

EQUALITY



# Child-friendly justice

Perspectives and experiences  
of children involved in judicial  
proceedings as victims,  
witnesses or parties in nine  
EU Member States



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This report addresses matters related to human dignity (Article 1); the prohibition of torture and inhuman or degrading treatment or punishment (Article 4); the right to liberty and security (Article 6); respect for private and family life (Article 7); the protection of personal data (Article 8); non-discrimination (Article 21); the rights of the child (Article 24) and the right to an effective remedy (Article 47) falling under the Titles I 'Dignity', II 'Freedoms', III 'Equality' and VI 'Justice' of the Charter of Fundamental Rights of the European Union.

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# Child-friendly justice

Perspectives and experiences of children  
involved in judicial proceedings  
as victims, witnesses or parties  
in nine EU Member States



# Foreword

Around 2.5 million children are involved in judicial proceedings across the European Union (EU) every year. Such proceedings can be particularly stressful for children, who risk trauma if procedures are not adapted to their needs and made “child-friendly”. The effective participation of children is also vital for improving the operation of justice.

The United Nations Convention on the Rights of the Child and other international and European human rights standards recognise the importance of children’s participation. They oblige EU Member States to ensure that children’s best interests are the primary consideration in any actions that affect them. Nevertheless, the way children are treated in justice systems needs to be improved across the EU.

The European Commission prioritised child-friendly justice in its EU Agenda for the Rights of the Child. Among other efforts, it committed itself to promoting the Council of Europe’s *Guidelines on child-friendly justice*, which focus on children’s rights to be heard, to be informed, to be protected and safe.

The EU Agency for Fundamental Rights (FRA) has collected and analysed data to determine to what extent these rights are fulfilled in practice. It did so by way of interviews with professionals and children who have been involved in judicial proceedings. FRA’s first report on its research centred on the perspective of professionals.

The present report focuses on children who have been victims, witnesses or parties in judicial proceedings. Their responses highlight how important the behaviour of professionals towards them is to make them feel safe and respected. The findings underline the need for clear and practical training for all professionals in contact with children involved in judicial proceedings – a point already emphasised in the first report by professionals themselves. In addition, the responses underscore the value of child-friendly hearing locations and age-appropriate information, as well as the importance of providing consistent support throughout proceedings and properly implemented procedural safeguards.

FRA commends EU Member States to listen to the voices of children presented in this report and intensify their efforts to make justice truly child-friendly.

**Michael O’Flaherty**  
*Director*



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# Introduction

Children's effective participation in judicial proceedings is vital for improving the operation of justice, and European and international human rights instruments recognise the importance of their participation. Nevertheless, the treatment of children in justice systems across the EU remains a concern.

The European Commission prioritised child-friendly justice in the EU Agenda for the Rights of the Child (2011–2014).<sup>1</sup> It proposed various EU legislation to strengthen procedural safeguards for children; carried out research on legislation and policy on the involvement of children in civil, administrative and criminal judicial proceedings in the EU-28; and supported Member State efforts to improve child rights protection in their judicial systems. The Commission also committed itself to publicising the Council of Europe's 2010 *Guidelines on child-friendly justice*,<sup>2</sup> which promote children's rights to be heard, to be informed, to be protected and to non-discrimination.

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

### Article 32

The principle of participation, that is, that children have the right to speak their mind and give their views in all matters that affect them is one of the guiding principles of the United Nations Convention on the Rights of the Child.

The EU Agency for Fundamental Rights (FRA) – in cooperation with the European Commission and complementing its research – collected and analysed data to determine to what extent these rights are fulfilled in practice. Specifically, it examined practices in Member States through interviews with professionals and children who have been involved in judicial proceedings.

FRA's first report on child-friendly justice<sup>3</sup> examined the responses of professionals. This report focuses on the responses of children. The children interviewed were involved in judicial proceedings either as parties – such as in custody cases – or as witnesses or victims of crimes. Although the sample is not representative of the whole population of children involved in judicial proceedings in a given country, the interviews involved in-depth discussions of the children's experiences and perspectives and raised core issues that are relevant to all children who participate in judicial proceedings. Pertinent promising practices based on suggestions

made by the children are highlighted throughout the report.

## Tackling the lack of relevant data

FRA's research was prompted by the European Commission's EU Agenda for the Rights of the Child, which noted that a lack of reliable and comparable data was obstructing the development and implementation of evidence-based policies. It identified a number of key challenges: improving existing monitoring systems, establishing policy targets relating to child rights, and monitoring their impact. These are particularly important for the involvement and treatment of children in judicial proceedings.

