



FOCUS Standards

Individual assessment – a gateway to a child centered justice



Working together
for children in criminal
proceedings

December 2021



Terre des hommes
Helping children worldwide.



FOCUS is co-funded by the Rights, Equality, Citizenship Programme of the European Union (2014-2020)

Disclaimer

FOCUS Standards: Individual assessment – a gateway to a child centered justice represents the views of the author only and is his/her sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.



Table of Content

Table of Content	3
Acknowledgments	4
About the FOCUS project	5
Introduction	7
How can the FOCUS Standards support your work?	7
Form of the standards	8
Background to the Standards:	9
Overview of Individual Assessment of the circumstances and the needs of children	9
Individual assessments in a nutshell	
1.1 Profile: Laws and guidance	9
1.2 Profile: Key elements of the process for undertaking individual assessments concern	10
1.3 Profile: The system underpinning individual assessment processes	13
1.4 Profile: Individual assessments from the perspective of the practitioners	13
1.5 Profile: The child’s perspective	14
The FOCUS Standards	15
Overview of the Standards	15
Standard No. 1: Holistic and Comprehensive	17
Standard No. 2: Inclusive	18
Standard No. 3: Participatory	19
Standard No. 4: Child-centred and child sensitive process	21
Standard No. 5: Continuous and timely	22
Standard No. 6: Multidisciplinary and collaborative	23
Standard No. 7: Quality	25
Standard No. 8: Properly resourced and sustainable	26
Standard No.9: Impact oriented	27
Standard No. 10: Progress-oriented (Contribute to learning)	Error! Bookmark not defined.



Acknowledgments

These **Standards** have been developed as part of the FOCUS project and are a component of a set of **FOCUS tools and resources**. This version was developed for the piloting process to be undertaken in FOCUS in 2021 in Bulgaria, The Netherlands, Serbia, Romania and Greece. We intend to accumulate and reflect knowledge and resources relevant to the Standards during the course of the project and publish a final version once the project is completed in 2022.

Rebecca O' Donnell (Child Circle), took a lead role in the development of the Standards, while receiving valuable input from the FOCUS experts Silvia Randazzo , Child Justice Expert, Annemieke Wolthuis, Research, mediator and trainer Mariama Diallo, Regional Programme Manager Access to Justice, Regional Office of Terre des hommes for Europe and Orinda Gjoni, FOCUS Regional Project Coordinator and our partners – Child Rights Centre (Serbia), Defence for Children (The Netherlands), SAPI (Bulgaria), Terre des hommes Hellas and Terre des hommes Romania.



About the FOCUS project

FOCUS¹, a European Union co-funded project (2020 – 2022), centred on promoting and supporting the implementation of EU legal obligations to carry out **individual assessments of the needs and circumstances of children involved in criminal proceedings, whether as victims, suspects or accused**. These obligations are set out in three EU Directives concerning combating sexual abuse and exploitation of children², victims' rights³ and procedural safeguards⁴ respectively, as transposed into, and sometimes complemented by, national law.

The **ultimate objective** of the project is to support child-centred justice, and ensure that children in contact with the law, as victims and as offenders, receive individualised care, and have access to personalised support and responses, including through restorative justice processes. FOCUS partners see the implementation of **robust and multidisciplinary individual assessment process as a gateway into child centred justice**. FOCUS sought in particular to:

1. Make systematic individual assessment practices of more common application with children involved in criminal proceedings.
2. Build the knowledge, capacities and skills of youth justice professionals, about standards, tools, procedures and process in the use of multidisciplinary individual assessment with children in criminal proceedings.
3. Build the knowledge and capacities of children about their rights in the criminal justice system and empower children to be agents of change and advocates for child-centred justice.

The project facilitated learning through international mutual exchange of practices between the five target countries: Bulgaria, Greece, Serbia, Romania and The Netherlands. FOCUS partners identified gaps between theory and practice on the implementation of individual assessment practices, gaps which were addressed by providing professionals with new, practical tools and resources to apply and systematize individual assessment process and practice in their countries.

The main FOCUS tools and resources developed are:

1. The FOCUS Standards: provide guiding principles for undertaking individual assessments for children involved in criminal proceedings, including respect for the Charter of Fundamental Rights and the UN Convention on the Rights of the Child (tool)
2. The FOCUS Standards self-reflection tool: accompanies the FOCUS Standards and supports stakeholders and professionals in reflecting on how the Standards are fulfilled or can be better fulfilled in their practice or in their national systems (tool).
3. The FOCUS Mapping Tool: helps stakeholders review the state of development of individual assessment processes (tool)
4. The FOCUS reference table for progress helps stakeholders identify actions to achieve improvements (tool)
5. The FOCUS pilot planning tool: helps stakeholders plan pilot activities to improve individual assessment processes (tool)

¹ <https://tdh-europe.org/our-work/focus-on-my-needs-working-together-for-children-in-criminal-proceedings-/7144>

² EU Directive 2011/93 on combating the sexual abuse and sexual exploitation of children and child pornography.

