Medicine of Porto.”<sup>52</sup>

### SOURCE

E-PROTECT (2018). Pan-European Best Practice Report on Individual Assessment Methodologies of child victims of crime.

**49** See for example Fundamental Rights Agency (2017). Child friendly-justice: Perspectives and experiences of children involved in judicial proceedings as victims, witnesses or parties in nine EU Member States.

**50** Rui do Carmo in Clara Sottomayor (2014). *Temas de Direito das Crianças*. Publicações Almedina

**51** Ribeiro, 2009 in Ibid.

**52** Jardim, 2011 in Ibid.

## Experiences of professionals on children's participation in civil and criminal judicial proceedings

The box above reports some of the impact that ineffective hearing practices have on child victims. Yes, it is important not to blame professionals, but instead to empower them, so that they have the tools to apply child-friendly and responsive techniques, which in turn will be more effective and not traumatic for children who become in contact with the child protection and/or justice systems.

A study from the EU Fundamental Rights Agency in 10 EU Member States reported that most respondents in half of the countries namely, "Estonia, Finland, Germany, Poland and the United Kingdom said that the amount of training offered to legal and social professionals was satisfactory and of good quality, confirming that they used their new skills in their work"<sup>53</sup>, however professionals in these and other countries identified many areas for improvement. In another group of countries, "there is either a general lack of training or noticeable gaps between the number of legal and social experts trained in child judicial proceedings. The majority of interviewees working in the criminal justice field in Bulgaria and Croatia felt undertrained and wished to rectify this. Bulgarian professionals complained that both training itself and information about it were lacking. Croatian professionals in both justice fields criticised the scarcity of training programmes available from institutions tasked with the development of such programmes, such as

the Judicial Academy and the Bar Association."<sup>54</sup> In Portugal, a recent survey to 49 Public Prosecutors and Magistrates showed that both categories of professionals "report the lack of preparation for the hearing of children and adolescents and the difficulty in understanding their developmental characteristics (related to age and maturity). They consider that younger children may have difficulties in understanding and attention, while adolescents manifest oppositional behaviour. The Magistrates also reported feeling the need to deepen techniques to facilitate communication with children and adolescents and to know interview techniques, with the possibility of access guides or other relevant instruments."<sup>55 56</sup>

Perspectives and experiences of children involved in judicial proceedings as victims, witnesses or parties

A study from the EU Fundamental Rights Agency in nine EU Member States on the perspectives and experiences of children involved in judicial proceedings as victims, witnesses or parties showed that "[p]rofessionals and their behaviour is a key factor determining whether justice is deemed "child-friendly". The research makes clear that children heard by trained professionals are less frightened and intimidated. They are also more appropriately informed, meaning that they can make better use of their rights and be less influenced by others in their statements. This underlines the importance of training for all professionals in contact with children, as well as of clear, consistent standards and guidelines on how to inform, hear and support children throughout proceedings."<sup>57</sup>

**53** European Union Agency for Fundamental Rights (2015). Child-friendly justice Perspectives and experiences of professionals on children's participation in civil and criminal judicial proceedings in 10 EU Member States.

**54** Ibid.

**55** Rodrigues, Alexandre, & Agulhas (2016). A audição da criança: Desenho, implementação e avaliação de uma formação para Magistrados Portugueses. Dissertação de mestrado do Mestrado de Psicologia Comunitária, Proteção de Crianças e Jovens em Risco. Lisboa. ISCTE-IUL.

**56** E-PROTECT (2018), In-depth review on the transposition of Directive 2012/29/EU in other MS, accessible at: <http://childprotect.eu/#/en/resources>

**57** Fundamental Rights Agency (2017). Child friendly-justice: Perspectives and experiences of children

## CERTIFICATION OF SOCIAL WORKERS AND COMPULSORY TRAINING REQUIREMENTS IN EU MEMBER STATES: KEY FINDINGS

- Accreditation and licencing procedures for professionals in child protection are not developed in all Member States.
- Accreditation and licensing procedures, when available, are often limited to specific professional groups and do not concern all of those working with children (such as administrative personnel and staff involved in the daily care of children in institutions). Qualifications requirements are therefore general and do not contain precise requirements addressing the specifics of the child protection field.
- Accreditation and licensing procedures do not always involve mandatory training (initial or ongoing) for professionals working with children, including administrative personnel and staff involved in the daily care of children in institutions.
- Very often no review of the accreditation/licence is required. If in place, the stipulated time lapse between reviews varies from two to six years.
- Accreditation and licensing procedures do not always include vetting procedures. Most often vetting is conducted upon appointment.”