To address this lack of data, the Commission and FRA took stock of existing work in this area. The coordinated and systematic data collection included the child rights indicators that FRA developed in 2010<sup>4</sup> and further elaborated in 2012 with regard to family justice.<sup>5</sup> FRA further refined the indicators, supplementing them by referring to key international standards and guidelines, such as the United Nations (UN) Convention on the Rights of the Child (CRC) and the Council of Europe *Guidelines on child-friendly justice*. The indicators follow the rights-based model, developed by the Office of the UN High Commissioner for Human Rights (OHCHR),<sup>6</sup> which is designed to measure:

- duty bearers' commitments (structural indicators);
- efforts to fulfil these standards (process indicators);
- the results (outcome indicators).

The Commission collected statistical data and information from all EU Member States, where available, on children's involvement in civil, administrative and criminal judicial proceedings. The data cover relevant legislation and policies in place as of 1 June 2012, identifying strengths and potential gaps.<sup>7</sup> A policy brief distilling the findings and making them accessible to Member States was published in 2015. It includes recommendations for Member States.<sup>8</sup>

In parallel, to gain a comprehensive understanding of the situation, FRA conducted interview-based fieldwork in 10 EU Member States, selected to reflect a diversity of judicial systems and different practices regarding the involvement of children in justice: Bulgaria, Croatia, Estonia, Finland, France (Île-de-France, Provence-Alpes-Côte

1 European Commission (2011).

2 Council of Europe, Committee of Ministers (2010).

3 FRA (2015a).

4 FRA (2010a).

5 FRA (2012).

6 OHCHR (2012).

7 See European Commission (2015a) and European Commission (2015b).

8 European Commission (2015c).

d’Azur, Franche-Comté, Rhône-Alpes, Poitou-Charentes, Nord/Pas-de-Calais, Brittany, Réunion), Germany (Berlin, Brandenburg, Hessen, Bavaria, Lower Saxony, Rhineland-Palatinate, North Rhine-Westphalia, Hamburg, Saarland, Thuringia, Mecklenburg-Western Pomerania), Poland, Romania, Spain (Andalusia, Catalonia, Madrid) and the United Kingdom (England, Wales, Scotland).

FRA collected information on the experiences, perceptions and views of professionals involved in criminal and civil judicial proceedings, as well as on the experiences of children involved in such proceedings, as victims, witnesses or parties. The information obtained from professionals was used for the initial population of process and outcome indicators with qualitative data for nine of the 10 EU Member States. In one Member State – Finland – no applications matching the eligibility requirements were received. FRA used the evidence from the second part of its fieldwork, based on interviews with children themselves, to further populate the process and outcome indicators.

This report focuses on the second phase of the research – the interviews with children. It forms part of FRA’s broader work on the protection of the rights of the child, a core thematic area. That work is set out in FRA’s Multiannual Framework<sup>9</sup> and reflected in its development of child-rights indicators and data collection on children in situations of particular vulnerability (trafficked children and asylum-seeking children (separated/unaccompanied/accompanied),<sup>10</sup> women’s experiences with violence during their childhoods,<sup>11</sup> as well as violence against children with disabilities<sup>12</sup>).

## How to read this report

Like in the first report, each chapter in this report refers to one of the rights examined, namely the right to be heard, the right to information, the right to protection and privacy, the right to non-discrimination and the principle of the child’s best interests. The chapters’ sub-sections reflect the categories of the indicator model: structural, process and outcome.

The first report outlined the international and European standards and guidelines, such as the CRC and the Council of Europe’s *Guidelines on child-friendly justice*, as well as guidance provided by other actors, such as the UN Office on Drugs and Crime (UNODC). Furthermore, structural indicators were populated based on a legal analysis of national legislation, and process and outcome indicators were populated based on results of

the interviews and focus groups with professionals and on information collected by the Commission and FRA.

This report further populates process and outcome indicators based on the results of the interviews and focus groups with both children and professionals (where applicable). It is not a legal analysis. The population of indicators from qualitative research should be read as indicative of a situation.

- **Structural indicators** refer to national legal provisions and policies; they are populated through an analysis of European Commission data on legislation and policies in the EU Member States as of 1 June 2012.<sup>13</sup>
- **Process indicators** refer to measures taken to implement legal and policy provisions; they are populated with evidence obtained through the interviews with professionals about their perspectives on, and experiences with, children’s participation in civil and criminal proceedings as victims, witnesses or parties. This report uses the interviews with children to complement and validate the evidence provided in the first report.
- **Outcome indicators** refer to the actual improvement of the situation of rights holders (here children). They are predominantly populated with evidence obtained through the interviews with children in the second part of the research; they were already partly populated with evidence taken from the interviews with professionals, which can be seen as complementary.

