



JUST with children

Child-friendly justice for all children in Europe

Policy brief

In response to the Consultation on the
EU Strategy on the Rights of the Child 2021-2024

30 November 2020



Terre des hommes

Helping children worldwide.

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In response to the Consultation on the EU Strategy on the Rights of the Child 2021-2024

Developed by



In partnership with:



This policy brief has been developed by Terre des hommes (Europe region), in close collaboration with, in alphabetical order: Bureau International Catholique pour l'Enfance (BICE), Center za prava deteta – Serbia, Défense des Enfants International – Belgique, Defence for Children The Netherlands, European Forum for Restorative Justice (EFRJ), International Association of Youth and Family Judges and Magistrates (IAYFJM), Leiden Law School, Ludwig Boltzmann Institute of Fundamental and Human Rights (BIM), Penal Reform International (PRI), Restorative Justice Netherlands (RJN), Social Activities and Practice Institute (SAPI) – Bulgaria.

This brief is supported by the Global Initiative on Justice with Children (<https://justicewithchildren.org/>) and the Child-friendly justice Network (<https://www.cfjnetwork.eu>).

The partners would like to thank Baker McKenzie. for their pro bono support in drafting this Policy Brief.

I. Introduction - Children's Rights in Justice Systems

This policy brief focuses on children's rights in justice systems, including civil, criminal and administrative justice. To effectively safeguard children's rights in their many facets and across all areas of life, it is indispensable that such rights can be claimed, defended and respected in justice procedures that are appropriate and inclusive for all children without discrimination. Any strategy on the Rights of the Child will thus need to properly take into account children's rights in justice.

To assist the European Commission in this aim, this policy brief presents priorities and recommendations for resilient child-friendly justice systems for all children in Europe. It gives voice to the input of children on their experience with justice (Section I) and reflects the experience of Terre des hommes and its partners in Europe¹ in dealing with children's rights in justice (Section II).

The Policy Brief includes key topics and challenges that were resulted from the Regional (European) Preparatory Meeting that took on place in June 2020, under the Global Initiative on Justice for Children and in preparation for the next World Congress on Justice With Children in Mexico, in 2021. The Brief considers the specific challenges of building resilient child-friendly justice systems for all children in Europe and the key principles of child-friendly justice. It takes into account the important EU action that has been taken².

II. Together towards child-friendly justice for all children in Europe

Providing child-friendly justice for all children in Europe requires justice systems that promote, protect and fulfil the fundamental rights of all children. Such child-friendly justice systems can only be built with the involvement of children to sustainably embed children's rights. Such child-friendly justice systems must be resilient to ensure they safeguard the rights of all children in Europe without discrimination and in all situations, including in situations of crisis such as the current COVID-19 pandemic and the upcoming challenges resulting from climate change, threats to rule of law and democracy and other even now unforeseen crises. Such non-discriminatory resilient child-friendly justice systems must also be equipped to address complex situations affecting children, such as violent extremism. Child-friendly justice systems need be adaptable to digital innovation, addressing the threats and capitalizing on

¹ This policy brief has been developed by Terre des hommes (Europe region), in close collaboration with, in alphabetical order: Bureau International Catholique pour l'Enfance (BICE), Center za prava deteta-Serbia, Défense des Enfants International – Belgique, Defence for Children The Netherlands, European Forum for Restorative Justice (EFRJ), International Association of Youth and Family Judges and Magistrates (IAYFJM), Leiden Law School, Ludwig Boltzmann Institute of Fundamental and Human Rights (BIM), Penal Reform International (PRI), Restorative Justice Netherlands (RJN), Social Activities and Practice Institute (SAPI) – Bulgaria. This brief is supported by the Global Initiative on Justice with Children (<https://justicewithchildren.org/>) and the Child-friendly justice Network (<https://www.cfjnetwork.eu>). The partners would like to thank Baker McKenzie. for their pro bono support in drafting this Policy Brief.

² To encourage judicial systems to adapt to children's needs, the European Commission has among other: carried out a study on children's involvement in civil, administrative and criminal judicial proceedings in the 28 countries of the EU; launched an EU Agenda on the Rights of the Child; provided EU funding opportunities and supported capacity building activities on child-friendly justice; proposed legislation on victims of crime and for procedural safeguards for children suspect and/or accused of crime; and proposed legislation and promoted the Council of Europe guidelines on child-friendly justice.

the opportunities brought by such innovation,³ and be robust but flexible enough to adapt to complex, diverse children's needs that evolve in a fast-paced society.

The starting point to building child-friendly justice systems in Europe is grounding them in **dignity, equity, equality and non-discrimination**. Children become involved with justice systems in different ways, such as e.g. child suspects, victims, perpetrators, witnesses, detainees, subjects of (parental) care proceedings, claimants in migration proceedings, children in welfare proceedings, children before administrative tribunals, etc. However, the extent to which children's rights are observed or infringed and the extent of access to justice may vary depending on their age, and on racial, ethnical, economic, gender identity and sexual orientation, cognitive and cultural circumstances of the children. This makes some groups significantly more vulnerable to injustices and deprivation of liberty than others. Child-friendly justice includes flexible policies that empower and support different children in accordance with their individual needs.

Child-friendly justice systems are inclusive and built by bringing together all relevant actors. It requires not only **hearing but also listening to children's own voices** on their experiences with justice systems (civil, administrative or criminal) and turning children's needs into actionable policies. Reliable data needs to be collected and children's voices need to be listened to in the development of policies (cf. Section I of this policy brief) but also in the implementation and evaluation of those policies, e.g. through training of professionals, raising awareness among children, adults and peer groups of children's rights and needs. We need **justice WITH children** not only justice for children to ensure that child-friendly justice is fair and appropriate to children's needs.

Cooperation, coordination and exchange of promising practices between the different actors/stakeholders remains essential. Cooperation is needed at the domestic level between systems' actors, as a child may often be involved in different procedures at the same time or pass from one kind of procedure to the other. A systemic consistent and coordinated approach between domestic actors/stakeholders such as schools, child protection services, police and the judiciary ensures that children entering in contact with the law in any role receive harmonious support and information throughout their experience. Coordination is also necessary at the EU level between the different Member States, both in cross-border situations but also to ensure exchange of knowledge and practice. Coordination is also vital at the global level, to ensure a common progress towards achieving the Sustainable Development Goals (SDG) as they relate to children, in particular SDG 16+, as well as the objectives stated in General Comment No. 24 (2019) on Children's rights in juvenile justice⁴.

Child-friendly justice embeds a comprehensive **protection framework from all kinds of violence** for children within the justice system, embraces restorative justice and non-custodial measures shifting from a punitive to a rehabilitative and restorative approach, while focusing on prevention, reintegration and rehabilitation, using deprivation of liberty measures only ever as the last resort.⁵

A **restorative child-friendly approach** is in fact advocated for by Terre des hommes and the European Forum for Restorative Justice in their joint position paper developed as a contribution to the EU Strategy on the rights of the child: this approach creates a safe space for both child victims and child offenders, proposing balanced, tailor-

³ Draft as of 13 August 2020 for General Comment No. 25 (202x), Children's rights in relation to the digital environment.

⁴ The Pathfinders for Peaceful, Just and Inclusive Societies, with the Task Force on Justice' s Challenge paper on SDG 16+ available at: <https://justice.childhub.org/en/child-protection-online-library/justice-children-justice-all>.

⁵ Detention of children for migration related reasons is never in the best interests of the child and is a violation of their rights. (CMW/C/GC/4 – CRC/C/GC/23). Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, III.C; Guidance Note of the United Nations Secretary-General: United Nations Approach to Justice for Children (2008), e.g. section 23 ss.

made, creative and flexible communication processes, and giving attention to specific needs for protection and support.⁶

Finally, advocacy, communication and campaigning at an EU and domestic level, with the involvement of communities and in particular children from all backgrounds, to **raise awareness of children's rights**⁷ must be at the heart of building just, non-discriminatory, fair, appropriate and resilient child-friendly justice systems for all children in Europe.

III. Key principles of child-friendly justice

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 rule of law, the principles of participation, best interests of the child, dignity, protection from all forms of violence and protection from discrimination, 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 to due process, to participate in and understand the proceedings, to respect private and family life and to integrity and dignity.⁸ In particular:

- **Human dignity of children:**⁹ Child-friendly justice ensures that children are treated with humanity and respect for their inherent dignity, independent of the role in which children come in contact with criminal, civil or administrative justice. It takes into accounts the specific and individual needs of children and remembers that they are "*children first and foremost*".¹⁰
- **Full participation of children at all stages:**¹¹ Child-friendly justice ensures full information in an adequate format to all children and their families (making use of digital and other technology tools as appropriate).¹² A child's right to be heard in any justice system can only be realized if they are given the right to participate fully¹³, they are provided with appropriate legal assistance in a timely manner,¹⁴ and their specific needs, including in mental health, are respected and met also taking into account the assessment of their own best interests. Full access to effective procedural safeguards and complaint mechanisms must also be provided to all children.¹⁵

⁶ European Forum for Restorative Justice and Terre des hommes, Joint Position Paper - EU Strategy on the rights of the child (2021-2024), (2020).

⁷ General Comment No. 24 (2019) on Children's rights in juvenile justice, para. 111 ss.

⁸ Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.

⁹ Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, III.C; Guidance Note of the United Nations Secretary-General: United Nations Approach to Justice for Children (2008), A.5; and many more.

¹⁰ PICUM Platform for International Cooperation on Undocumented Migrants, Children First and Foremost: A guide to realising the rights of children and families in an irregular migration situation (August 2013).

¹¹ European Convention on the Exercise of Children's Rights, Art. 3; Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, III.A; Guidance Note of the United Nations Secretary-General: United Nations Approach to Justice for Children (2008), A.3; and many more.

¹² E.g. use of games to help children explore the judicial process and their rights in a safe environment.

¹³ Charter of Fundamental Rights of the European Union, art. 24; Convention on the Rights of the Child, art. 12.

¹⁴ European Convention on the Exercise of Children's Rights.

¹⁵ Convention on the Rights of the Child, art. 37 and 40; Directive 2016/800/EU of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings; General Comment No. 24 (2019) on Children's rights in juvenile justice.