³ EU Directive 2012/29 establishing minimum standards on the rights, support and protection of victims of crime.

⁴ EU Directive 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings.



6. The FOCUS research summary on individual assessment with children in Europe (resources)
7. International human rights standards applicable on individual assessment practices (resources)
8. Q&A Individual assessment – a gateway to a child centered justice: key concepts and frequently asked questions (resources).
9. The Focus capacity building resources: the Focus Training Handbook, Focus on-line platform and the Focus e-learning module.



Introduction

EU law has established obligations for undertaking individual assessments of the circumstances and needs of child victims, child suspects or those accused of a crime. The law sets out key elements for the obligation but does not specify in detail who should carry out these assessments and how. When implementing these obligations at the national level, it is Member States that must identify the form and manner in which these assessments will be undertaken. Importantly, the implementation must ensure that the key elements set out in EU law are fulfilled in national systems and practice.

Consequently, the FOCUS Standards have been developed in line with EU law to provide guiding principles for undertaking individual assessments for children involved in criminal proceedings, including respect for the Charter of Fundamental Rights and the UN Convention on the Rights of the Child.

They represent the foundational building blocks for improving the development and implementation of national individual assessment processes and practices. They are general standards, which national individual assessment processes should fulfil. The standards were designed to work in the context of different national models, to be flexible, and to assist in practical progress, rather than to provide abstract guidance.

Resources for Inspiration for standard development:

- ◆ Promise Quality Standards
<https://www.childrenatrisk.eu/promise/wp-content/uploads/sites/4/2018/04/PROMISE-Barnahus-Quality-Standards.pdf>
- ◆ ProGuard guardianship PAS
- ◆ PAS : <https://www.egnetwork.eu/wp-content/uploads/2019/10/PAS-tool.pdf>
- ◆ How the PAS can be used and piloted and outcomes
<https://www.egnetwork.eu/wp-content/uploads/2019/10/Pilot-PAS-Report.pdf>

How can the FOCUS Standards support your work?

Broadly speaking, the Standards can help support authorities and practitioners (i) in developing processes for undertaking individual assessments, (ii) in conducting individual assessments in line with children's rights, and (iii) in using individual assessments to ensure that the rights and needs of children are fulfilled.

The Standards can be used in a variety of other different ways, including:

- i. Raising awareness of individual assessment obligations
- ii. Helping to evaluate the state of development of individual assessment processes and where improvements might be needed (see also FOCUS Tool on identifying the state of development of individual assessment processes and the FOCUS Reference Table for Progress)
- iii. Supporting professionals to build individual assessment processes
- iv. Supporting professionals in developing or using individual assessment tools
- v. Supporting professionals in working together to conduct, contribute or use individual assessments



- vi. Supporting individuals in their own work to play an improved role in conducting, contributing to or using individual assessments
- vii. Supporting training for professionals
- viii. Supporting the monitoring of individual assessment processes
- ix. Supporting stakeholders in sharing knowledge and information between countries

The Standards can be used in an ongoing way and allow for incremental progress, as well as serving as a framework for further exchange between professionals nationally.

Across Europe, the Standards could provide a useful framework for exchange on noteworthy national practice. If periodically revised, they can be used to continue to accumulate good practice.

To support the practical use of the Standards, the accompanying FOCUS Standards Reflections Tool has been developed to help professionals and stakeholders in considering the application of the Standards in their work.

Form of the standards

The Standards take the following form:

1. Principle (key term) and the Standard (statement of principle, formulated from a child's rights perspective)
2. Rationale (description of rationale for standard)
3. Indicators (a series of indicators showing different ways in which the standard might be fulfilled, taking into account different models).

We aspire for the Standards to become a living document. The bodies of indicators may continue to grow in future revisions of this document, and they may be further organised into different categories including (i) commitments and acceptance of international human rights standards (structural indicators), (ii) efforts in practice that are being made to meet the obligations that flow from the standards (process indicators) and (iii) indicators, which help measure the results of those efforts (outcome indicators). We also hope to add references to useful resources, including from noteworthy law, policy and practice.