The research identifies processes and outcomes by means of a qualitative, comparative analysis of the experiences and perspectives that children shared. To convey the proportions of the findings of the qualitative analysis, ‘the majority of [respondents]’ is used to refer to an aspect mentioned by more than half of the respondents; ‘some [respondents]’ is used for aspects mentioned by fewer than half of the respondents.

A quantitative analysis of factual information complements the qualitative analysis. The children and the professionals involved in their cases informed FRA about the specific practices used; for example, how many times a child was heard, how long the proceedings lasted, whether or not a child received information material and what type, which type of hearing room was used, whether or not a child received support and by what type of professional. The children also assessed these practices – using ordinal scales to rate them positively, negatively or in between – to identify patterns within the group of children interviewed. The report specifically refers to the children’s assessments throughout in the form of ‘practices in numbers’ boxes; these assessments also populate the outcome indicators (see [Annexes](#)).

<sup>9</sup> Council Decision No. 252/2013/EU (2013).

<sup>10</sup> FRA (2009); FRA (2014a); FRA (2010b); FRA (2016b); FRA (2016c); FRA (2016d).

<sup>11</sup> FRA (2014b).

<sup>12</sup> FRA (2015b).

<sup>13</sup> See European Commission (2015d).

## DATA COLLECTION AND COVERAGE

FRA's research covered two main elements: the perspectives of professionals and the perspectives of children on children's experiences with criminal and civil proceedings.

FRA's first report focused on the views of the diverse professionals who interact with children in judicial proceedings: judges, prosecutors, lawyers, court staff, psychologists, social workers, interpreters and police officers. It was based on interviews with 570 professionals.

This report addresses the perspectives of children and is based on interviews with 392 children (including consultations during the preparatory phase). The children interviewed were involved in judicial proceedings either as parties – such as in divorce cases or civil law cases involving decisions to place them in care – or as witnesses or victims of crimes in criminal proceedings. FRA focused specifically on cases of domestic violence, sexual abuse, neglect, and custody conflicts, which provided an understanding of children's diverse experiences and needs. The research did not cover children suspected or accused in criminal proceedings. However, some of the children interviewed as victims, witness or parties also experienced being defendants.

An example of a typical criminal case is that of a girl who was sexually abused by her neighbour. An example of a child participating in multiple proceedings is a boy who was both a witness of domestic violence and a party to related custody conflicts. A typical civil law case is that of a girl who participated in custody proceedings after her parents divorced.

Preparing the interview questions involved desk research – to collect information on national legal provisions on children's participation in court proceedings and to identify the most pertinent issues. Relevant academic research was also taken into account. The second phase of the research also included a preparatory phase, undertaken in 2013. It involved examining the requirements for conducting interviews with children; identifying appropriate and diverse channels to reach and contact children; and developing the protection mechanisms, methodologies instruments to use when interviewing children. This preparatory phase included desk research, consultations with adults and 46 children, and pilot interviews with children.

In 2014, based on the conclusions from this preparatory phase, FRA – in a joint, iterative process with the country researchers – conducted interviews with children from nine of the 10 EU Member States included in the research. The interviews followed semi-structured interview guidelines with open-ended and potential follow-up questions and supportive material. The guidelines were based on the fundamental principles and general elements of the Council of Europe's *Guidelines on child-friendly justice*.

The interviews lasted between 45 to 90 minutes, and provided very rich data and in-depth information. Children were asked about practices they encountered, their experiences, and how they assessed these. They were also asked about their suggestions for improving children's actual experiences with judicial proceedings. This included asking them what type of support, should be provided, and from what age.

Overall, 346 interviews with children between seven and 15 years old were systematically analysed across the nine EU Member States. The majority of children (59 %) were 14 years old. Two thirds of participants (63 %) were girls. One in seven children had a migrant background or belonged to an ethnic/minority group. One of eight children had a physical impairment, an intellectual disability, a mental health problem, multiple disabilities or other forms of impairment. Given the highly sensitive nature of the topics covered, FRA took care not to interview children who were at risk of re-traumatisation.