- **Equal access to justice for all children and non-discrimination:**¹⁶ Discrimination is still a barrier to the realisation of children's rights, especially vulnerable children. While all children may be exposed to abuse or violence when they enter in contact with the justice system¹⁷, research shows that some groups of children are particularly vulnerable to discrimination when entering in contact with the law. Children from ethnic and minority groups – including Roma children – are overrepresented in the criminal justice system and above all in detention; children deprived of family support and migrant children encounter obstacles in accessing justice and legal support throughout their journey and are often deprived of liberty in detention centres for long periods; LGBTIQ+ children and children with disability suffer discrimination and violence at all stages of the proceedings; gender-based violence against girls continues to be an acute issue, especially in situation of deprivation of liberty; poverty often poses an economic barrier for children to access to justice and legal support.¹⁸

The EU Commission acknowledges that there is room for improvement on the current strategic frameworks and safety nets with respect to vulnerable and minorities groups and has recently launched strategies to address racism¹⁹ as well as to tackle discrimination and ensure safety (amongst other actions) for Roma²⁰, LGBTIQ+²¹, gender²² and victims²³ with targeted action plans. These strategic and action plans should be leveraged to help build an inclusive justice system for children who are part of these vulnerable groups.

Achieving a child-friendly justice in Europe that is in line with these key principles is essential to effectively safeguard children's rights. By taking up and implementing the following priorities and recommendations, the European Commission, the Member States and other key stakeholders can all work together towards making child-friendly justice in Europe a reality for all children by 2024.

¹⁶ Convention on the Rights of the Child, art. 2; Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, III.D; Guidance Note of the United Nations Secretary-General: United Nations Approach to Justice for Children (2008), A.2; and many more.

¹⁷ UNODC report on strategies and practical measures on the elimination of violence against children (February 2015), p. 15.

¹⁸ UN Global Study on Children Deprived of Liberty (2019) - Publication available at: <https://omnibook.com/global-study-https://omnibook.com/global-study->

¹⁹ Communication COM/2020/565 final from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Union of equality: EU anti-racism action plan 2020-2025.

²⁰ Communication COM/2020/620 final from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Union of equality: EU Roma strategic framework for equality, inclusion and participation.

²¹ Communication COM/2020/698 final from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Union of equality: LGBTIQ Equality strategy 2020-2025.

²² Communication COM/2020/152 final from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Union of equality: Gender Equality strategy 2020-2025.

²³ Communication COM/2020/258 final from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Strategy on victims' rights (2020-2025).

Section 1

Children's priorities and recommendations



Screenshot of the responses from Children's Focus Group in the Netherlands answering the question "How do you envision child-friendly justice in the future?" – November 2020

Introduction and summary of key recommendations

Children who have experience of justice systems, whether as victims, witnesses, accused or perpetrators, have unique expertise and experiences that should be taken into consideration by duty-bearers when formulating policies around the rights of children in contact with these systems. Similarly, young people who are currently over the age of 18 but who have experienced justice systems as children or as young adults also have valuable insights that can enrich the policymaking around child-friendly justice. It is imperative that the European Commission consider these inputs in the development of upcoming EU Strategy on the Rights of the Child (2021-2024), with a view to taking into account the perspectives of these children and young people in order to effectively design and implement policies on child-friendly justice. To that end, Terre des hommes and partners undertook a series of consultations with children and young people, including those with experiences of justice systems, to feed into the EC Strategy.

This section of the report presents the detailed results and analysis of these consultations. The key recommendations that emerged from this participatory process are as follows:

- With respect to **participation**: children and young people reinforced the need for justice systems where they were provided with **quality, accessible information**, and where they were **involved in decision-making**.
- With respect to **protection**: children and young people emphasised the need for justice systems characterised by **non-judgmental, safe and kind environments**, in which children were treated with **empathy** and without **stigmatisation**.
- With respect to **provision**: children and young people spoke of the importance of free access to lawyers and other trained professionals, and **accountability of the system towards children** in order to build trust in the justice institutions.

Methodology

The consultation process included six focus groups discussions (FGD) and four individual interviews with children and young people, which were organised by Tdh and partners in Albania, Bulgaria, Greece, Netherlands, Romania, and Serbia. The meetings took place during November 2020. Due to covid-restrictions, some consultations took place virtually. Where it was possible to meet children and young people face-to-face (for example in closed settings), necessary measures for covid infection-control were taken. In total 40 children and young people participated, 23 females and 17 males. The children and young people were aged 12 to 24 years and the majority of them were members of the Child Advisory Boards that Terre des hommes and its partners have set up under the i-RESTORE and FOCUS EU-funded projects. 18 children had first-hand experience with the justice system, 14 had not had a first-hand experience and this information was unknown in the case of 8 participants. From the group of children with experience in the justice system, it was either as perpetrator, as victim, as a witness, or as a combination of these categories.

It is important to note that some of the young adults participating in the consultation had had experience with the justice system while they were below 18 years old (4 currently young adults aged 18,19, 20 and 23), and some of them had it as young adults. The consultations were implemented using a rights-based approach to child participation as defined in UNCRC General Comment 12. Specific measures were taken to ensure that informed consent was given by participants, and that the principles of confidentiality and do no harm were upheld. Additional

steps have been taken to ensure that no identifying information about participants is revealed. Facilitators of the focus groups discussions and interviewers were trained staff of civil society organisations working with children in contact with the law. For the purposes of these consultations, they participated in methodological briefings and coaching sessions.

The results from the consultations with children have been analysed looking at trends, grouping their responses in the tripartite categorisation of children's rights - Participation, Protection, Provision. As many direct quotes as possible were used to remain faithful to the ideas, concerns and suggestions expressed. Where the child's age, gender and status were known, it has been mentioned in this report; otherwise, only the child's and young person's country is mentioned.

During the consultations, participants were asked to reflect upon the definition of child-friendly justice, mention what they saw as priority issues in this field, share recommendations and explain how they imagined child-friendly justice in the future. Following this approach, an identifier colour coding has been used for children's quotes:

BLUE BOX: responses of children and young people answering the question about what child-friendly justice is according to them.

ORANGE BOX: responses to the question about what they considered as priority issues.

GREEN BOX: responses about how they would envision child-friendly justice in the future.

The sole aim of this consultation has been to voice the requests and ideas of children and young people in order to feed into the EC Strategy on the Rights of the Child. Nonetheless, this exercise poses some limitations as Terre des hommes and partners received all of this information in a written report elaborated by an adult facilitator, which in most cases was then translated into English.

1. Participation

a. Meaningful role of children and young people in society

When asked about their perception of what child-friendly justice is, some children and young people took a broad view and reflected on the role of the justice system with respect to wider society. In doing so, they referred to their belief that children should play an active role in society, where their voices count, and they are recognised as contributors to their communities.

*"I think of ways that we can make a **justice system suited to a child** so that when he/she grows up, the child can be an **active member of the community** and **benefit the community** itself." (Greece)*

*"It is a must in society. Any child who commits any sort of crime **should be given the chance to contribute to society** because they are the future. Child-friendly justice is **necessary for the welfare of society**." (Greece)*

Linked to this, many children articulated a vision of child-friendly justice as one in which children are able to participate in a meaningful way in decision-making processes about their situation. They referred to a system understanding of their own needs, adjusted to every child, *"where an individual counts"* and where the child would be respected. They wanted in the justice system to *"see the views of children"*, to be *"heard"*, but also *"not to be misunderstood"* (Bulgaria, 2 boys aged 13 and 17 years old).

*"Judicial system that **understands the needs** of a child" (Serbia, 2 girls and 2 boys aged 16 and 17 years old).*

*Judicial system where a child is an **active participant** and not just a passive subject, judicial system which is not about a child, but **with a child**. (Serbia, 17-year-old boy and an 18-year-old female).*

*"Justice system **adjusted to every child**, where an individual counts". (Serbia, 16-year-old boy)*

*System in which a **child is respected**. (Serbia, 17-year-old boy)*

*"It's a system in which a child is **informed** about what's going on and what are his options". (Serbia, 18-year-old female)*

It should be different from the justice for adults; children need conversations, somebody to talk to them, to see their daily life and then to take decisions what should be changed (Bulgaria)

b. Access to child-friendly information

When we asked children and young people about the most important challenges that they experienced in the justice system, a recurrent theme identified by the children and young people was the very poor level of legal information that was provided to them but also to the community in general. They told us that they felt that there was **not enough, or no information shared with them** about their situation.

“There is a lack of legal information between youth, but even population in general.” (Albania)

“All our peers have few or no information about law, about obligations. Other children do not have this information as we have had during this year (in the [activities] run by [organisation])”. (Albania 17-year-old girl.)

Children and young people felt that the information shared with them was **not easily understandable, written in an inaccessible format**. Some children recommended to use videos or animations to reach out better to young people to inform them about their rights.

The brochure the police gives to for minors is terrible and not attractive at all. There are not enough pictures and there is too much text about the rights of underage suspects. This could also be presented in a video, drawing or animation. You can reach youth better this way. (Netherlands)

They often shared feelings of confusion, insecurity, and thought that **their voices did not count**. They **felt unprepared** when entering sessions with justice professionals. Many children said **that no information had been provided** to them about what the interview would be about and **no proper psychosocial support** was available before or after the session. Some children expressed feeling they lived in uncertainty, after being questioned by the police for an offence they committed, they went home and nobody told them what was happening afterward.

Children are not informed where to refer to when they have a problem, whom to talk to, who will believe them. I had a situation when I was offended and I did not know whom to address, what to do, whom to talk to. I thought I would not be listened to and taken into consideration. (Romania, 17 year-old-girl.)

No one prepared me for the session. I entered in the court room confused and insecure. I did not know anything. (Netherlands, 15-year-old girl)

c. Child-friendly communication

Another recurrent theme was that children and young people felt that the professionals in contact with them were **lacking communication skills**. Professionals were considered by them to be too formal, **not understanding** of the child, **unsensitive** and **intimidating**, contributing to a feeling of **unsafety** and increase children's **distrust** in the justice system.