The Standards are preceded by a background overview of individual assessment processes, with particular reference to the key elements of the individual assessments themselves, as well as the general measures which should be in place to ensure individual assessments are properly conducted and used. As further context, we also briefly identify the issues of professionals and children that arise in connection with, and that may be addressed by, individual assessments.



Background to the Standards: Overview of Individual Assessment of the circumstances and the needs of children

Individual assessments in a nutshell

Under EU and international law, individual assessments involve reviewing the individual circumstances of the child involved in criminal proceedings – whether as victim, suspect or accused – for the purpose of determining (i) what special procedural safeguards are needed in criminal justice proceedings and (ii) what special measures are needed to address the child’s situation (child welfare/protection needs).

Individual assessment processes are a key means to ensure that the best interests of the child are a primary consideration in all actions concerning the child, as is required by EU and international law.

International guidance and good practice underscore the importance of a child-centred, multidisciplinary and inter-agency case management approach in the field of child justice.

This supports the coordination of the two responsibilities, which the State should simultaneously fulfil when they are addressing a child – namely the justice proceedings in which the child is involved, and the child welfare/protection concerns that arise from their situation.

Individual assessments should draw from and contribute to these child-centred, multidisciplinary and inter-agency approaches.



1.1 Profile: Laws and guidance

EU laws establish obligations for undertaking individual assessments. They set out key elements for the obligation, but do not specify who or how these assessments should be carried out. It is for Member States, when implementing these obligations at national level, to identify the manner in which these assessments will be undertaken.

Key laws

Article 22 of Directive 2012/29/EU, which establishes minimum standards on the rights, support and protection of victims of crime (Victims' Rights Directive)

Article 19 of Directive 2011/93/EU on combating the sexual abuse and exploitation of children and child pornography

Article 7 of Directive (EU) 2016/800, which establishes procedural safeguards for children who are suspects or accused persons in criminal proceedings (Procedural Safeguards Directive)

1.2 Profile: Key elements of the process for undertaking individual assessments concern

From the EU obligations to undertake and use individual assessments of the circumstances and needs of children, we can identify the following key elements that make up any process for undertaking and using individual assessments

What is the purpose of the assessment?

- ◆ To ensure children can access their procedural rights under the EU Directives,
- ◆ To ensure that the specific needs of children concerning protection, education, training and social integration are taken into account (Procedural Safeguards Directive)
- ◆ Serve to establish and to note, in accordance with the recording procedure in the Member State concerned such information about the individual characteristics and circumstances of the child as might be of use to the competent authorities when (a) determining whether any specific measures to the benefit of the child is to be taken; (b) assessing the appropriateness and effectiveness of any precautionary measures in respect of the child (c) taking any decision or course of action in the criminal proceeding, including when sentencing (Procedural Safeguards Directive)
- ◆ To identify specific protection needs and to determine whether and to what extent they will benefit from special measures during criminal proceedings (Victims' Rights Directive)
- ◆ To engage children in the process, with a view to empowering them to participate better in the proceedings as a whole.



Who **uses** the assessment and for what purpose?

- ◆ The competent authorities when (a) determining whether any specific measures to the benefit of the child are to be taken (b) assessing the appropriateness and effectiveness of any precautionary measures in respect of the child (c) taking any decision or course of action in the criminal proceeding, including when sentencing (Procedural Safeguards Directive)
- ◆ To identify specific protection needs and to determine whether and to what extent the child would benefit from special measures in the course of criminal proceedings; child victims are assumed to have specific protection needs and undergo the assessment to identify whether and to what extent they will benefit from special measures (Victim's Rights Directive)
- ◆ Various authorities in different countries may be involved in implementing and contributing to these decisions. Therefore, it will sometimes require a number of agencies working together.
- ◆ It is important to recognize that the individual assessment is also very relevant to the persons and professionals assisting the child, such as the child's legal adviser, family members and guardians, in cases where they are involved.

Who **undertakes** the assessment?

- ◆ The assessment is triggered by criminal proceedings
- ◆ The assessment is carried out by qualified personnel following as far as possible a multidisciplinary approach (Procedural Safeguards Directive)
- ◆ Does not specify (Victims' Rights Directive)

What is the **scope** of the assessment?

- ◆ It shall take into account the child's personality and maturity; the child's economic, social and family background and any specific vulnerabilities; the extent and detail of the assessment may vary depending on the circumstances of the case, the measures that can be taken if the child is found guilty of the alleged criminal offence, and whether the child has in the recent past been the subject of an individual assessment (Procedural Rights Directive)
- ◆ The special circumstances of each particular child victim, taking into account the child's views, needs and concerns (Sexual Abuse Directive)

What is the **role and rights** of the **child**?