Most of the children were interviewed within a year of the specific hearing they assessed. The report specifies the types of cases – sexual abuse, violence, neglect or custody – and proceedings – criminal, civil or multiple – involved, as well as the children's role in the proceedings (witness, victim and party).

The age specified for children who are directly quoted throughout the text is the child's age at the time of the interview. This is sometimes supplemented by their age at a hearing if they were much younger then, particularly for interviewees who were already over 18 years – for example, several interviewees from the United Kingdom.

For further details on the methodology, target groups, samples, interview schedules and data analysis, see the [Annexes](#).



# Key findings and FRA Opinions

The children interviewed for this research clearly describe the practices they encountered and identify those they found especially helpful. To a large extent, their responses confirm the experiences and perspectives described by adult professionals. However, children also address issues of which professionals may not be that aware. The interviews with the children reveal what elements are particularly important to help them feel safe and comfortable, and to fully and effectively participate in proceedings.

Specifically, the research indicates that:

- Participating in judicial proceedings is likely to be stressful for everyone, and even more so for children. Justice systems are not designed to specifically address the needs of children. However, several measures can be taken to make children feel safe and as comfortable as possible, making possible their effective participation.
- The children interviewed expressed their wish to be heard when participating in judicial proceedings, but they need to feel safe and comfortable. Therefore, everybody involved should contribute to creating appropriate, safe and child-friendly conditions and facilitating their participation.
- Throughout judicial proceedings, the involved professionals' overall behaviour, empathy and understanding is key for children to feel comfortable and safe; when they feel respected and trust the professionals involved in the hearings, children are able to express their views freely and participate effectively.
- Most children do not think they are given sufficient and appropriate information to enable them to

understand their rights and the procedures. Therefore, it is difficult for them to be heard in a meaningful way and to participate effectively in proceedings.

- Professionals who are assessed positively by children are more likely to choose settings in which children feel comfortable and safe, and to inform them in a child-friendly way, thus reducing children's anxiety.
- Children always greatly appreciate the support they receive, particularly when it is provided continuously throughout proceedings to establish a relationship of trust. Most of them assess the support positively regardless of the involved professional's specific professional qualifications.
- Unfortunately, children do not always feel sufficiently protected. They repeatedly complain about unfriendly and disrespectful behaviour by professionals, such as defence lawyers, judges or police officers. A high proportion also claim that they encountered the accused or their families – if not during the hearings themselves, then while waiting for the hearings.

## FRA ACTIVITY

### Promoting children's rights with handbook on relevant case law

FRA, together with the Council of Europe and the European Court of Human Rights (ECtHR), prepared a handbook on children's rights, the *Handbook on European law relating to the rights of the child*. It is designed to assist lawyers, judges, prosecutors, social workers, non-governmental organisations and other bodies confronted with legal issues relating to the rights of the child. It analyses the case law of the ECtHR, the European Committee on Social Rights (ECSR) and the Court of Justice of the European Union (CJEU) on children's human rights.

For more information, see FRA (2015), *Handbook on European law relating to the rights of the child*, Luxembourg, Publications Office.

## FRA ACTIVITY

### Promoting access to justice by highlighting its key legal principles

FRA and the European Court of Human Rights issued a *Handbook on European law relating to access to justice* in June 2016. The handbook is designed to serve as a practical guide for lawyers, judges and other legal practitioners involved in litigation in the EU and in Council of Europe member states, as well as for individuals who work for non-governmental organisations and other entities that deal with the administration of justice. It summarises the key European legal principles in the area of access to justice, focusing on civil and criminal law.

### Highlighting victim support services

In January 2015, FRA published a report examining support service provision for victims across the 28 EU Member States in light of the 2012 Victims' Rights Directive. The report focuses not on abstract fundamental rights standards, but on actual results. It highlights promising practices that Member States looking to improve their victim support structures can turn to for inspiration. It also identifies several areas in which Member States currently fall short of meeting the directive's requirements.

For more information, see FRA (2016a), *Handbook on European law relating to access to justice*, Luxembourg, Publications Office; and FRA (2015), *Victims of crime in the EU: The extent and nature of support for victims*, Luxembourg, Publications Office.

Children identified the behaviour of the professionals with whom they interact as the most important factor to determining their experience with judicial proceedings. The more positively the children view the professionals' behaviour, the more child-friendly they find the proceedings overall. Professionals whose behaviour children assess positively are also more likely to use child-friendly hearing locations and provide age-appropriate and child-friendly information. When children feel that professionals treat them with respect, are open and friendly, listen to them and take their views seriously, they are more likely to report being treated fairly and in line with their best interests.