### SOURCE:

European Union Agency for Fundamental Rights (2015) Mapping child protection systems in the EU, Data and Maps. Certification and accreditation procedures for professionals. Online publication available at: <https://fra.europa.eu/en/publication/2015/mapping-child-protection-systems-eu/certification>

## WHAT TRAINING ENTAILS

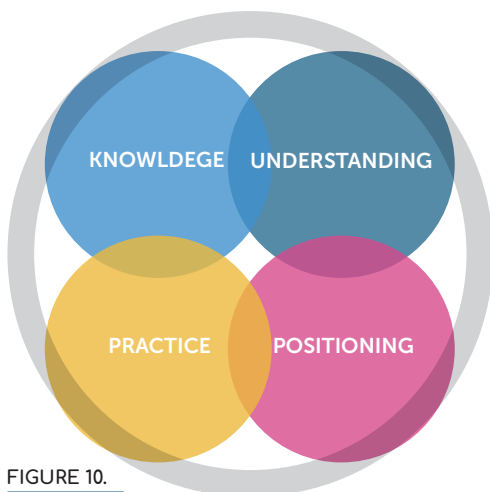


FIGURE 10.

Key training objectives.

All training delivered to professionals

should be meaningful and have impact of different dimensions of professional practice. Any training addressing children’s rights should address professionals’ *knowledge* (providing information about legislation, protocols or other), *understanding* (relating the information with the personal experience), *practice* (ensuring that professionals are able to translate the contextualised information into practical considerations) and *positioning* (manifesting the acquired considerations in relation to the external environment).

These four dimensions may be applied to the specific case of professionals working with and for child victims of crime, as follows:

**1. Gain Knowledge** - intended as a set

involved in judicial proceedings as victims, witnesses or parties in nine EU Member States.

of essential information from different disciplines that the professional should become familiar with in order to perform his/her role in compliance with the rights of the child;

2. **Experience comprehension** - intended as the possibility to relate this set of information and this new knowledge with the peculiar personal, cultural and professional experience of the professional – the training should include time and occasions for the trainees to see and reflect the connection among her/his personal and professional background with the knowledge that he/she needs to perform through his/her functions;
3. **Identify and experiment Practice** - intended as the acquisition of practical tools, methods and techniques to “connect”, communicate and act effectively for and with the child as well as with the various actors and functions that are relevant to promote his/her best interest;
4. **Undertake Position** - intended as the possibility for the professional to realize that his or her function linked to the protection of the rights of children is not exempt of the need to re-assess and re-determine the civil, ethical, cultural positioning as a citizen. It will also be important to solicit the understanding that this position could be challenged by the surrounding (professional) context. Here the sense is also to solicit to the participant the important role that he or she may perform towards the system, as a vector of change.

**Many of the international legal instruments of reference make provisions for the training of professionals working with children.** Specifically, the EU Directive contains a detailed article on the training of professionals in contact with victims, which should aim “to increase their awareness of the needs of victims and to enable them to deal with victims in an impartial, respectful and profes-

sional manner” (Article 25(1)). Likewise, the Council of Europe Guidelines on Child-Friendly Justice emphasise the need of professionals to receive interdisciplinary training on the rights and needs of children of different age groups and on corresponding proceedings. They also underline the importance of training in communication with children depending on their age and stage of development, and special vulnerability. Section F of the Council of Europe Recommendation CM/Rec(2011)12 of the Committee of Ministers to Member States on children’s rights and social services friendly to children and families states that “[a]ll members of staff working with and for children should have adequate professional training, as well as, ongoing training on the rights of the child, (including) training in human rights instruments (1), in applying participatory methods of working with children and families to ensure they are heard and taken seriously (3), professional responsibility, accountability and interdisciplinary co-operation between different professions (4) (and) Professional accountability should be ensured by clearly defined mandates, work procedures and codes of ethics (5).”

**Training of officials and professionals should include training on the Convention on the Rights of the Child, child rights and child rights approaches.**

Training should focus on making the link between key provisions and principles and their practical implementation in relation to child victims of crime. Specifically, professionals need to be trained in ensuring a non-discriminatory attitude and approach to the assessment, respecting children’s dignity and autonomy over their lives, enabling them to freely express their views and be heard, guaranteeing their development so they can reach their full potential over the long term, and considering the child’s best interests as central in all decisions made for children’s protection and support.