- ◆ Close involvement of the child; the holder of parental responsibility or another appropriate adult and/or a specialized professional (Procedural Safeguards Directive)
- ◆ Close involvement of the victim; taking into account their wishes, including where they do not want to benefit from special measures (Victims' Rights Directive)
- ◆ Takes into account the child's views, needs and concerns (Child Sexual Abuse Directive)



When is the assessment undertaken?

- ◆ At the earliest appropriate stage of the proceedings and before indictment, with some exceptions; for example: if the elements that form the basis of the individual assessment change significantly, the assessment should be updated throughout the proceedings (Procedural Safeguards Directive)
- ◆ Victims should receive a timely assessment; if the elements that form the basis of the individual assessment change significantly, the assessment should be updated throughout the proceedings (Victims' Rights Directive)
- ◆ It should nevertheless be possible to present an indictment in the absence of an individual assessment provided that this is in the child's best interests. For example, where a child is in pre-trial detention and the wait for the individual assessment to become available would risk unnecessarily prolonging the child's detention. (Procedural Safeguards Directive)

Exceptions

- ◆ Under the Procedural Safeguards Directive, Member States should be able to derogate from the obligation to carry out an individual assessment where such a derogation is warranted in the circumstances of the case, taking into account, inter alia, the seriousness of the alleged criminal offence and the measures that could be taken if the child is found guilty of such an offence, provided that the derogation is compatible with the child's best interests.
- ◆ In that context, all relevant elements should be taken into consideration, including whether or not the child has, in the recent past, been the subject of an individual assessment in the context of criminal proceedings or whether the case in question may be conducted without an indictment.

Conclusion

Building on the above elements, the FOCUS Standards were devised with the aim of fulfilling the obligations relating to conducting and using individual assessments as a **process**, rather than a one-off step; and being carried out in a multidisciplinary way and used by a range of professionals involved in discharging their responsibilities that pertain to the child throughout the criminal proceedings.

Looking at these elements for child victims, child suspects and the accused, we can see that the same general principles can help guide the individual assessment process, and can be used for all children involved in the justice proceeding, no matter what their role is.

At the heart of all individual assessment processes is the need to focus on the circumstances of each child, empower the child to access their procedural rights, and to equip the various agencies and professionals involved in the process with the information they need to help them decide and implement the specific measures that are called for.



1.3 Profile: The system underpinning individual assessment processes

To fulfil the obligation of undertaking and using individual assessments, a system should be in place, and its elements should include:

- 1) Law (clear obligation)
- 2) Procedures (definition of who, when, how, what, where, and for what purpose)
- 3) Coordination protocols (as individual assessment processes typically rely on different actors working together to undertake, contribute to, use, and follow up with individual assessments)
- 4) Tools and practices (such as case management tools or checklists)
- 5) Skilled professionals (training)
- 6) Specific resources, (e.g. special cases and needs)
- 7) Accountability mechanisms, monitoring and review

Further reading

General comment no 5 of the UN Committee on the Rights of the Child concerning General Measures of Implementation (see further FOCUS Tool on identifying the state of development of individual assessment processes)

1.4 Profile: Individual assessments from the perspective of the practitioners

Professionals involved in or concerned by or using individual assessments include:

- ◆ Police officers
- ◆ Lawyers
- ◆ Social workers
- ◆ Prosecutors
- ◆ Judges
- ◆ Forensic interviewers
- ◆ Probation workers
- ◆ Health professionals (including doctors and psychologists)
- ◆ Persons working in pre-trial detention centres
- ◆ Persons working in institutions to which children are sent
- ◆ Persons involved in providing services to children



Questions for professionals about the individual assessment may include:

- ◆ How do I contribute, conduct or use the assessment to help the child access their rights?
- ◆ What knowledge do I need in relation to the responsibilities and influence I have on the child's situation? (e.g. for procedures/safeguards/outcomes)
- ◆ How do I gain knowledge about a child's needs and their situation?
- ◆ What role do I play in relation to the individual assessment? Should I:
 - ◆ Undertake an assessment?
 - ◆ Contribute to an assessment?
 - ◆ Support the child during the assessment?
 - ◆ Address the special needs of a particular child during the assessment (e.g. interpreter)?
 - ◆ Update the assessment at a later stage in the proceedings?
 - ◆ Use the assessment?
 - ◆ Work with other professionals to use the assessment?