Interestingly, the specific gender of the professionals did not appear to play a major role in most cases. While girls who were sexually abused tended to prefer having a female professional hear and support them, boys were more ambivalent, and no systematic patterns relating to the genders of the children or of the professional involved could be identified. Although children valued having a say in what gender the professional should have, they gave positive examples of relationships with both individuals of the same and of different sexes. Ultimately, the more important issue appeared to be whether or not the persons accompanying, supporting or hearing children behave in a child-friendly manner.

In addition to professionals' behaviour, other elements of child-friendly justice systems affect children's experiences. The closer a Member State is to having all components of child-friendly justice systems in place, the better children's experiences with the justice system are, and the better justice is served. For example, the better a child has understood the proceedings thanks to child-friendly information provision, the more positively he or she evaluates the proceedings as a whole and feels fairly treated and that his or her best interests were met, even if the outcome may not have been what the child initially wished for.

## FRA Opinions

The following FRA Opinions on child-friendly justice are based on a combined analysis of the interviews with both professionals and children.

### FRA Opinion 1

*EU Member States need to ensure that justice systems are child-friendly, and that children's rights are respected regardless of where and how they come into contact with the justice system. Member States should therefore consider assessing their justice systems to identify policies and practices that prevent criminal and civil proceedings from being child-friendly. In their assessment,*

*Member States should take into account relevant European Commission and FRA research, including the recommendations set out in the Commission's policy brief on children's involvement in criminal, civil and administrative judicial proceedings. Member States should then draft a working plan, considering other Member States' promising practices that can be shared among national and regional actors and at EU level. Member States and, as appropriate, the EU should consider promoting awareness about child-friendly justice among stakeholders.*

## Right to be heard

### Establishing procedural safeguards to ensure child participation

#### FRA Opinion 2

*EU Member States should ensure that procedural safeguards guarantee children's participation in judicial proceedings and effectively protect their right to be heard. This includes addressing gaps within the criminal legal frameworks of those countries that lack safeguards, especially for child witnesses. Safeguards similar to those available in criminal proceedings should be introduced in civil proceedings – with specific attention to children involved in multiple proceedings, such as in custody cases linked with domestic violence cases. Moreover, Member States should consider using child-adapted versions of mediation more often.*

#### FRA Opinion 3

*EU Member States should video-record hearings – including pre-trial hearings – and ensure that the recordings are legally admissible evidence to avoid unnecessary repetition, including during trial. Member States should use video recording as a standard practice in criminal proceedings and as an option in civil proceedings. Police stations, court houses and other interviewing locations should be equipped with functioning recording technology and professionals should be trained in its use.*

#### FRA Opinion 4

*EU Member States should ensure that all involved actors duly consider a child's best interests when deciding who should be present during hearings. Professionals should consult children on whether people should be present during hearings and, if so, when and who. This includes the presence of support persons, such as social professionals, and adults of trust, such as parents, foster parents and care givers.*



## Assessing and adequately considering maturity of the child

### FRA Opinion 5

*To ensure that the right to be heard is not subject to age limits or other arbitrary restrictions, either in law or practice, EU Member States should introduce in their legislation clear criteria for determining a child's maturity and adopt methods to assess a child's maturity. This could help determine more objectively how children participate best in judicial proceedings.*

### FRA Opinion 6

*To facilitate children's participation, EU Member States should make obligatory individual assessment procedures and ensure clear guidance for trained professionals to conduct individual assessments in a child-sensitive, age-appropriate way. Helping children in particularly vulnerable situations to express their views may require special measures, including the provision of interpretation/translation services.*

## Providing professionals with rules and guidelines on how to hear children

### FRA Opinion 7

*EU Member States and, as appropriate, the EU should ensure that professionals are provided with clear guidelines and detailed rules on how to hear children. This is to ensure that they properly use procedural safeguards required by national and EU law and that they use a consistent, child-friendly approach to hearings in criminal and civil proceedings. These should go hand in hand with a standardisation of procedures and coordination among different actors and professional groups to harmonise hearings. An exchange of guidelines and promising practices within and between Member States could help improve procedures.*

## Introducing specialised courts, panels or judges for children

### FRA Opinion 8

*EU Member States should consider establishing specialised courts for children or specialised divisions/panels within ordinary courts with expertise in children's rights and child-friendly justice. This would help ensure that cases involving children are dealt with in child-sensitive settings. Specialised units of professionals working with children should also be developed, including within the police, the judiciary and legal professions.*