People who work with children should be trained on how to treat children within the justice system. They should be more competent in how to communicate with children, how to prepare them for the process based on their age. They should not know only about the law; they should do their work with much more sensitivity. (Albania, 15 year-old-girl with experience with the justice system)

Train professionals continuously so that they feel the need to help the child, do something good for him/her, inspire them to change, collaborate, know how to listen without discrimination. (Romania 17-year-old girl)

More information for the professionals is needed in order to change their mentality, change the current practice to intimidate children. Children should also be informed about their rights, in order to empower them to express themselves more freely, speak up and be more confident that they are listened to. (Romania 18-year-old girl)

All professionals, especially police officers trained in communication with children. The trained professionals will raise the children trust in justice, also to report cases of violence. (Albania)

Young people estimated that it was necessary for the professionals to **adapt their communication** and to adopt a **more personal approach to interrogation**, making the child feel at ease and starting with a conversation about their situation at home.

Everyone wants to do their job fast, there is no understanding towards a child from the law enforcement bodies. When I was arrested, they tried to determine and pressured me to say what they wanted. This affects communication with a child. We need adapted communication. (Romania, 23-year-old male)

Personal approach prior to interrogation - It is important that if a minor victim is brought to the police station, prior to the interrogation a conversation takes place about the home/family situation. Criminal behaviour can be caused by difficulties in the upbringing. When police contact between the young person and the police is not child specific, this can make the situation worse. It is best to first have a conversation as a sort of introduction, where the circumstances at home are discussed prior to interviewing the youngster about the case. (Netherlands)

Some participants suggested also that having another **trustworthy adult present** during interrogations, if parents are not available, would be a good practice. This would in their opinion contribute to increase children's trust in professionals interviewing them.

It is also important that another adult/ person of trust can attend the interrogation if parents are not available or if it is not in the best interest of a child that a parent is present. (Netherlands)

d. Recommendations

In relation to Participation, when asked about what they think about imagining future of child-friendly justice, children and young people envisaged a system where they were provided with **increased amounts of quality, accessible information**, and where they could be **involved in decision-making**. Specifically, they mentioned the following:

A Justice system where children are informed about their rights, they know what they can expect. A system where adults are actually interested in involving children in the decision-making and related processes. (Serbia)

Taking the time to provide information to children and explain rights.

Trying to reach children better with information.

Making a video, drawing or animation that clearly explains what is going to happen and what your rights are. (Netherlands)

Children must be given the chance to make decisions for themselves, even when in difficult situations like facing detention. (Greece)

To talk to the children in a pleasant way without twisting words and terminology (Bulgaria)

Bulgaria: Perhaps, some children feel calmer when they know what will happen.

Many children identified the lawyer as a key person to explain to them what will happen to them during the criminal procedure. They believed that it was **important for children to have access to a lawyer “free of charge”**.

The right to a lawyer, free of charge, is important for children. Often children don't know what will happen during the criminal procedure. A lawyer can explain what is happening, because he or she is an expert. A lawyer can also inform the child the best way about the consequences of confessing or denying the offence. Or about remaining silent or lying about what happened. (Netherlands)

2. Protection

In relation to the Protection rights, when asked about their perception of what child-friendly justice is, children and young people saw the law as needed to be **protective instead of punitive**. They often defined the system in opposition to not being subject of violence: they saw a system in which children have the **right “not to be beaten”** and as a system that should be there to help the child instead of punishing him/her (Bulgaria, 13-year-old boy).

When I hear about child friendly justice, it reminds me of law, of violence and how you can compensate for that. Using the law to create this framework where children know how they are supposed to act, how they can be protected by the law. (Greece)

Justice is to help you to realize your mistake and not to repeat it again, not just to punish. (Bulgaria, 17-year-old boy)

When children and young people were asked about the priority issues they were seeing, the main threat identified by them was to their **physical integrity**. The **child was afraid** of being physically hurt by the professional interviewing him/her.

When the policemen do not hit children but talk to them in a humane manner. (Bulgaria, 13-year-old boy)

I have always said to myself that one's friends are counted on your five fingers on one hand. That is, friendship for me is to help the other person without expecting anything in return and to be able to help you when you need it most. And friendly justice for me is if you do something bad, not only to be punished, but also to help you not to repeat the mistakes. And if you do good to be rewarded in one way or another. (Bulgaria, 17-year-old boy)

a. Feeling (un)safe

A key theme across a significant number of the consultation responses was feelings of unsafety, as well as **fear, shame, stress and restlessness**. These feelings were mainly about being worried to be rejected by the child's parents, but also because of the hostile behaviours of professionals talking to them or the lack of measures taken for perpetrators to restrict their access to the victim.

Not calm, feeling scared, feeling stressed, restless (Bulgaria, 13-year-old boy)

I feel shame, worried, unsafe. In fact, the perpetrator continues to tease me on the streets, trying to talk to me and in no way, they restricted his access to me, he is not detained by the police. (Bulgaria 14-year-old girl victim)

A pressing issue that children and young people spoke about was **violence from professionals** in the justice system, making them feel unsafe and distrusting the system.

The guards hit me, then the police too, then they let us go. We were afraid that we would be imprisoned for a long time, somewhere... Much depends on what kind of police man you will come across, there are those who are patient, and others who say "I will beat you". Sometimes I wish they weren't cops or in uniform. (Bulgaria, 13-year-old boy)

The behaviour of the policeman was aggressive and asked them "Why did you do ... even before hearing my version". The inspector (police) was on the side of the one who appealed even before gathering of the whole evidences. (Bulgaria)

Talking to the child in a humane way; it is not appropriate for the police to beat or threaten. Their job is to interrogate. I don't know, but I think that the people who are in contact with the children - police officers and judges - need to change. (Bulgaria, 13-year-old boy)

Some children and young people expressed that there was too much **indifference in their communities** in relation to violence against children. Violence was considered by them to be very common and the state institutions had not adopted the right approach yet to address this.

A lot of work should be done with community members, sessions, programmes to raise their awareness so they can more positive about children in conflict with the law. The children should not be sent to prisons, but to education centres. (Albania, 17-year-old girl)

Other participants felt that they were **intimidated by the perpetrators not to speak**; the police reassured them that there would not be any negative consequences because of their appeal; however, the overall feeling of children was that **nothing would change** after filing the appeal.

b. Feeling (un)supported

When asked about priority issues in relation to protection, children and young people shared various manners in which children could feel supported when entering in contact with the law, as victims or as perpetrators. Some mentioned the **need for specialized psycho-social support** during the criminal investigation.

A specialist (social assistant, psychologist) should be delegated during the criminal investigation period to take care of the child, so that he/she is not left alone with the prosecutor, police officer. (Romania, 23-year-old male)

Use more psychological support services for children suspect and for victims as well so they can be rehabilitated after the trauma. (Albania)

One young man mentioned the need for child victims but also children in conflict with the law to **allow a parent, family member or another trustworthy person, to accompany them** during the proceedings.

A system that would allow parents/family to accompany children during criminal investigations/difficult moments, so that children feel more relaxed. (Romania, 24-year-old male)

Others referred to the lack of **specific programmes for parents** and monitoring to address their lacking parenting skills and raise their awareness about violence, neglect and communication with children.

No monitoring or special programmes for parents who often are unable or inappropriate in the ways they raise their children; neglect, violence and inability to communicate with children is very common. (Albania)

The young people in the Netherlands who had been in contact with the law before the age of 18 shared their perception of the **role the lawyer** and how this role could be more of support instead of a concern.

(Question: Is remaining silent always in the best interest of the child?) That depends on the situation, children can be afraid, not knowing what to say. They do not think consciously yet. You have to protect them. A lawyer is there to help and support the client. Indirectly, the word "lawyer" might also cause trauma to a child. It would be good to call it different than 'lawyer'. So that young people are not frightened. Maybe this applies more to the side of the victim than to the perpetrator. (Netherlands)

They also felt that it is was key to **feel supported** to find the courage to report the crime that they had experience. This support should be extended afterwards as well.

It is important that a victim dares to report the incident. And that good help is offered and requested to help the victim. Often when a victim makes a report, there is more to it than that, something has to be done about it. (Netherlands)

c. Feeling a sense of (in)justice and meaning

Many child victims felt that the system was **not providing an adequate response** to the seriousness of the crime committed against them. They felt that the responses were **not "strict or strong enough"**. Children perceived the police to be **"too busy"** or do **"too little"**. (Netherlands)

Children and young people also shared that the professionals in contact with them showed to be **indifferent and insensible** to their situation. They felt that they were **not worthy of interest or care**. They mentioned the lack of results of the current system and expressed their **feeling of injustice** about perpetrators remaining without any measures taken against them, only being questioned by the police.

"The problem is that the perpetrators do not understand what they have done, only being questioned by the police is not enough; they need to understand the feelings of their victims and to take responsibility." (Bulgaria)

One child victim mentioned the distress she experienced as a consequence of ongoing contact with the perpetrator while the case was still ongoing. Some child victims spoke about the distress caused by **unsupervised contact with perpetrators** while the cases were ongoing.

The lawyer gave the impression of someone insensible about the case. He might have a very good understanding of children rights but had not a proper communication. (Albania)

Based on the fact that at the time there was a serious trauma, no one was interested in it. Everyone has a reason to do something, but no one cares about the reason. (Bulgaria)

"Nobody really wants your view, you just write something down and nobody understands what is the real situation. And what if children could not express themselves in writing?" (Bulgaria)

d. Feeling a sense of isolation in detention

Several children and young people reported **feeling alone, helpless** and a **sense of isolation** when deprived of liberty. They mentioned that the **contact with the family was rare** and that detention staff did **not show interest** in them to check on their well-being.

Upon apprehension we are taken away from the family and we are left only with the police, we can see our family only 2-3 weeks after the arrest. We are alone and helpless, no one comes to ask if you are well, what are your needs. (Romania, 23-year-old male)

Spending time in a cell can be a traumatic experience. You shouldn't have to take your phone, your belt etc. off. You can't have study books, TV, radio. They do have a video store. You're on thin ice, even if guilt hasn't been established yet. (Netherlands, male)

e. Recommendations

In relation to Protection rights, when asked about imagining the future of child-friendly justice, children and young people referred to a **non-judgmental, safe and kind environment**. An environment where children would feel protected, calmer, without problems or traumas. An environment where the children's feelings were actually taken into account, **without stigmatisation**.