1.5 Profile: The child's perspective

Children concerned by individual assessments include:

- ◆ Child victims
- ◆ Children who may be victims
- ◆ Child suspects
- ◆ Children who have been accused

Questions for the child about the individual assessments may include:

- ◆ Am I informed? Do I understand the process?
- ◆ Am I supported? By whom and in what way?
- ◆ Have my special needs in relation to an assessment been addressed?
- ◆ Have I been asked for consent to participate in an assessment and respond to questions posed?
- ◆ In what ways am I able to participate?
- ◆ How child friendly is the assessment process?
- ◆ Are my views being heard?
- ◆ Are my views being respected?
- ◆ Can I access the information about myself?
- ◆ How is my privacy being respected?
- ◆ How does the assessment ensure that I can access my rights in the criminal proceedings?



The FOCUS Standards

Overview of the Standards

STANDARD 1. HOLISTIC AND COMPREHENSIVE

Whether as victims or accused or as suspects, children involved in criminal justice will benefit from an individual assessment of all of their circumstances for the purposes of taking the necessary measures to meet all of their needs and fulfil their rights during the criminal justice, child protection and welfare proceedings arising from the crime.

STANDARD No. 2 INCLUSIVE

The process of undertaking and using individual assessments will be adapted as necessary so that they take into account the needs of all children, regardless of their age, nationality, personal circumstances or characteristics.

STANDARD No. 3 PARTICIPATORY

Providing children with information, support and assistance helps empower them to access their rights. This should be achieved by engaging children, listening to them, taking account of their views, and gaining their consent.

STANDARD No. 4 CHILD-CENTRED AND CHILD SENSITIVE PROCESS

The individual assessment should take place in a manner that is centred on the needs of the child. The best interests of the child should be a primary consideration throughout.

STANDARD No. 5 CONTINUOUS AND TIMELY

The individual assessment should take place at the earliest possible moment and may need to be updated. The assessment itself contributes to actions throughout the criminal proceedings and beyond.



STANDARD No.6 MULTIDISCIPLINARY AND COLLABORATIVE

The child should benefit from an individual assessment, which involves a multidisciplinary and collaborative approach by the professionals involved.

STANDARD No. 7 QUALITY

The individual assessment is undertaken by qualified, trained personnel.

STANDARD No. 8 PROPERLY RESOURCED AND SUSTAINABLE

The individual assessment should be a process with properly allocated resources in terms of capacity building and inter-agency cooperation.

STANDARD No. 9 IMPACT ORIENTED

An individual assessment is undertaken as a specific means to produce concrete outcomes to meet the needs and fulfil the rights of children.

STANDARD No. 10 PROGRESS-ORIENTED (CONTRIBUTE TO LEARNING)

A regular review of experiences under the individual assessment process will lead to systemic improvements in responding to the needs of children in the criminal justice proceedings.



Standard No. 1: Holistic and Comprehensive

Whether as victims or accused or as suspects, children involved in criminal justice will benefit from an individual assessment of all of their circumstances for the purposes of taking the necessary measures to meet all of their needs and fulfil their rights during the criminal justice, child protection, and welfare proceedings arising from the crime.

Notes on rationale:

When children are involved in criminal justice proceedings, whether as victims or child suspects/accused, the State has an obligation to fulfil both criminal justice responsibilities and child welfare/protection responsibilities.

An assessment of the child's individual circumstances (individual assessment) functions as a gateway for all children into any criminal justice and child protection proceeding that may arise from an alleged offence. The needs of the child will be assessed from the outset. The assessment also serves to ensure that children are able to access their rights to child-sensitive justice proceedings and any necessary social, protection and educational measures and resources that are available.

Consequently, the assessment should take into account: (i) the overall circumstances of the child and (ii) be geared towards all of the relevant responsibilities the State has to the child in relation to the issue prompting the proceedings (criminal justice/child protection) and (iii) it should seek to ensure that all necessary measures to address the needs and rights of the child can be properly evaluated (a holistic and comprehensive approach).

In particular, it should take into account the child's personality and maturity level, the child's economic, social, and family background, as well as any specific vulnerabilities the child may have.

INDICATORS

- ◆ The scope of the assessment should be sufficient to take into account the child's situation as a whole
- ◆ Adequate sources of information on the child's circumstances
- ◆ Adequate time to undertake the assessment
- ◆ Similar processes for all children, namely both child victims and child accused/suspects
- ◆ Involvement of both criminal justice and child protection/welfare actors
- ◆ Availability of information to both criminal justice and child protection/welfare proceedings
- ◆ Assessment should specifically address all needs of the child and to consider all appropriate measures (e.g. social, protection or educational) throughout the proceedings



Standard No. 2: Inclusive

The process of undertaking and using individual assessments will be adapted as necessary so that they take into account the needs of all children, regardless of their age, nationality, personal circumstances or characteristics

Notes on rationale:

Child suspects, those accused of a crime, and sometimes victims, may be the subjects of discrimination, depending on their individual characteristics or social circumstances.