## Using child-friendly facilities to hear children

### FRA Opinion 9

*EU Member States should ensure that hearings are conducted in child-friendly facilities, preferably outside the court environment, since these encourage children's effective participation and help secure respect for their rights. The facilities should reflect children's suggestions and be painted in bright colours and include child-friendly features, such as paintings made by other children, plants and a variety of toys and games appropriate for a range of age groups.*

### FRA Opinion 10

*EU Member States should seek to systematically put in place child-friendly, separate hearing rooms and waiting rooms for use by different services, including in rural areas. Child-friendly interview rooms should be made available for both criminal and civil proceedings to allow children to freely and fully make use of their right to be heard in a space in which they feel comfortable and safe. Given that the most important factor for children is the professionals' behaviour, the use of such rooms needs to go hand-in-hand with having hearings conducted by trained professionals.*

## Making free legal aid available, including free and easy access to legal representation

### FRA Opinion 11

*EU Member States should provide legal aid unconditionally to all children, including free access to legal representation throughout the proceedings. In addition, all Member States should ensure that the provision of legal aid is institutionalised and that clear guidelines on accessing legal aid are provided to all children and their parents or guardians. Specialised child lawyers should be available to represent children in both civil and criminal proceedings. Bureaucratic hurdles, such as lengthy proceedings or economic means tests, should be identified and avoided.*

## Reducing the length of proceedings

### FRA Opinion 12

*EU Member States should ensure that the length of criminal and civil proceedings is commensurate with children's best interests by introducing effective safeguards to avoid undue delays and unnecessary multiple hearings of children. Clear rules should limit the overall number of child interviews and hearings in both civil and criminal cases. Member States should encourage stronger cooperation between professionals from different disciplines to reduce the number of hearings. Video recording of hearings should become standard practice to reduce the number of child hearings.*

### FRA Opinion 13

*EU Member States should ensure that the length of hearings themselves in both criminal and civil proceedings is commensurate with children's best interests. Professionals should ensure suitable court arrangements to avoid unnecessarily long waiting times and have available trained professionals who are sensitive to children's needs. Professionals should also make sure that enough time is allocated for children to participate fully in proceedings, i.e. that they are able to express their wishes and feelings.*

### FRA Opinion 15

*EU Member States should ensure that professionals avoid providing excessive details about a case's background, without compromising on substance. Important information should be repeated throughout the proceedings. In addition to information on procedures and rights, information should include behavioral guidelines and how children's testimony affects proceedings. Court rulings and their implications should be explained to children within a reasonable timeframe. Post-trial information should include clear reference to the child's rights, the outcome of the proceedings, and the options available to them and their families, including appellate rights and aftercare services.*

### FRA Opinion 16

*EU Member States should ensure that legal requirements are in place to inform children in a child-friendly manner prior to, during and after hearings. This information should cover both content and format, as appropriate for the children's age and maturity. Child-friendly information should be available in oral and written formats throughout proceedings. All information given to children should be adapted to their level of understanding, age and maturity, and take their specific needs into account. Member States should establish clear rules and guidelines to mainstream the implementation of this right in both criminal and civil proceedings to ensure the availability of appropriate information about the children's proceedings and their rights in a standardised, co-ordinated format.*

## Right to information

### Availability of child-friendly information

### FRA Opinion 14

*EU Member States and, as appropriate, the EU should ensure that statutory provisions guarantee all children's right to information, so that it is consistently applied during all phases and types of proceedings. These should clearly delineate by whom, where, when, how and about what children should be informed. They should establish the authority responsible for informing children, increase the role of psychologists and relevant social professionals in informing them, and extend the scope of information provided to children to all phases of the proceedings, using multiple formats.*

### FRA Opinion 17

*EU Member States and, as appropriate, the EU should ensure that written material explaining the child's rights, the judicial process and the roles of various professionals is systematically developed, tailored to children's needs and disseminated throughout Member States. Different channels and formats should be used, including brochures and leaflets available online, print-outs, and audio-visual material – such as films or TV shows. Legal documentation, such as a child's letter of summons or legal notifications, should also be child-friendly in content and format. In particular, as children recommend, materials should be accompanied by a verbal explanation from an adult, ideally a professional with adequate background and knowledge. Existing child-friendly material should be widely shared and used, including that developed by international institutions such as the Council of Europe.*





## Availability of support services to properly inform children and parents

### FRA Opinion 18

*EU Member States and, as appropriate, the EU should ensure that support services are made available to all children who participate in criminal and civil proceedings, at all stages of proceedings. Children and their families need be informed about the services offered. Support services should take into account the important roles parents and persons of trust play when informing and supporting children.*