**Communicating with children involves**

**specific skills.** Depending on children's age, stage of development, and preferences, interacting with children may build on various supports. Depending on the role of the professional involved, the nature of the interaction may differ.

Professionals should receive training in conducting interviews with children to assess their needs. Such training should focus on interview techniques and the various types of support that can be used,

including non-verbal communication. Training should include considerations around possible re-traumatisation and secondary victimisation. Professionals need to be trained in sharing information with children on their rights, the proceedings, support measures, and other relevant information child victims need to access, in a way that children can fully understand depending on their age, maturity and situation.

## TRAINING OF SOCIAL WORKERS IN INTERVIEWING CHILDREN IN BARNAHUS LINKÖPING

"Social workers play a central role in soliciting information about the child's situation. The Barnahus in Linköping offers education for social workers to make them more confident in talking to children about difficult issues, such as abuse. Twice a year, the social workers who work with child protection assessments are offered a special training in interviewing children. The training includes general information about child victims of violence and trauma and practical training in different interview methodologies. The participants are asked to video-record three interviews with children, which are analysed in the training. The participants receive feedback and guidance on their performance. The video recording is a challenging element of the training as it is sometimes difficult to obtain the consent from children and parents to record the interview. However, it is worthwhile, since the impact on the performance of the social workers is excellent. The training is popular among social workers and there is always a waiting list to participate in the courses."

### SOURCE

PROMISE Project Series (2017). Barnahus Quality Standards Guidance for Multidisciplinary and Interagency Response to Child Victims and Witnesses of Violence.

**Training in laws, procedures and protocols in place.** Professionals working in various fields may not be fully aware of existing laws, procedures and protocols in place to address cases involving child victims. Evolutions may take place on a regular basis, and professionals need to be not only informed but also trained in what this means for their daily practice. They also need to be aware of the range of services available to support victims depending on their needs.

In General Comment No. 13, the Committee on the Rights of the Child underlines that "[p]rofessionals working within the child protection system need to be trained in inter-agency cooperation and protocols for collaboration."<sup>58</sup> The development of guidelines and protocols for the needs assessment of child victims with interdisciplinary and multiagency approaches therefore needs to be accompanied with the training of staff in charge of using and implementing these

<sup>58</sup> Paragraph 50.

protocols. The risk otherwise is for these protocols to remain unknown and inadequately implemented. Since protocols and procedures will vary across countries and settings, training modules will need to be adapted to each particular context.

One related field in which training on protocols for professionals has been developed and provides an example of how this can be done is Child Safeguarding Policies. These are policies put in place at the level of each organisation, specifying staff duties in preventing, reporting and

addressing child abuse and maltreatment cases that may arise within the organisation. The policies are addressed to all staff within the organisation, regardless of their role and professional discipline. They are developed by each organisation individually, through a process usually led by management and the board as relevant, and in consultation with the staff. While such policies differ from organisation to organisation, the “Keeping children safe” coalition has developed a common framework as a model and produced an accompanying training pack.<sup>59</sup>

## PRACTICAL OPTIONS FOR ENSURING ONGOING TRAINING: INITIAL TRAINING, CONTINUING EDUCATION & COLLABORATION WITH CIVIL SOCIETY

Training of professionals in child-sensitive needs assessment must be included as part of their initial training and continuing education. For that purpose, a certification scheme can be put in place, to ensure that professionals involved in the needs’ assessment have been adequately trained. Training of professionals should reflect the interdisciplinary and multiagency nature of the needs’ assessment. Training sessions should involve practitioners from various disciplines, as trainers and as participants. The development of training curricula and the organisation of training sessions should therefore involve a range of partners from different disciplines and agencies. The lead agency for the needs’ assessment can valuably also lead on the organisation of such trainings. For example, in Greece, pursuant to Article 71 Law 4478/2017, which transposed Article 26 of the EU Directive, the State undertakes the responsibility to raise social awareness through programmes and trainings for the general audience.

Civil society organisations supporting

child victims have highly relevant knowledge to share with officials and professionals. Due to their position and the relationship of trust they can build with the victims, they have access to information about victims’ experiences – of crime but also of their contact with the justice system – that officials may not have access to in formal settings. They therefore have a solid understanding of victims’ needs. NGOs can valuably share their expertise by contributing to training officials and professionals in contact with child victims. Partnerships with relevant NGOs should therefore be sought in the provision of training, as recommended by the EU Directive.