No child should be excluded from an individual assessment process on the basis of their personal characteristics or social circumstances.

The individual assessment is an important tool that can be used to ensure that the proceedings properly address the specific circumstances of children. The assessment can also help identify any difficulties or vulnerabilities a child may have.

Equally, individual assessments must be adapted as necessary to take into account the specific needs of children. In some cases, the individual assessment process may require additional expertise or sources of information. For example, a child with special needs may require the involvement of special support during an assessment. A migrant child may need the assistance of an interpreter. Cultural mediators may also play an important role in helping decipher the circumstances of a child from another country.

INDICATORS

- ◆ All children receive an individual assessment
- ◆ Equal treatment is ensured in the conduct and use of the individual assessment process
- ◆ The individual assessment process is adapted to the child's particular issues, which include but are not limited to: gender issues, LGBTI issues, medical needs, and the circumstances of ethnic minorities such as Roma children
- ◆ Special steps or measures are in place to address the situation of children with specific needs (e.g., adapted procedures for children with disabilities)
- ◆ The individual assessment process may involve specialized expertise where necessary
- ◆ The individual assessment process may involve additional resources where necessary (e.g. interpreters)
- ◆ The individual assessment process identifies the needs of the child for the purposes of their participation in the process
- ◆ The individual assessment process may involve specialized tools (e.g. for younger children and those with children with developmental challenges)
- ◆ Training in individual assessment processes equips professionals with the tools they need to ensure non-discrimination and increases their capacity to address the specific needs of the child



Standard No. 3: Participatory

Providing children with information, support and assistance helps empower them to access their rights. This should be achieved by engaging children, listening to them, taking account of their views, and gaining their consent.

Notes on rationale:

The individual assessment process should serve as a central means to ensure that the child is able to participate in the criminal proceedings as a whole and access the procedural safeguards that are in place for them.

Children should be listened to in all matters that concern them. The individual assessment should closely involve the children, and be carried out in a way that takes into account their views, needs and concerns.

In order to ensure that the child has an opportunity to participate in the individual assessment, the child should receive information and advice about the assessment process, including legal assistance, particularly to the extent that the assessment covers any circumstances that might be pertinent to the adjudication of the child's criminal responsibility.

The child should also receive the support of an independent guardian in cases where there is a conflict of interest with the parents or if no parent(s) is present.

The child's consent to participate in the individual assessment should be sought. The child should have a right not to participate in the individual assessment if he/she so chooses.

Individual assessments of the child's circumstances do not undermine their right to a defence, including the right to remain silent. Therefore, legal advisers should be included in the process as a safeguard.

Data protection safeguards should be in place to preserve the child's privacy.

The child's views should be expressly solicited on key elements of the assessment. The findings of the assessment should be shared with the child in a way that is appropriate to their age and understanding.

INDICATORS

- ◆ Availability of information on the individual assessment in a child-friendly and age-appropriate manner
- ◆ Ensure the appropriate support for the child (such as the involvement of independent support parents where appropriate/legal adviser)
- ◆ Consent form for the child or their guardian to participate in the assessment



- ◆ Involvement of the child's legal adviser to ensure that the assessment is not carried out in a way that undermines the child's rights to a defence
- ◆ Child-friendly communication is employed during any interviews and during the assessment
- ◆ Digital tools are used to ensure communication with the child when required or when circumstances permit
- ◆ Views of the child are obtained and taken into account
- ◆ Information should be provided to the child on how the assessment contributes to decision making
- ◆ Privacy measures are in place to ensure confidentiality of the child's data
- ◆ Training of professionals in child-friendly communication techniques
- ◆ The child's views should be expressly solicited on key elements of the assessment. Findings of the assessment should be shared with the child in a way that is appropriate to their age and understanding.



Standard No. 4:

Child-centred and child sensitive process

The individual assessment should take place in a manner centred around the needs of children (e.g. at child-appropriate premises when possible). The best interests of the child should be a primary consideration throughout the process.

Notes on rationale

Individual assessments should be child-centered and carried out in child-friendly ways (e.g. taking into account the location at which the assessment is conducted, the timing, interview techniques, and the support available). The best interests of the child should be the primary consideration in all matters concerning the child.