## Single professional contact person to support children during proceedings

### FRA Opinion 19

*EU Member States should ensure that a person of trust supports the child during all stages of judicial proceedings. A single professional contact person should be appointed and made responsible for:*

- 1) providing emotional support throughout proceedings;*
- 2) preparing the child for different stages of the proceedings;*
- 3) providing the necessary information in a child-friendly manner (including checking the child's understanding of rights and procedures);*
- 4) guaranteeing the availability of special formats and measures for children with special needs, such as foreign unaccompanied children, children living in foster or state care, child victims of domestic violence and children with disabilities.*

*This contact person should use a child-friendly approach; be sufficiently trained and available regularly at all stages of proceedings; develop a trusting, continuous relationship with the child; and liaise and coordinate with any other groups involved – such as support and child protection services, police officers, judges, prosecutors, lawyers and parents or guardians. This person should also ensure that parents, foster parents and placement centre staff are sufficiently informed about the proceedings' most important phases and issues so that they can provide children with adequate information and support.*

*If a single contact person is not made available, EU Member States should ensure that the different actors responsible for informing children coordinate their efforts efficiently.*

## Right to protection and privacy

### Protective support for children

#### FRA Opinion 20

*EU Member States and, as appropriate, the EU must ensure that children are always treated as people in need of special protection, taking into account their age, maturity, level of understanding and any possible communication difficulties.*

*Member States should ensure that protective support is institutionalised, available at all stages of proceedings and equally easy to access for all children in different locations, including rural areas. Special support should be available to children in particularly vulnerable situations, such as those with disabilities, migrant status or living in foster or alternative care. This would include making available interpretation and translation services, psychological counselling and support, and trained professionals able to identify children's specific needs and respond to them.*

#### FRA Opinion 21

*EU Member States and, as appropriate, the EU should ensure that child protection systems are based on an integrated and targeted approach that bears in mind not only children's special needs in general but also any other vulnerabilities, such as of victims or witnesses of sexual abuse or domestic violence, children with disabilities or those with migrant status.*

## Establishing procedural safeguards to ensure child protection

#### FRA Opinion 22

*EU Member States and, as appropriate, the EU should establish procedural safeguards and monitor their implementation to ensure that all children involved in judicial proceedings are protected from harm, potential re-traumatisation, secondary victimisation and identification before, during and after proceedings. Professionals should take children's suggestions into consideration when using protection measures. Equal access to procedural safeguards to all children regardless of age and role in the proceedings should be ensured. Existing procedural safeguards for child victims should be extended to child witnesses in criminal proceedings and children involved in civil proceedings.*

## Ensuring a child's right to privacy and confidentiality

### FRA Opinion 23

*EU Member States should introduce measures to prevent any contact between children and defendants and any other parties who the child may perceive as threatening. Such measures include live video links, screens to shield children from defendants, or excluding defendants from courtrooms during child hearings. Member States and, as appropriate, the EU should ensure a child-friendly environment for all stages of proceedings, and that all courts and police stations are equipped with appropriate, child-friendly waiting rooms and separate entrances. These should be systematically used to protect children from meeting alleged perpetrators or family members with whom they are in conflict, and from being put into a harsh environment while waiting to be heard or when involved in multiple proceedings.*

### FRA Opinion 24

*EU Member States and, as appropriate, the EU must ensure that appropriate legislation and measures protect the identity and privacy of children involved in court proceedings – for example, by excluding the public from the court room or using live video links or pre-recorded testimony in hearings. Steps need to be taken to ensure that children's personal data remain strictly confidential and are kept from the media and the general public. Recordings need to be safely stored and children's identities protected online, in all areas of law and independent of the child's role in proceedings. Personal data should only be accessed and transferred when absolutely necessary, and always take the child's best interests and opinions into account.*

## Right to non-discrimination

### FRA Opinion 25

*EU Member States and, as appropriate, the EU should make sure that procedural safeguards include non-discrimination measures and ensure that services are adapted to children's specific needs and vulnerabilities. Information needs to be provided in a language children can understand, adapted – for example – to their native language or to the language barriers encountered by children with a disability. Professionals should receive enough support, guidance and training to accommodate children's different needs or, where this is not possible, should refer children to specialised services.*