The following words were used by them to describe this future:

- **Kindness, Gentleness** (Romania, 24-year-old male)
- **Friendly environment, Comfort** (Romania, 20-year-old female)
- **Understanding, Mindfulness** (Romania: 18-year-old female)

It is help, protection provided to children to maintain their happiness, innocence. The child's feelings are taken into account, where he/she is not labelled. (Romania: 17-year-old girl, high school pupil)

A child surrounded by a system in which he/she is protected/listened to/safe. (Romania: 17-year-old girl)

They would be calmer not to be beaten by the police. I don't know what it would look like. (Bulgaria, 13-year-old- boy)

There will be fewer children with traumas. They live their childhood without problems and trauma. (Bulgaria, 14-year-old girl)

Children and young people also referred to **improved communication skills** from professionals in order for them to feel safe and protected.

Treat children well: the interviewer should clarify, speak more calmly while talking to him, ask more specific questions. (Bulgaria, 13-year-old boy)

A 'cuddle aunt' for child victims who are being interrogated. Someone who is specialised in interviewing techniques, but also has to find out the truth. (Netherlands)

Children's sense of protection included the need to have a **safe physical environment**, either because of the person the child was living with, or the environment in which the child was being interviewed or detained.

A "waiting room" look & feel is better than a cell. (Netherlands)

Now I live with my Grandma and I am happy there – the violence has stopped. (Bulgaria, 12-year-old boy)

Some children, including victims, in Albania and Bulgaria, suggested to implement **more efficient restraining orders** against the perpetrator, for them to feel safe.

Use and monitor the implementation of order of protection in cases of domestic violence against children. (Albania)

Pay more attention in cases when the child is a victim and to impose a restraining order on the perpetrator. (Bulgaria, 14-year-old girl)

A young man in detention who was detained before the age of 18 recommended as a measure to prevent abuses, to ensure that **the interactions with the professionals working with children were recorded**.

Record the interaction between the legal professionals and the child during criminal investigation procedures in order to avoid abuses. (Romania: 23-year-old male)

Children and young people recommended to consider more alternative ways to deal with children, **shifting from a punitive to an educative approach**, in order to support their reintegration within society.

Establish education centres in order to avoid children isolation in prisons (Albania)

Detention has a punitive character. Alternative ways must be a priority because they give children the possibility to put their lives back on track (Greece)

To make so that not only to punish, but also to give an alternative and be understanding to find a solution to why today's young people are increasingly fleeing to work in another country. If they find the problem there will be a big change (Bulgaria, 17-year-old boy)

3. Provision

In relation to the provision of rights, when asked about children's and young people's perceptions of what child-friendly justice is, they mentioned that justice for children should have as a main feature **non-discrimination** and should be **equally accessible for all children**. Children said that not **everyone was treated the same** by the justice system.

When I hear the term Child friendly justice, I think about the ideal of child-friendly justice, it should be provided equally for everyone. It should not be as it happens often in our country, that poor people, coming from difficulties, do not receive the same treatment as others who are not disadvantaged because of their socio-economic situation. (Albania, 14-year-old girl).

When we asked children and young people about the most important challenges that they experienced in the justice system, they spoke about following things:

a. Policies and practices that are adapted to the needs of children

Children and young people mentioned that the **legislation need to be adapted to the needs of children** and be specialised.

For children the law should be more lenient, there is a lot of potential and a lot of time for improvement and redemption. (Greece)

They also felt that practices needed to uphold the provisions of child-friendly justice, namely **avoiding putting children in detention together with adults**.

My friends were 14 but were put into jail with people who were 30 or 40 years old. If you want to be child friendly you have to separate children because when with adults they are in danger, you do not know what kind of ideas will be put in their heads, what they might tell them and influence them in a bad way. This is a necessary change and a priority. (Greece)

b. Capacities and availability of professionals working with children

Children and young people felt that **they could not trust the justice institutions** and the professionals in contact with children, because of **high-level of turn-over**, talking with **professionals who are not specialised** to work with children. They mentioned specifically the need for specialised services in the following professional categories: lawyers, social workers, psychologists, psychiatrists.

Lack of trust in justice institutions, because of corruption and because of lack of specialization of persons who are in contact with children. (Albania)

The lawyers change very often, not the same follows the case and it created confusion (Albania)

Provide for more psychologists, psychiatrists, social workers who could take care of minors. More services of specialized support (counselling) provided to children. Every child who enters the justice system should receive specialized assistance from professionals. (Romania: 23-year-old male)

Create centres with specialized professionals for children where they would have the certainty that they will be listened to. (Romania: 17-year-old girl)

“Special detectives who have been trained to interrogate underage persons, but less ‘heavy’ and more child orientated. Thinking creatively about it. Finding something that is really the child’s choice.” (Netherlands)

A courtroom with people who deal specifically with children (Bulgaria)

c. Rehabilitation

Children and young people believed a child who committed an offense might not know the difference between “right and wrong”. They mentioned that it was important to **try and understand the motives of the child** and then decide on how to discipline him/her. They mentioned that it might be beneficial for the child who committed an offense to **contribute as a volunteer** in a community service, which could help to develop empathy. They considered this to be child-friendly and associated this with reduction of reoffending.

“It is important to make sure that the justice system is not only about punishing but also about rehabilitation and reintroducing children to society and being respectful citizens”. (Greece)

When the young people in the Netherlands were asked if a lawyer should be present in case of slight suspicion for a minor offence, they indicated that “a firm conversation with the police or father or mother could be enough.

“A child needs to know clearly that what he or she did, is really wrong. Some minor offences can be perfectly solved with parents, but not every offence”. (Netherlands)

Children in Greece mentioned how **restorative justice** could be a response to a situation of child committing a minor offense.

“Imagine that a child has stolen several things in a store, then the arrival of a lawyer is necessary. But it also depends on the seriousness of the incident. Returning to the store to apologize (restorative justice) is also an option, but then the conversation must be firm enough”. (Greece)

“Social programmes to work with the community for changing the negative mentality for children suspected/sentenced for penal acts when they return into society”. (Albania)

Children and young people expressed their concerns about **keeping criminal records** that might appear as stigmatising, jeopardise their reintegration in society and put an obstacle to access employment and being accepted within the community.

“Avoid the criminal record from children certificate of penal records. Otherwise, they will be prejudiced in the process of reintegration. Use work in public interest and work in general; provide more vocational courses as means of re-educations, also too many libraries in these institutions”. (Albania)

“The criminal record of juveniles should be cleaned; otherwise the mentality will prevent them from reintegration. They will not find jobs, courses; they will not be accepted from society. There is a lot of stigma in our communities, which is even more punitive for children”. (Albania 16-year-old boy)

d. Recommendations

When we asked children about their visions for achieving child friendly justice, they mentioned the following aspects:

Children agreed that **free access to a lawyer** for children in criminal proceedings should be the rule, in order to children to enable all children, without discrimination, to have access to information about their rights.

“Access to a lawyer free of charge for every child. Children up to 18 years of age in criminal proceedings are entitled to a free lawyer by default”. (Netherlands)

For certain categories of professionals, especially the law enforcement officers, children suggested that uniforms were a scary element for children, and they could adjust their dress code by **not wearing a uniform** to reduce the risk of intimidating the child.

“Specialist investigators where children are involved should be dressed as civilians and not wear uniforms (since it scares children)”. (Romania 24-year-old male)

Children mentioned the importance of making sure that the **needs and the situation of children were clearly assessed and understood** by the professionals, ideally by an external body.

“It is better to call in an external body that examines and assesses the situation and circumstances of the child at the police station”. (Netherlands)

“And something that will also take into account the child’s situation, mental health and the world of the child and will aim at the rehabilitation of the child without traumatizing it”. (Greece)

Children felt that it was important to have a certain level of **accountability of the system towards children** in order to build trust in the justice institutions. They suggested that this could be achieved by making sure that **professionals would take responsibility for their decisions** and that the justice system would actually be just for every individual child.

“Assuming responsibility”. (Romania, 23-year-old male)

“Simply put justice system that is just to every child”. (Serbia)

Children and young people felt important to properly invest in **specialising more the system and building the capacities of professionals** working with children in contact with the law. They mentioned either specialised units to be set up, such as **specialised departments** working for children and youth, and/or **specialised functions** such as investigators with skills in child-friendly communication and child-friendly approaches.

“Make a separate department for youth with specialised staff that can deal with these children in a pedagogically responsible way. It may look different, but it is also important to keep it serious.” (Netherlands)

Children told us that the **system needed to be simplified**, more **time-efficient** and be as much as possible **adjusted to the situation and the age** of children.

“Justice is adjusted to the age of a child.” (Serbia)

“Long waiting for children before they enter into session or interrogation”. (Albania)

“Procedures must be as simplified as possible and not just for the sake of a child but for the parents’ sake as well.” (Serbia)

Section 2

Terre des hommes and partners' priorities and recommendations

Key Priorities and Actions

This section contains four key priorities and a series of key actions for the European Commission, the Member States and other key stakeholders to achieve full recognition of children's rights in criminal, civil and administrative justice procedures. This aim can only be achieved on the basis of equality and non-discrimination of all children (1). Justice must not only be equal, but it must also be fair and appropriate to the needs and capabilities of the children involved (2). This includes also the application of justice in the case of children deprived of liberty (3). All these are the grounds on which we can build resilient, future-proof child-friendly justice systems for all children in Europe (4).

Key Priority 1 - Equality and Non-Discrimination

Child-friendly justice systems must ensure that **no children are "invisible"** before EU administrative and judicial institutions and that their particular circumstances are taken into consideration so that discrimination is actively redressed. **Effective data collection** to underpin targeted normative and policy changes; **non-custodial solutions** and **restorative justice** programs accessible for all children; **training and education** of officials and persons in contact with children, and community-based work are some of the critical measures to achieve a non-discriminatory child-friendly justice system for children in the EU.

Discrimination may be sourced in law (by intent or omission) or result from law enforcement and justice official's bias. Regardless, it is clearly a systemic issue that undermines children's rights and it needs urgent addressing. Equality and non-discrimination are at the heart of the EU values and strengths and are vital to every child-friendly justice system. **The EU justice and legal systems must thus embrace these values as baseline principles** and must be designed to address the vulnerability of, and access to justice for, children subject to discrimination and disparity as a result of social, political, racial, economic and cultural circumstances and lack of specific policies.