### Examples of specialised training courses at European level

In Europe, there is significant awareness of the need to promote and sustain specialised training for multidisciplinary professionals dealing with child victims. This is reflected in the number of pro-

<sup>59</sup> Keeping Children Safe (2011). A Toolkit for Child Protection, available at <https://resourcecentre.savethechildren.net/library/keeping-children-safe-toolkit-child-protection>



visions enshrined in international legal texts, as exemplified before, but also by the number of training initiatives. Some Member States have had the initiative to provide training beyond initial training of professionals, however as demonstrated, significant gaps remain to be addressed

in this area. As a response to this, many specialised courses have been developed and promoted by civil society and international organisations. Below are a few examples of such training courses, many of which have been adapted in national languages and to local contexts.

## COUNCIL OF EUROPE, COURSE ON CHILD-FRIENDLY JUSTICE AND CHILDREN'S RIGHTS

In 2017, taking as a reference the legal texts and experience of the organisation in promoting child-friendly justice, the Council of Europe Children's Rights Division and the Human Rights Education for Legal Professionals (HELP) jointly developed a free online course on Child-friendly Justice and Children's Rights with the primary purpose of strengthening and harmonising the knowledge of the European Convention on Human Rights and other relevant European standards on child-friendly justice across the Council of Europe member states. The training is available in different languages and targets: Civil and criminal judges; Lawyers; Prosecutors; Children's Rights experts intervening in judicial proceedings and professionals working within the child protection system; and Staff of the Ombudspersons' offices and NGOs.

The course comprises 9 training modules:

- 1. Introduction:** human rights, children's rights and child-friendly justice; principles and concepts;
- 2. Child-friendly justice:** before, during and after judicial procedures; special situation to be kept in mind;
- 3. Non-judicial proceedings:** definitions and reasons why to encourage non-judicial proceedings; forms and stages of the procedures; guarantees and conditions; legal advice, support and legal representation;
- 4. General elements: privacy;** safeguards and protection measures; organisation of the setting; right to legal representation; guardianship/ legal representation;
- 5. Interaction with children in the judicial system – main challenges:** age of understanding; gender; status; vulnerabilities; participation;
- 6. Interdisciplinarity:** introduction and drivers (main reasons for interdisciplinarity); team work and collaboration; identity and inter-professionalism;
- 7. Deprivation of liberty:** definition and principles; condition of detention; reintegration; monitoring and complain mechanisms;
- 8. Violence against children:** introduction and legal framework; definition and typology of violence against children; dealing with victims of violence within the judicial system;
- 9. Migration and asylum:** specific rights of migrant children; unaccompanied children; family reunification; detention and monitoring; administrative proceedings.

All available courses are accessible at: <http://help.elearning.ext.coe.int>

## **THEAM PROJECT TRAINING MULTIDISCIPLINARY HEALTHCARE TEAMS IN CHILDREN'S RIGHTS AND CHILD-FRIENDLY JUSTICE**

Between November 2015 and November 2016, four NGOs in EU Member States adapted international resources on child rights, including the Council of Europe Guidelines on Child-Friendly Justice and trained 500 multi-disciplinary healthcare and child protection officers in Greece, Italy, Portugal and Spain. The "Specialised Training on Children's Rights – the Convention on the Rights of the Child in practice" was developed in the context of the THEAM project - Training healthcare multidisciplinary teams on children's rights and on child-friendly justice. The training targeted primarily multidisciplinary healthcare teams working in child protection systems.

The course comprises 5 training modules:

- 1** Introduction to the Convention on the Rights of the Child and the relationship between needs and child rights;
- 2** Introduction to the Guiding Principles of the Convention on the Rights of the Child and its applicability to the work developed by child protection professionals;
- 3** Children's participation: principles and professional practice;
- 4** A holistic approach to child protection: implications for professional practice;
- 5** Child-friendly Justice.

## **SOS CHILDREN'S VILLAGES INTERNATIONAL 2015**

In 2015, SOS Children's Villages International developed a training manual for care professionals working with children in alternative care on "*Realising Children's Rights*" in the framework of a project co-financed by the European Commission's Fundamental Rights and Citizenship Programme. The project was implemented through international and national partnerships between SOS Children's Villages International, the Council of Europe, Eurochild, SOS Children's Villages member associations and their national partners in eight European Union countries, namely Bulgaria, Croatia, Estonia, France, Hungary, Italy, Latvia, and Romania. All eight partner countries were involved in the design of the training course and writing of the manual and the process included youth representatives having experienced alternative care. In November 2015, 18 trainers selected by these partner countries will attend a training of trainers, and in 2016, a series of two-day courses were organised at national level. These national trainings involved, in total, 800 care professionals.