INDICATORS

- ◆ Location: Make sure the individual assessment is conducted in a child-friendly room (avoid intimidating environments)
- ◆ Timing: Make sure the timing of the individual assessment takes into account the child's circumstances (timing of interview, providing a sufficient number of breaks etc.)
- ◆ Staff: Involve professionals trained in child development, child rights and child communication, (avoid hostile techniques)
- ◆ Support: Ensure the child receives the appropriate support by involving parents and guardians, (where and when appropriate)
- ◆ Ensure the child's best interests are a primary consideration throughout the process: Take measures to address the child's emotional well being



Standard No. 5: Continuous and timely

The individual assessment should take place at the earliest possible time but may need to be updated at different stages of the process. The assessment itself contributes to actions throughout the criminal proceedings and beyond.

Notes on rationale

The individual assessment should be conducted early in the process, so that it can inform the procedural safeguards needed and the child protection measures that should be in place.

The assessment may need to be updated, should the child's circumstances change. This is important in the sense that the circumstances in the lives of children can change quickly and need to be taken into consideration.

This requires monitoring any changes in the child's circumstances through appropriate means.

Individual assessments should be available for use in a timely way for the purposes in which they are intended.

They should be used on an ongoing basis throughout the proceedings to address the different steps and stages of the proceedings and to inform all relevant measures.

INDICATORS

- ◆ An assessment is undertaken in and around the first contact the child has with law enforcement or social professionals as a result of the offence
- ◆ There is a system in place which allows professionals engaged with the child to update the individual assessment
- ◆ There is a system in place for periodically monitoring any changes that have occurred in the child's circumstances
- ◆ There is a system in place to ensure the individual assessment contributes to decision making throughout the course of the proceedings.



Standard No. 6: Multidisciplinary and collaborative

The child should benefit from an individual assessment conducted by professionals using a multidisciplinary and collaborative approach.

Notes on rationale:

A multidisciplinary approach ensures that a wide range of knowledge and skills contribute to the individual assessment of the child.

A multidisciplinary approach allows the various dimensions of the child's circumstances to be considered properly, and can help facilitate the identification of any difficulties or vulnerabilities the child may have. For example a medical professional should be able to determine whether a child has a cognitive or personality disorder, which can sometimes arise from traumatic brain injuries.

Taking a multidisciplinary approach to individual assessments can have a huge impact on the child's interaction with the criminal justice system, as well as potentially reduce recidivism rates among child offenders. These children may need neurorehabilitation. Identifying this during the individual assessment process will likely prove a significant step in the proceeding for the child and the justice system.

The multidisciplinary approach also ensures that the output of the individual assessment contributes to the various processes in which the child is involved and is relevant to the work of the variety of professionals who have responsibilities in relation to the child's situation during the proceedings or arising out of the proceedings.

Enabling these professionals to work in a collaborative way allows for both a holistic and efficient approach. It also ensures that a child does not have to undergo repetitive assessment processes, which risks exacerbating trauma in child victims and can aggravate other difficulties children may have.

“We received compelling evidence that another important consideration for young adults in the criminal justice system is the potential presence of atypical brain development... those who persist in criminal behaviour into adulthood are more likely to have neuropsychological deficits, including cognitive difficulties with thinking, acting, and solving problems, emotional literacy and regulation, learning difficulties and language problems associated with [often due to] traumatic brain injury.

Tom McMillan
Scottish Parliament, Justice Committee
report on TBI & Prisons



INDICATORS

- ◆ Involvement of different professionals (law enforcement, social professionals, health professionals, education professionals etc.)
- ◆ Involvement of different agencies
- ◆ Protocols for coordination between agencies
- ◆ Case management meetings and tools
- ◆ Protocols for data sharing among professionals as it relates to data privacy rules



Standard No. 7: Quality

The individual assessment is undertaken by qualified, trained personnel.

Notes on rationale:

In order to better understand children and their specific needs, properly qualified and specially-trained staff need to be involved at all levels. This includes qualifications linked to child development and child psychology, and involves training on children's rights, child communication and child development.

Ideally, this training should be multidisciplinary. It should also be undertaken regularly.

Preferably, the system should be arranged in a way that ensures the regular deployment of the qualified trained personnel in order to make certain they can build and maintain the relevant professional experience.

INDICATORS

- ◆ Require special qualifications or experience for professionals undertaking assessments
- ◆ Involve the proper range of professionals
- ◆ Provide training for police, social workers, lawyers, judges, mediators, and guardians
- ◆ Sufficient scope of training (this should include child rights, child development, and child communication)
- ◆ Regular training, rather than one-off training
- ◆ Training standards are identified
- ◆ Deployment of child specialist teams used in cases concerning children
- ◆ Regular supervision or intervision is in place



Standard No. 8: **Properly resourced and sustainable**

The individual assessment should be a process with properly allocated resources, in terms of capacity building and inter-agency cooperation

Notes on rationale:

Individual assessment itself can be an adaptable step, with a scope of assessment commensurate with the child's particular circumstances.