Key actions for the European Commission

- Produce a child-focused report to the European Parliament and the Council by June 2022 to assess if the Member States have taken the necessary measures to ensure equal access to justice for all children without discrimination and the effective implementation of procedural safeguards for children provided for in Directive 2016/800/EU²⁴ and of the rights of child victims provided for in Directive 2012/29/EU.²⁵
- Provide EU funding to national research institutes and organizations to engage in research and effective data collection on the application of justice measures, including restorative justice programs, to provide information for evidence-based policies, crucial in the development of protection measures tailored for especially vulnerable children in the justice system.
- Establish a Children’s parliament and/or Council, reaching out to children in contact with the law and including children from minority groups in particular, to ensure systematic involvement and participation of all children without discrimination in all justice-related laws and policy reforms efforts by the EU and Member States.
- Conduct an EU-wide research on how bias and discrimination affect children within civil, administrative and criminal justice systems, to inform decision making in the best interests of children.
- Promote the establishment of an EU-level Ombudsperson for children, with a special mandate to address issues related to children in contact with the law.

Key actions for the Member States

- Address in National Strategies discrimination within the criminal, civil and administrative justice systems – especially on the basis of race, ethnicity, political opinion, sex, gender identity, sexual orientation and disability, and develop actionable policies to address the overrepresentation of certain minorities in the justice system.
- Integrate in official curricula for initial and continuous training for lawyers, law enforcement, guardians, judges, social workers, and all professionals working with children involved in civil, administrative and criminal proceedings, compulsory modules related to non-discrimination of children, in line with the assessment of the best interests of the child in all cases. Assess specific training needs for different categories of professionals and provide capacity building, among others, on:
 - how to communicate with and accommodate for children with developmental disabilities,
 - how to recognise when contacting the family may not be in the child's best interests,
 - how to assess the needs of LGBTQI+ children at all stages of the proceedings
 - how to recognize when the child may need to be separated from the family if they are already present, and
 - the importance of waiting for an interpreter/cultural mediator before beginning questioning.
- Refrain from criminalising children for irregular entry or stay and eradicate any form of immigration detention and any separation from parents.
- Ensure that unaccompanied children are sent to appropriate shelters rather than to immigration detention.
- Improve, strengthen and promote access to durable solutions for children residing within the EU and in third countries, regardless of their migration status, by implementing the relevant provisions in the *Communication*

²⁴ Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings.

²⁵ Directive (EU) 2012/29 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.

on the Protection of Children in Migration²⁶ and strengthening safeguards for children in EU asylum, return, legal migration and integration policies, including clear references to the best interests of the child as a primary consideration taking into account the child's own assessment of its own best interest.

- Provide effective access to interpretation and intercultural mediation and assist children from ethnic minorities to navigate the justice systems.
- Ensure the accessibility and availability of inclusive restorative justice programs, where all children are enabled to participate, without discrimination, at all stages of criminal justice proceedings, including diversion and after care.²⁷

Key actions for other stakeholders

Civil society organisations:

- Establish active cooperation and collaboration among CSOs that work in various human rights areas to create synergies between CSOs working on the protection of children's rights and of minorities' rights.
- Provide tailored professional trainings and sensitisation activities for non-governmental organisations, including their own staff, to recognise and address issues of discrimination against children on the basis of gender, race and ethnicity, sexual orientation, and disability in the context of justice, to better understand the needs of children and ensure their equal access to justice.
- Ensure inclusive recruitment policies for the staff of organisations that work with children and particularly with children in contact with the law.

Key Priority 2 - Fair and appropriate justice for and with children

Fair and appropriate justice for children means creating a child-friendly justice system that is effective in preventing and responding to all forms of violence against children. Just as importantly, it means creating integrated child protection systems, and strong child protection, social welfare, health and education sectors that support all children who may interact with the justice system.

Violence against children encompasses all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.²⁸ **No justice is fair and appropriate if it includes violence against children**, be it in the form of inappropriate punishments of children or if key players are unaware of all the different kinds of violence. Guidelines, policies, awareness campaigns and other safeguarding mechanisms within the criminal justice system as well as with other parties (e.g. health professionals, schools, parents) need to be established to *safely prevent, detect, identify, report and treat cases of violence against children*. Effective measures should also examine possible pathways outside of the criminal justice system and take into account what will help a child the most. Education and training are critical to effectively

²⁶ Communication COM/2017/0211 final from the Commission to the European Parliament and the Council, The protection of children in migration.

²⁷ Council of Europe Recommendation CM/Rec (2018)8 concerning restorative justice in criminal matters, Rules 6, 18, 19, 27 and 28.

²⁸ See in particular the UNODC report on strategies and practical measures on the elimination of violence against children (February 2015), p.2.

detect and address cases of violence against children. Vulnerable children, as well as adults who care for them, can only react to a violent situation if they recognize it and know what options are available to them.²⁹

Frontline workers who interact with the child are in the best position to facilitate the child's access to fair and appropriate justice. Frontline workers are not limited to law enforcement; they can also be social workers, medical staff, teachers, guardians, prosecutors, judges, and the legal team who represents the child.³⁰ Despite the highest aspirations and intentions, frontline professions often struggle to perform their roles adequately when battling with resource challenges such as funding salaries and high turnover rates for professionals. This can prevent them from achieving the standards of excellence that will best serve the child.³¹ More secure and reliable funding is required to attract and retain the best talent for frontline worker roles and *support them to do their work well*.

Participation is required for the justice system to be truly fair and appropriate for children. This requires that the **voices of children are meaningfully heard**.³² Legislation and policies need to incorporate safe, effective, child-sensitive counselling, reporting and complaints mechanisms that not only permit, but also empower and engage children to be as informed and active a participant in the justice system as possible.³³ Information material on all aspects of the process, including restorative justice services and practices should be provided and conducted in child-friendly language, taking into account children's (cognitive) development and granting them the possibility to express themselves. Whenever possible, children should be consulted in the formulation of policies and prevention strategies as they offer a unique and important perspective to making these policies and strategies successful for their subjects.³⁴ Furthermore, **child-sensitive and child-friendly restorative justice services and practices** contribute to provide a safe space for children to express themselves and to be treated in full guarantee of their best interests. Restorative justice is particularly valuable to protect vulnerable children, empower them in identifying and managing emotions to prevent (and/or respond to) conflict and violence, give them a safe space to express themselves and to be heard when dealing with matters relevant to them.³⁵

²⁹ 'Justice for Children, Justice for All: Challenge to Achieve SDG16+', published June 2019, see in particular p. 33. Publication available at: https://www.strath.ac.uk/media/1newwebsite/departmentsubject/facultyofhumanitiesandsocialsciences/documents/The_Challenge_Paper.pdf.

³⁰ See inter agency guidelines by Child protection working group (January 2014). Publication available at: http://www.cpcnetwork.org/wp-content/uploads/2014/08/CM_guidelines_ENG_.pdf. See also Guidelines of Council of Europe program 'Building a Europe for and with children' (October 2011), p. 9. A child-friendly justice system is on the side of children offering help provided by competent, different professionals. Publication available at: <https://rm.coe.int/16804b2cf3>.

³¹ See EC report on the 13th European Forum on the rights of the child - Delivering for children: towards the European strategy on the rights of the child (held on 29 September - 1 October 2020 on-line), in particular p. 27. Report available at: https://ec.europa.eu/info/events/13th-european-forum-rights-child-towards-eu-strategy-rights-child-2020-sep-29_en

³² *Ibid*, p. 27.

³³ SRSG on Violence against Children, 'Prevention of and responses to violence against children within the juvenile justice system', 2015, p. 19. Publication available at: https://violenceagainstchildren.un.org/sites/violenceagainstchildren.un.org/files/expert_consultations/_harmful_practices/prevention_jjs_2016_web.pdf.

³⁴ See the UNODC report on strategies and practical measures on the 'Elimination of Violence against Children' (February 2015), p. 8. Report available at: https://www.unodc.org/documents/justice-and-prison-reform/14-08451_Strategy_eBook.pdf.

³⁵ This is emphasized by Communication COM/2020/258 final from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Strategy on victims' rights (2020-2025), "Restorative justice services provide victims with a safe environment to make their voice heard and support their healing process", p.6; The European model for restorative justice with juveniles (2014); Effectiveness of restorative justice practices: an overview of empirical research on restorative justice practices in Europe 2017, EFRJ; Implementing restorative justice with child victims (2016-2018); Pali, B., and Randazzo, S. (2018). Practical Guide – Implementing Restorative Justice with Children; any many more.

Key Actions for the European Commission

- Set an EU Platform for Children's Rights, with a special mandate to promote the implementation of a fair and appropriate justice for and with children.³⁶
- Provide European standards and funding for child-centred training activities for judicial and law enforcement authorities and other frontline workers, that emphasize collaboration between the different stakeholders and the excellence required to engage with vulnerable children. Such training programmes should incorporate, among other, children rights, the principles and implementation of child-friendly justice and reflect multidisciplinary topics that affect child development, neurological development, child well-being, and coordination among different proceedings a child may be involved in.
- In close coordination with the EU Platform on Victims' Rights, develop a set of comparable data on violence against children³⁷ reflecting all appropriate ethical standards and methods of data collection to be harmonised among Member States as well as the views and participation of children who can share experiences with incidents of violence respectful of the GDPR and the EU Charter of Fundamental Rights.
- Provide EU funding to support legal aid and assistance to children and families in need, to guarantee a fair access to justice for all children. Recognizing that sometimes the best interests of the child and the wishes of the family do not correspond, and thus legal needs of children may be separate and distinct from their families. Legal aid mechanisms should be designed to provide that kind of support.
- Develop templates for child-friendly and age-appropriate information to children on their rights and the principles of child-friendly justice in civil, criminal and administrative proceedings.
- Develop EU Guidelines to scale up, support and assist the EU Members States in adopting and implementing the Barnahus model as the standard service model to ensure a rapid and effective access of child victims and witnesses of violence and abuse to rights, adequate protection and care.
- Encourage States and provide EU funding to secure available restorative justice programs for children, while providing for the necessary human and financial resources. The use of restorative justice has proven to be cost effective when it is used as a diversionary measure or later when it results in less recidivism and in the use of alternatives for detention.