The training comprises 8 sessions:

- 1** Introduction to the Training;
- 2** Children's Rights, Human Rights;
- 3** Life, Survival, Development;
- 4** Participation;
- 5** Best Interests of the Child;
- 6** Non-Discrimination;
- 7** Meeting the Challenge;
- 8** Taking it Forward.

The training manual is available at:  
<https://www.sos-childrensvillages.org/getmedia/94064fdf-41dd-4ca5-94fc-fac167857c2c/Realising-Childrens-Rights-Training-Manual-ENG-web.pdf>

## BARNAHUS TRACKING TOOL

The PROMISE Tracking Tool is a self-evaluation tool based in a Microsoft Excel spreadsheet directed at internal learning and the results can be used to define steps that the service can take to bring it closer to the Barnahus model and the European Barnahus Quality Standards. It is strictly related to an evaluation of the setup and operation of the service and not a tool to evaluate the impact on beneficiaries.

The criteria are scored according to one of two categories:

**YES =1 OR NO =0**

The results of the exercise will generate a mediate score (% of reached criteria). If the total score is 100% the service has fulfilled all the criteria. The results of the tracking exercise will give a general indication of where a service finds itself in the process of fulfilling the criteria and practicing in line with the Barnahus model.

The tracking tool can be completed individually, but it is recommended that the team in the service meets to complete the exercise together. Once the evaluation has been completed, it is recommended that the management and professionals from the service discuss and share their perspectives, including what the results imply in terms of organisational development.

The tracking tool is available **here**

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### SOURCE:

Promise 2 website <<http://www.childrenatrisk.eu/promise/trackingtool/>>

# ANNEXES



## Indelible but unprosecuted



TRAUMATIC CRIMES  
SUCH AS SEXUAL ABUSE  
CAN LAPSE DESPITE  
THEIR GRAVITY

# 1 KEY INTERNATIONAL AND EUROPEAN INSTRUMENTS

- Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography;
- Convention on the Rights of the Child (1989);
- Convention on the Rights of Persons with Disabilities (2006);
- International Covenant on Civil and Political Rights (1966);
- European Convention on Human Rights (1950);
- European Convention on the Exercise of Children's Rights (1996);
- Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (2007);
- Guidelines of the Committee of Ministers of the Council of Europe on Child Friendly Justice (2010);
- EU Directive establishing minimum standards on the rights, support and protection of victims of crime (2012);
- UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (2005);
- UN Guidelines for the Alternative Care of Children (2010); and
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") (1985).

# 2

# ARTICLE 22, EU DIRECTIVE ON THE PROTECTION OF VICTIMS OF CRIME

## ARTICLE 22. INDIVIDUAL ASSESSMENT OF VICTIMS TO IDENTIFY SPECIFIC PROTECTION NEEDS

- 1 Member States shall ensure that victims receive a timely and individual assessment, in accordance with national procedures, to identify specific protection needs and to determine whether and to what extent they would benefit from special measures in the course of criminal proceedings, as provided for under Articles 23 and 24, due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.
- 2 The individual assessment shall, in particular, take into account:
  - a. the personal characteristics of the victim;
  - b. the type or nature of the crime; and
  - c. the circumstances of the crime.
- 3 In the context of the individual assessment, particular attention shall be paid to victims who have suffered considerable harm due to the severity of the crime; victims who have suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their personal characteristics; victims whose relationship to and dependence on the offender make them particularly vulnerable. In this regard, victims of terrorism, organised crime, human trafficking, gender-based violence, violence in a close relationship, sexual violence, exploitation or hate crime, and victims with disabilities shall be duly considered.
- 4 For the purposes of this Directive, child victims shall be presumed to have specific protection needs due to their vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. To determine whether and to what extent they would benefit from special measures as provided for under Articles 23 and 24, child victims shall be subject to an individual assessment as provided for in paragraph 1 of this Article.
- 5 The extent of the individual assessment may be adapted according to the severity of the crime and the degree of apparent harm suffered by the victim.
- 6 Individual assessments shall be carried out with the close involvement of the victim and shall take into account their wishes including where they do not wish to benefit from special measures as provided for in Articles 23 and 24.
- 7 If the elements that form the basis of the individual assessment have changed significantly, Member States shall ensure that it is updated throughout the criminal proceedings.

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