In some instances there may be a need for a more detailed, resource-intensive assessment, in others the assessment will be more straightforward.

More broadly, the system for undertaking individual assessments should be underpinned by a process to which resources have been properly allocated.

Resources include the professionals involved, support services, tools, checklists, training, ad hoc experts, digital technology for case management (who can enter the digital environment and for what purpose?) and stable funding.

INDICATORS

- ◆ Dedicated (government) funding to support individual assessment processes
- ◆ Suitable premises are available
- ◆ Organizations involved are well equipped to carry out the tasks
- ◆ Sufficient personnel (case load not too high)
- ◆ Measures to support stability of personnel (e.g. creation of specialized units)
- ◆ Availability of support tools
- ◆ In individual cases, a planning process to ascertain what is needed to properly undertake individual assessments, availability of resources for individual cases



Standard No.9: Impact oriented

An individual assessment is undertaken as a concrete measure to produce concrete outcomes to fulfil the rights and needs of children

Notes on rationale:

The individual assessment is not a tick-the-box exercise.

It should feed into decision making that addresses the needs and rights of children in terms of measures that need to be put in place for them during the criminal proceedings (e.g. preparation for forensic interviews, measures to address risk of intimidation etc.).

It should also contribute to decisions made about the services that need to be available for these children – from a social, educational or health perspective.

It should inform certain aspects of the decisions that flow from or are associated with the criminal proceedings, including, for example, restorative justice possibilities.

INDICATORS

- ◆ Contributes to a range of different measures (e.g. procedural safeguards; educational, social, protection, and health measures etc.)
- ◆ Through the involvement of different agencies
- ◆ Through the involvement of different professionals
- ◆ Through the right professionals having access to the individual assessment
- ◆ Use in both criminal justice and child protection/child welfare processes

Examples of special procedural safeguards informed by individual assessment	Examples of child welfare/protection measures informed by individual assessment in the child's different settings
<ul style="list-style-type: none"> ◆ Information, assistance and support ◆ Access to legal assistance/Free legal assistance ◆ Interview conditions ◆ Restorative Justice ◆ Guardianship (in cases of conflict with family, for child victim) ◆ Measure relevant to sentencing (for child suspect/accused) 	<ul style="list-style-type: none"> ◆ Physical health ◆ Mental health ◆ Social services ◆ Social services ◆ Child protection service (for child victims) ◆ Education ◆ Measures relevant to custody/remand/detention (for child suspect/accused)



Standard No.10: Progress-oriented (Contribute to learning)

A regular review of experience under the process will lead to systemic improvements in responding to the needs of children in the criminal justice proceedings

Notes on rationale:

To be able to ensure progress in achieving child-friendly justice.

The process for assessing a child's individual circumstances and needs should be reviewed, monitored and adapted to take account of new trends, developments and good practices. This implies a good system of exchange, research, monitoring, and data collection.

A good system is also focused on outreach to a broad range of stakeholders (including the public), the need to work towards improving awareness of the need for child-friendly justice, and the need to undertake individual assessments to ensure the best interests of the child is a primary consideration in actions in their regard. This all contributes to a solid building-process system.

INDICATORS

- ◆ The individual assessment process is regularly reviewed and monitored at a policy and practice level
- ◆ Progress in the system is benchmarked
- ◆ Pinpoint and tackle particular challenges
- ◆ Relevant data points are collected and reviewed Exchange of experience between the agencies that are involved
- ◆ System of outreach to actors for whom the individual assessment is of interest (e.g. education, health professionals etc.)
- ◆ Promoting public awareness
- ◆ Learning from international good practice



FOLLOW US FOR MORE UPDATES

Terre des hommes in Europe

tdh-europe.org
twitter.com/TdhEurope
www.facebook.com/TdhEurope

Terre des hommes Hellas

www.facebook.com/tdh.greece
twitter.com/tdh_greece

Terre des hommes Romania

tdh.ro
www.facebook.com/TdhRomania

Child Circle

www.childcircle.eu
twitter.com/ChildCircle.EU

Child Rights Center, Serbia

cpd.org.rs
www.facebook.com/Centarzapravadeteta

Defence for Children The Netherlands

www.defenceforchildren.nl
twitter.com/DefenceChildren
www.facebook.com/DefenceForChildrenNL

Social Activities and Practice Institute, Bulgaria

www.sapibg.org/bg
www.facebook.com/sapibg



Co-funded by the Rights,
Equality and Citizenship
program of the European Union