Key Actions for Member States

- Adequately fund resources for frontline workers who interact with the child while the child enters and is involved with the justice system, to provide increased salaries, attract best talent, lower turnover rates, incentivise a standard of excellence that benefits the wellbeing of the child.
- Provide child-friendly and age-appropriate information to children on their rights and the principles of child-friendly justice empowering them to be active participants whose voices are heard in all proceedings that affect their lives.
- Launch national campaigns and allocate adequate resources to child-led advocacy initiatives, to raise awareness on children's rights, targeted at both children as well as individuals who work with children, and on child-friendly approaches for child victims, witnesses and offenders in both traditional as well as innovative digital formats.
- Launch national campaigns, in partnership with civil society organisations, to raise awareness about what is considered "violence" and where affected children, caregivers, social workers or other affected parties can get

³⁶ Following the example of the recently launched EU Victims' Rights platform.

³⁷ Including guidance how to identify parental alienation and when it is considered violence.

help. Include platforms that are most appropriate for engaging with children and adolescents including digital platforms and communications venues used by children across ethnic and cultural divides.

- Reduce contact between child victims and perpetrators in criminal proceedings, e.g. by providing separate waiting rooms within the judicial and care institutions, following the model of Barnahus settings.
- Invest in the development and implementation of child-centred individual multidisciplinary needs assessment's tools and procedures that focus on risks and individual needs of the child, with the aim to identify specific protection and support measures, including the eligibility for restorative justice processes and the offer of a restorative justice option.³⁸
- Set up multidisciplinary coordination bodies to report annually to support a child protection system-strengthening approach, including prevention and early intervention to tackle all forms of violence against children.

Key Actions for other Stakeholders

Civil society organisations

- Advise in Member States on how to involve children trainings for social services staff, lawyers, judges, policies officers and any other authorities who interact with children to identify when children need support. Such training should focus on prevention, especially for police, as well as monitoring, release, and reintegration.
- Ensure cooperation between child protection services and restorative justice services, where restorative justice professionals should receive the adequate training and specialization to work with children, in order to better assess and understand children's needs, motivations and strengths; likewise, child protection and law enforcement actors should receive adequate training on restorative justice values, standards and practices³⁹
- Support Member States in developing child-led advocacy campaigns to raise awareness about violence against children, child-friendly approaches for children in legal proceedings, using child-friendly platforms and digital communication pathways.
- Engage young people and other stakeholders in identifying and addressing psychosocial distress related to release and reintegration and provide training for system actors on this topic.

³⁸ See in particular Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, art. 7; 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, art. 22.

³⁹ See Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, art. 20.

Key Priority 3 - Moving away from detention and deprivation of liberty of children towards alternatives measures and effective prevention, empowerment and rehabilitation

Between 1.3 and 1.5 million children per year are annually deprived of liberty on the basis of a judicial or administrative decision, while there are **more than 7 million children per year deprived of liberty**, in total.⁴⁰ This includes children in the administration of justice, children living in places of detention with their parents, children deprived of liberty for migration-related reasons, children deprived of liberty in care institutions (including institutions for children with disabilities), children deprived of liberty related to armed conflict, and children deprived of liberty for national security reasons.⁴¹ Although the research evidences that detention directly harms a child's mental and physical health,⁴² policies and practices continue to prioritise detention over alternative measures, as well as effective prevention, empowerment and rehabilitation.⁴³ Alternative measures and diversion mechanisms, including restorative justice programs, must be used to *prevent the detention of children*, which should only ever be used as a last resort.⁴⁴

Quoting the Independent Expert who led the UN Global Study, deprivation of liberty is deprivation of childhood and it should be used only in exceptional circumstances. However, deprivation of liberty is still largely used across all civil, administrative and criminal justice systems also in Europe. While in this section we focus on the criminal justice system – as the where we see major actions are yet to be undertaken, we strongly believe that the recommendations are and should be transferrable to deprivation of liberty in administrative cases, in particular for migrant and asylum-seeking children.⁴⁵

We urge the EC to promote the implementation – at national level – of the overarching recommendations developed by the UN Global Study on Children deprived of Liberty and to ensure the ultimate goal that no child is left behind bars.⁴⁶

Towards the actual use of detention as the last resort, it is imperative that **restorative justice responses** are not only accessible but are encouraged as diversionary measures and as alternatives to detention for children, pursuant to the recommendations of the UN Global Study on Children Deprived of Liberty.

Where children remain in detention, Member States must ensure that **detention institutions are regularly inspected** and held accountable in cases of violence against children.⁴⁷ Such institutions rarely have effective monitoring and accountability measures in place, and are often unregulated and closed to outside scrutiny.⁴⁸ Any

⁴⁰ UN Global Study on Children Deprived of Liberty (2019), p. IX and pp.260-261.

⁴¹ A large proportion are either detained for minor offences or are first-time offenders. Prevention of and responses to violence against children within the juvenile justice system, Office of the Special Representative of the Secretary-General on Violence Against Children (2012), p. 5.

⁴² UN Global Study on Children Deprived of Liberty (2019), pp. 2-13.

⁴³ Prevention of and responses to violence against children within the juvenile justice system, Office of the Special Representative of the Secretary-General on Violence Against Children (2012), p. 5

⁴⁴ This is a principle recognized by the Convention on the Rights of the Child; General Comment No. 24 (2019) on Children's rights in juvenile justice.

⁴⁵ Detention of children for migration related reasons is never in the best interests of the child and is a violation of their rights. See CMW/C/GC/4 – CRC/C/GC/23, UN Global Study on Children Deprived of Liberty (2019), Chapter 11, pp. 490-495.

⁴⁶ UN Global Study on Children Deprived of Liberty (2019), Chapter 9, and pp. 668-671.

⁴⁷ *Ibid*, Chapter 9, Prevention of and responses to violence against children within the juvenile justice system, Office of the Special Representative of the Secretary-General on Violence Against Children (2012)

⁴⁸ *Ibid*, p. 13.

child deprived of liberty must be the subject of an individual care plan that relentlessly pursues the goal of social integration and rehabilitation both during and after periods of custody.⁴⁹ Ultimately, it is imperative that children are regarded as children first, irrespective of the offence that has been committed.⁵⁰

Key actions for the European Commission

- Develop guidelines to guarantee the full implementation of the recommendations of the UN Global Study on Children Deprived of Liberty and set up a monitoring mechanism at European level to measure progress done by Member States, while supporting the implementation of a monitoring mechanism at global level.
- Support initiatives across Europe and provide funding aiming to implement recommendations of the UN Global Study on Children Deprived of Liberty
- Set up a Child and Youth Advisory Board at EU level to ensure that voices of children deprived of liberty and young people with experience with the justice systems are heard.
- Develop homogenous guidelines on diversion and non-custodial measures for children in pre-trial and post-trial (such as counselling and probation and educational programmes), by evaluating existing programmes and setting out promising practices
- Provide adequate funding to national children's organisations and relevant community-based organisations in respect of such diversion and non-custodial measures.
- Develop legislation and guidelines setting out promising practices to ensure Member States apply restorative justice approaches at all stages of proceedings – from diversion to after-care
- Provide adequate funding to train police officers, prosecutors, judges and prison personnel on non-violent treatment and restorative justice mechanisms and empower them to involve children's families in all stages of the proceedings.
- Encourage the establishment of appropriate national systems of data collection about children involved in criminal proceedings, and further develop an EU-wide database containing data on deprivation of liberty for children to exchange promising practices among Member States consistent with ethical and legal standards.
- Commission a study to support General Comment 24 and UN Global Study recommendations to raise the minimum age of criminal responsibility to at least 14 years or possibly higher, to reduce the number of children in detention.⁵¹

Key actions for the Member States

- Partner with Children and Youth advisory boards at national level to ensure that voices of children deprived of liberty and young people with experience with the justice systems are heard.
- Draft a plan of action at national level for the implementation of all recommendations of the UN Global Study on Children Deprived of Liberty including concrete measures and actions and concrete indicators to measure progress
- Set minimum age of criminal responsibility at 14 years at least, possibly higher, to reduce the number of children in detention.

⁴⁹ Guidelines on Children in Contact with the Justice System, International Working Group of the International Association of Youth and Family Judges and Magistrates (2017), p. 34.

⁵⁰ Report on 13th European Forum on the rights of the Child, Delivering for children: towards the European strategy on the rights of the child (held on 29 September - 1 October 2020 on-line).

⁵¹ UN Global Study on Children Deprived of Liberty (2019), p. 336 and General Comment 24 on Child Justice (2019) p.9

- Ensure that deprivation of liberty is only applied as a measure of last resort by guaranteeing and promoting the wide availability of non-custodial measures (such as home detention, deferral, mentoring, counselling, probation, community service work, vocational training programmes and family conferencing) and support this with training and support for all system actors.
- Ensure that restorative justice programs are accessible at all stages of the proceedings as a means to protect children, empower them, giving them a safe space to express themselves and to be heard when dealing with matters relevant to them. The cost effectiveness of such programs is clear, with research evidencing reduction of re-offending and recidivism and increase of offender compliance.
- Where detention is unavoidable, ensure that conditions of detention and the treatment of children respect the dignity and special needs of the child and eradicate the risk of violence by prohibiting all forms of inhuman or degrading treatment including corporal punishment, physical or psychological torture, or solitary confinement.
- Set strict time limits for detention of children at the stages of police custody (never longer than 24 hours), pre-trial detention (never longer than 30 days until formal charges are laid) and detention pending trial (with a maximum of six months between the initial date of detention and the final decision on the charges).
- Ensure children have access to effective procedural safeguards, are properly informed, have access to their families, lawyers, doctors and interpreters, are provided with free legal aid and assistance and have their needs assessed in a multidisciplinary way, throughout the whole proceeding and their time in detention
- Ensure effective complaints mechanisms and remedies to ensure children are able to seek redress for any violation of their rights in detention and are provided with adequate support throughout any such process.
- Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and establish National Preventive Mechanisms for monitoring places of deprivation of liberty
- Repeal all legislation which permits the deprivation of liberty of children by reason of status offences and actual or perceived disability, gender identity, race, religion, ethnicity or gender.
- Provide additional detention monitoring (over and above on-site visits) where detention is in place to consider the use of medication/drugs in detention, access to psychosocial support, availability of measures addressing diversity issues and interagency cooperation (child social services, police and the criminal justice sector) from a prevention and reintegration perspective, with a focus on non-discrimination.

Key actions for other stakeholders

Civil society organisations

- Establish independent watchdog bodies to research, monitor and investigate violence against children in detention and the effectiveness of measures taken especially as it relates to reintegration, recidivism and any type of discrimination (on the basis of gender, ethnicity, race, actual or perceived disability, sexual orientation, gender identity, or religion).
- Provide high quality, accessible, resourced and child-centred diversion and restorative justice programmes (including counselling, education and vocational training programmes), so that all children, without discrimination, are always offered an alternative to detention.

Key Priority 4 - How to build resilient, future-proof Child-Friendly Justice Systems in Europe

With a second wave sweeping Europe in the fall of 2020,⁵² the COVID-19 pandemic constitutes a global emergency that poses profound social, economic and political challenges for all Member States and across all sectors. In the justice sector, it has **exacerbated the vulnerabilities of child protection and child justice systems**, especially exposing to further victimisation children deprived of liberty. The crisis has therefore emphasised the need for measures to empower them as actors in justice systems and safeguard their health, safety and rights at all times. Such measures can be varied, e.g. release of children deprived of liberty (incl. pre-trial detention)⁵³; house arrest and other alternatives to detention facilities; alternative care services; identification of child services as essential services, etc.⁵⁴ At the same time, it has **precipitated innovations in the use of Information and Communication Technology (ICT)** in the administration of justice, such as e.g. child-friendly on-line support services; video interactions between children and their family, counsel, mediation, circles and other online restorative justice practices.⁵⁵ The EC should thus consider the pandemic as an opportunity, albeit unplanned and unwelcomed, to build truly resilient, future-proof child-friendly justice systems for all children in Europe.

Digital tools need to be explored also outside of the crisis setting, and impetus to learn *how to leverage technology to build child-friendly justice systems for the future* needs to be used.⁵⁶ Analysis shows that context-informed and locally adapted technology can help improve children's experience of the justice system, in particular by lifting barriers to access to justice for children. The use of these digital tools involves both risks and opportunities that need attention, while they must comply with child-friendly justice standards, fundamental procedural rights and they must always meet the best interests of the child. Such tools are varied and include e.g. virtual hearings to minimise the potential re-traumatisation of child witnesses or victims; e-Courts; use of CCTV closed-circuit television, video links and video recordings in courtrooms; games and virtual realities to help children cope better and to know their rights and understand what to expect when they are in an unusual environment, such as justice procedures; digital avatars to train professionals on child-friendly interactions, etc.⁵⁷ Such tools need to be evaluated and properly adapted for appropriate use in implementing non-discriminatory, fair and appropriate child-friendly justice systems in Europe while retaining the human element.⁵⁸ Properly implemented, even so-called "low-tech" innovations can provide the basis for significant steps towards ensuring child-friendly justice adapted to the future.

⁵² See the Situation Updates on COVID-19 provided by the European Center for Disease Prevention and Control, available at: <https://www.ecdc.europa.eu/en/covid-19/situation-updates>.

⁵³ See Policy Brief "Accelerate the release of children from detention – Protect children from Covid-19" accessible at <https://justicewithchildren.org/covid-19-advocacy/>

⁵⁴ Child detention centers in **Romania** announced the early release of children taking into account their credit for good behaviour; **Germany** has released prisoners who are close to the end of their sentences; **Albania** has introduced a normative act to facilitate the temporary residence in the house of prisoners; Accelerate Release of Children from Detention; Protect Children from COVID-19, Policy and Practice Brief.

⁵⁵ **France** has reduced the costs of phone and video calls, provided additional free calls, to make it easier for prison inmates to contact their families; **Bulgaria** has used alternate locations as hearing rooms to maintain physical distancing; Accelerate Release of Children from Detention; Protect Children from COVID-19, Policy and Practice Brief. See also "A call upon young people in the justice system to participate in Covid-19 times" on the impact of COVID-19 on children in the justice system in **The Netherlands**, available at <https://www.euforumj.org/en/call-upon-young-people-justice-system-participate-covid-19-times>

⁵⁶ Draft as of 13 August 2020 for General Comment No. 25 (202x), Children's rights in relation to the digital environment.

⁵⁷ Publication available at: <https://leidenlawblog.nl/articles/leveraging-technology-to-enhance-access-to-justice-for-children-in-africa>; Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, Ref. 59, 65.

⁵⁸ Draft as of 13 August 2020 for General Comment No. 25 (202x), Children's rights in relation to the digital environment.

Truly resilient child-friendly justice systems are equipped to deal with situations of crisis and rapid technological developments, but also the **consequences of violent extremism**. Children who were recruited by the group of the self-proclaimed Islamic State (ISIL) have been used to carry weapons, guard strategic locations, they have been subjected to sexual violence, forced marriage or exploited in suicide bombings.⁵⁹ When a child has been recruited by an armed group, regardless of their former activities or role, the primary emphasis of international law lies on providing rehabilitation to the child which can best be done in their home country.⁶⁰ Despite the fall of ISIL, it yet remains to *bring these children home*. Any child-friendly justice system that is resilient and future-proof needs to include all children.

Key Actions for the European Commission

- Launch a study to identify lessons learned from the COVID-19 pandemic and promising practices to safeguard children's rights in the justice sector in times of crisis.⁶¹
- Commission a study to collect data and provide EU guidelines, in collaboration with ICT partners, to explore how digital tools can be adapted for safe, appropriate and child-friendly use of technology in the implementation of child-friendly justice systems, and how these tools can be used to inform children of their rights in judicial procedures and ensure full implementation of their right to be heard.⁶²
- Strengthen cooperation between national authorities and support organisations of third countries and consular authorities of EU Member States to support children recruited by armed groups, including terrorist groups, to be able to return to their country and to access health, education and other services while awaiting return from displacement camps.

Key Actions for the Member States

- Develop a national Action Plan to safeguard children's rights in the justice sector in times of crisis incorporating lessons learned in the COVID-19 pandemic.
- Explore with ICT partners digital tools to inform children of their rights in judicial procedures and to train professionals on child-friendly justice.
- Study the appropriate use of technology adapted to fully meet and safeguard children's needs and rights in civil, administrative and criminal justice procedures and change procedural laws to permit and regulate such appropriate and adapted use, while ensuring proper safeguarding of children's rights.
- Develop specialized rehabilitation and reintegration services for child returnees, including health, education, vocational and social support that takes account of an individual child's gender, age and cultural background and ensure that rehabilitation programs do not differentiate between children affected by conflict and the rest of the children at risk.
- Take responsibility and action on behalf of children abroad who are their citizens and who may be detained on security-related offences or for association to armed groups, including children born to their nationals.

⁵⁹ Bringing Children Home: A children's rights approach to returning from ISIL, p. 1; the youngest child verified by the United Nations to have been recruited by ISIL to serve as a child soldier was four years old (ibid).

⁶⁰ *Ibid*, p. 2; 'Justice for Children, Justice for All: Challenge to Achieve SDG16+', published June 2019, see in particular p. 37. Publication available at: https://www.strath.ac.uk/media/1newwebsite/departmentsubject/facultyofhumanitiesandsocialsciences/documents/The_Challenge_Paper.pdf.

⁶¹ Report on the 13th European Forum on the rights of the child - Delivering for children: towards the European strategy on the rights of the child (held on 29 September - 1 October 2020 on-line).

⁶² Draft as of 13 August 2020 for General Comment No. 25 (202x), Children's rights in relation to the digital environment, section 18, 50 and others.

Key Actions for the other stakeholders

Civil Society Organisations

- Support the establishment of sustainable peer to peer children's groups to hear the voices of children and young people about the needs of children in criminal proceedings.
- Disseminate information about child justice in an accessible language for children, including age-appropriate, accessible digital content from a plurality of media and other sources.
- Engage with national justice organisations including child detention authorities to offer exchange of best practices and mutual training activities on children's rights in the justice sector in times of crisis.
- Engage with national authorities to allocate funding for the development of digital tools for the implementation and administration of child-friendly justice.
- Support professionals working with children in the justice system with training programmes to build/improve their digital skills and put them up to the same speed of children in the use of digital tools.
- Provide support to child returnees in cooperation with the relevant national authorities and promote awareness-raising campaigns on the situation of children detained in camps in Syria, Iraq and Libya to sensitize the general public to the issues at stake in terms of children's rights.

Appendix I

Selection of useful references

European Union

- EU Council conclusions on alternative measures to detention: the use of non-custodial sanctions and measures in the field of criminal justice (2019/C 422/06)
- Charter of Fundamental Rights of the European Union
- Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings
- Communication COM/2020/258 final from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Strategy on victims' rights (2020-2025).
- Directive (EU) 2012/29 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.
- Communication COM/2017/0211 final from the Commission to the European Parliament and the Council, The protection of children in migration.
- EC report on the 13th European Forum on the rights of the child - Delivering for children: towards the European strategy on the rights of the child (held on 29 September - 1 October 2020 on-line).

Council of Europe

- The *Guidelines* of the Committee of Ministers of the *Council of Europe* on *child-friendly justice*
- European Convention on the Exercise of Children's Rights.
- Council of Europe Recommendation CM/Rec (2018)8 concerning restorative justice in criminal matters
- European Model of Restorative Justice With Juveniles (2014)

United Nations

- UN Global Study on Children Deprived on Liberty Detention
- UNODC guidelines on Restorative Justice
- UNODC guidelines on violence against children in criminal justice systems
- UN Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")
- UN Guidelines for the Prevention of Juvenile Delinquency: The Riyadh guidelines
- UN Rules for the Protection of Juveniles Deprived of their Liberty
- UN Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)
- Convention the Rights of the Child
- UNODC report on strategies and practical measures on the elimination of violence against children (February 2015), p.15.

- UNCRC General Comment 24 on Child Justice (2019)
- UNCRC Draft General Comment No. 25 (202x), Children’s rights in relation to the digital environment
- SRSR on Violence against Children, 'Prevention of and responses to violence against children within the juvenile justice system', 2015
- UNODC report on strategies and practical measures on the 'Elimination of Violence against Children' (February 2015)
- Guidance Note of the United Nations Secretary-General: United Nations Approach to Justice for Children (2008)

Civil Society Organisations

- Terre des hommes Policy Brief “Accelerate the release of children from detention – Protect children from Covid-19” accessible at <https://justicewithchildren.org/covid-19-advocacy/>
- Terre des hommes Child Returnees Policy paper accessible at https://www.tdh.ch/sites/default/files/en_child_returnees_position_paper_ok_0.pdf
- European Forum for Restorative Justice and Terre des hommes, Joint Position Paper - EU Strategy on the rights of the child (2021-2024), (2020)
- The Pathfinders for Peaceful, Just and Inclusive Societies, with the Task Force on Justice' s Challenge paper on SDG 16+ available at: <https://justice.childhub.org/en/child-protection-online-library/justice-children-justice-all>
- European Forum for Restorative Justice, Effectiveness of restorative justice practices: an overview of empirical research on restorative justice practices in Europe 2017.
- PICUM Platform for International Cooperation on Undocumented Migrants, Children First and Foremost: A guide to realising the rights of children and families in an irregular migration situation (August 2013).
- Child protection working group, Inter agency guidelines for case management and child protection (January 2014).
- Berger, M., Defence for Children the Netherlands, “A call upon young people in the justice system to participate in Covid-19 times” on the impact of COVID-19 on children in the justice system in The Netherlands, in European Forum for Restorative Justice, Navigating the storm, together - Newsletter 2020/2, Reflections on COVID19 and restorative practices
- Pali, B., and Randazzo, S. (2018). Implementing restorative justice with child victims (2016-2018); International Juvenile Justice Observatory (IJJO).
- International Working Group of the International Association of Youth and Family Judges and Magistrates Guidelines on Children in Contact with the Justice System, (2017).
- Sabine, A. (2018), Leveraging technology to enhance access to justice for children in Africa. Universiteit Leiden (law blog).
- Child Advocacy Group, Position Paper “Bringing Children Home: A children's rights approach to returning from ISIL.

Appendix II

Facilitator's note and methodology for the consultation with children

PART I) FACILITATORS NOTES

1) **Purpose of consultation**

Within the framework of the General consultation on the upcoming EC strategy on the rights of the child (2021-2025), ensure that Tdh and its partners provide recommendations related to child justice.

Specific Objectives:

1. Ensure that children with or without experience in the justice system are heard, their opinions, their perceptions and inputs are reflected into the EC Strategy
2. Ensure that Tdh and its partners provide concrete suggestions, recommendations and observations to enhance child-friendly justice in the next 5 years

2) **Reminder: Nine basic requirements of rights-based participation**

A rights-based approach to child participation is set out in Article 12 of the Committee on the Rights of the Child and General Comment 12 on 'The right of the child to be heard' (2009). These documents provide the overarching theoretical framing our approach to research and advocacy that seeks to empower children and youth, in particular the **nine basic requirements** for the right of the child to be heard:

- 1) **Transparent and informative**
- 2) **Voluntary**
- 3) **Respectful**
- 4) **Relevant**
- 5) **Child-friendly**
- 6) **Inclusive**
- 7) **Supported by training**
- 8) **Safe and Sensitive to risk**
- 9) **Accountable**

⇒ For more detailed information, see: *Tdh Fundamental Elements for Child Protection Good Practice. Fundamental 1: Child Participation (2020)*.

3) Consultation modalities

The formats that the consultations take are intended to be adaptable and flexible in order to accommodate existing activities planned with children (for example, in the context of CABs).

The consultations could take place in a single session, or across multiple sessions. You can also adapt the format to be face-to-face or virtual (using Zoom, Google hangouts etc).

The consultations could be conducted as individual interviews, small group interviews (2-3 persons) , or focus group discussions (4+ participants).

- In this facilitator's pack, you will find:
 - o **Part II: Sample Session plan**
 - **NB: This is just a suggestion, it should be adapted to your context, time and needs. You do not need to implement all of the activities in the session plan. Feel free to select specific activities based on what is most relevant and feasible for you.**
 - o **Part III: Reporting template**
 - **NB: In light of the point above, please only fill in the parts of the reporting template that fit with the activities that you conducted in the session. It is fine to leave some things blank.**

4) Ethical dimensions

a. Confidentiality

- Participants are informed that all information shared during the session will be treated confidentially.
- Participants are informed that their views will be noted down anonymously. We won't provide any names or identifying information.

b. Informed consent

- Participants are provided with information about the EU strategy on the rights of the child in child-friendly language
- Participants are informed about the purpose of the consultation
- Participants are given time to ask for any clarifications
- Participants are asked for their informed consent to participate
- Participants are provided with information about where they can go if they seek additional support

c. Do no harm and provision of support

- We have the responsibility to ensure that no child or young person who takes part in these sessions endures any harm because of their participation.
- We should ensure that participants are provided with information about how they can follow-up if they have any specific requests for support that emerge after the consultation takes place.

PART II) SAMPLE SESSION PLAN

1) **Icebreaker**

This should be adapted based on if children know each other already or not; whether the consultation is taking place in face-to-face or virtually. You may already have some good icebreaker exercises to hand, please use what you are familiar with.

- **Example exercise:** Using a Google Jamboard, please let us know your name, age, where you are from, and if you were a type of fruit, what fruit would you be? (participants write on Jamboard/ post-its). Then, ask a volunteer to start by introducing themselves and explaining why they have chosen that fruit. Then ask them to 'throw the ball' to another participant by asking them to explain why they have chosen that fruit.

2) **Introducing the session and obtaining informed consent (10 mins)**

a. **Introduce the EU Strategy**

- **Suggested text:** *The European Union is working on a new strategy to help make Europe a better place for children. The EU Strategy on the Rights of the Child will provide the framework for EU action to better promote and protect children's rights. This strategy will contain a set of measures for the EU to implement, including the rights of the most vulnerable children, children's rights in the digital age, the prevention of and fight against violence, the promotion of child-friendly justice. It will also include recommendations for action by other EU institutions, EU countries and stakeholders.*

b. **Introduce the purpose of the exercise**

- **Suggested text:** *We would like your help in telling the EU what are the most important things that should be included in the EU Strategy, specifically on the topic of child-friendly justice. By participating in this session today, we would like to capture your views and opinions and share them with decision-makers at the EU who are writing the strategy. We will do this anonymously, that means that we will not share your name or any identifying information, we will only share your views.*

c. **Inform about intention to record (if you are using recording)**

- **Suggested text:** *We would like to record this session to help us in writing up the answers of this session. However, this recording will not be shared with anyone outside of our organisation. It will be kept private, and we will delete the recording on 31st December 2020. For online sessions, if you are not comfortable having your face or video on the recording, then feel free to leave the video off, or remain on mute, and use the chat box to share your views. Also, if we use a Jamboard, this is also anonymous.*

d. Inform them about consent.

- **Suggested text:** *Even if you decide to participate, you are free to answer whatever questions you like. There is no obligation for you to answer any question. Also, even if you agree to start this session with us today, you are free to stop participating at any point of the discussion, just let us know and you can leave the virtual session or sit on the side of the room and observe until we are finished.*

e. Ask participants if they understand, if they have any questions.

f. Ask participants for their consent to participate.

- **Suggested text:** *Please could you let me know that you agree to participate. You could do this by raising your hand, or writing 'I agree to participate' in the chat box. Whatever you feel comfortable with.*

3) Defining child-friendly justice (10 - 15 mins)

This is an opportunity to hear from participants what 'child-friendly justice' means in their own terms.

- **Ask** *"When we say the words 'child-friendly justice', what are the things that come to your mind?"*
- **Ask** *"If you could describe 'child-friendly justice' in one sentence, what would you say?"*
- **Take note** of participants responses (or ask them to note it using an interactive white-board)
- **Ask** *"Do you see any similarities, any themes?"*

4) Priority issues & challenges in achieving child-friendly justice (20 mins)

This is an opportunity to explore what participants feel are the most important challenges and barriers to achieving child-friendly justice, and to prioritise them. You can start with a brainstorm of issues, and then work with participants to rank them from most important to least important.

NB: In these types of exercises, **it's important to remind participants that there are no right or wrong answers.** Everyone's view is important, and if participant don't agree on something, that is ok, and that several things can have an equal ranking in the list of priorities.

- **Ask** *"In your opinion, what are some of the issues, challenges or barriers that prevent child-friendly justice?"*
- NB: Feel free to narrow this down to speak about issues facing specific groups of children (for example, victims, or suspects, or children deprived of liberty)
- **Suggested text for ranking:** *"This is great to hear all of the things that you have mentioned. I wonder, do you think that some of these points are more important than others? Let's try to rank them, in order of most important to least important. There are no right or wrong answers here, and if for some reason we don't agree, we can keep things at equal level in the ranking."*

5) **Recommendations (20 mins)**

Now that participants have had a chance to think about and analyse what are the barriers and challenges to achieving child-friendly justice, we now want to see what sort of solutions they propose.

- **Suggested text:** *"From the previous exercise, we can see that there are a lot of problems and challenges that are preventing child-friendly justice from becoming a reality in Europe. Could we now start to think together about what solutions may be possible to resolve those issues?"*
- **Ask:** *"What, in your opinion, would be the most important action that you think is needed to create positive changes in the child-justice system in Europe?"*
- **Ask:** *"Imagine that you could speak to the Minister of Justice in your country and recommend one thing that would have a positive impact on the lives of children in contact with justice systems. What would you recommend?"*

6) **Imagining the future of child-friendly justice in Europe (open timing)**

This is a chance to allow participants to be creative in imagining the future of child-friendly justice. This can be an exercise conducted during a session, or offered as a 'take-away' activity that participants could prepare in their own time and submit the following days (bearing in mind the reporting deadline).

- **Suggested text:** *"Imagine that, in 2025, across all countries in Europe, the vision of child-friendly justice has been implemented. What does this look like? How is this world different from today's world? What are children doing in this world? What are adults doing in this world? Please illustrate this in whatever way you like: you can draw a picture, or write a story, or make a video, or perform a play. It is up to you!"*



7) **Wrap-up (5 mins)**

The wrap-up is intended to thank participants, inform them of next steps, and let them know what they can do if they have further questions or thoughts that emerge following their participation in the session.

- **Suggested text** *"Thank you all for participating in this session. It has been very helpful to understand what are the most important things for you all in terms of achieving child-friendly justice in Europe. We were consulting with other children in different countries, and in the next few weeks we will be bringing all of your inputs together, and we will share this with the European Commission in the form of a report. In December, we will share with you the final report that is submitted so that you can see how we have made use of your inputs, and also so that you can see what other children in other countries have said. If you have any other questions or thoughts about this, please feel free to contact your mentor / contact me by sending a message / email... Thank you again for your very precious time today!"*

Every child in the world
has the right to a childhood.
It's that simple.

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