### FRA Opinion 26

*EU Member States should pay particular attention to facilitating access to justice and providing the necessary legal aid, legal representation and support for children in especially vulnerable situations, also taking into account potential interpretation and translations needs or barriers like physical or other impairments. Efforts should be made to facilitate access to justice for children in vulnerable situations, such as children living in poverty, Roma children and refugee, asylum-seeking or separated migrant children, also paying particular attention to children who were victims of discrimination, such as victims of hate crime. Data on children's access to justice should be made available for all children, broken down by groups.*

## Principle of the best interests of the child

### FRA Opinion 27

*To ensure the best interests of the child, EU Member States and, as appropriate, the EU need to ensure clear criteria in legislation for identifying and assessing children's best interests – taking into account their views, identity, protection, safety and any situations of vulnerability. The best interests principle needs to be widely implemented. Determining a child's best interests needs to involve a multidisciplinary process. The legal provisions should also require reporting on how a child's best interests were assessed. Rules, guidelines and protocols for the assessment should be developed. Professionals should ensure that children understand the concept of best interests, particularly when explaining the process and outcomes of the proceedings.*

## Training of professionals

### FRA Opinion 28

*EU Member States should ensure that all professionals in contact with children receive training in child rights, child-friendly verbal and non-verbal communication and language, child development and child-related criminal and civil legislation. Professionals should be trained to identify the varying needs of children in different age groups so that they can address these and communicate with children appropriately. General and specialist training for judges and prosecutors should be promoted. Training should be obligatory for front-line practitioners, such as police officers and court staff. Specific training modules should be developed, targeting different professionals in relation to their function.*

## FRA Opinion 29

*EU Member States should ensure that only trained professionals carry out child hearings and that training on child hearings is mandatory and continuous for professionals. This entails increasing opportunities for training, the number of professionals trained in hearing children and the presence of specialised, trained professionals during hearings. Professionals hearing children need to be specifically trained in appropriate questioning techniques, on existing guidelines on hearing children, and on the relevant legal basis.*

## FRA Opinion 30

*EU Member States should ensure that all professionals in contact with children are trained to inform children appropriately both in terms of content and format, to explain all elements of proceedings in a child-friendly manner, and to check the children's understanding. This should also allow children to make informed decisions about their involvement in the judicial proceedings.*

## FRA Opinion 31

*EU Member States should ensure that training is organised at a national level to provide equal opportunities for all professionals to participate, and so help avoid the unequal treatment of children based on where they live. Training should be complemented by supervision and multi-disciplinary exchanges of practices among professionals. This should go hand in hand with the EU providing incentives for Member States to train professionals, and encouraging the exchange of promising practices within and between Member States as well as the development of EU training modules.*

## Multidisciplinary cooperation

## FRA Opinion 32

*EU Member States and, as appropriate, the EU should ensure that professional associations and other relevant actors promote institutional co-operation and a multidisciplinary approach. Standard operating procedures among professionals should also be promoted to foster co-operation.*

## Availability of resources

## FRA Opinion 33

*EU Member States and, as appropriate, the EU should ensure that adequate resources are in place to meet children's needs in all types of judicial proceeding and in terms of both content and time. Human and financial resources need to be appropriately allocated so that interview locations are equipped with functioning recording technology and that guidelines and protocols as well as child-friendly informational material are developed and disseminated. Costs involved can be lowered via regional exchanges of developed material or the multiple use of hearing locations by different actors. Further financial resources should be provided to make support services available and to promote both training with a multi-disciplinary approach and coordination among professionals.*



# 1

## Right to be heard



The right to be heard and express one's views is essential for effective participation in judicial proceedings. It is guaranteed to children by both European and international human rights instruments. For example, Article 12 of the Convention on the Rights of the Child (CRC) provides that "States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child."

The Council of Europe's *Guidelines on child-friendly justice* specify that meaningful participation requires a safe and friendly environment and the use of appropriate questioning methods to determine and respond to a child's specific needs in accordance with his or her age and maturity.

*"They expect kids to answer some uncomfortable question and they ask them with their official tone, which makes kids feel uneasy and makes it harder to answer."*

(Croatia, female, 15 years old, victim, sexual abuse case)

EU secondary law on criminal matters specifically provides for children's right to be heard. Examples include:

- Victims' Rights Directive (2012/29/EU), Recital 14, Article 10 (right to present own views and be heard);
- Victims' Rights Directive, Recital 38 (right to special support and legal protection for persons who are particularly vulnerable);
- Victims' Rights Directive, Article 24 (right to protection of child victims during criminal proceedings, including right to audiovisual recording of interviews);
- Directive on combating sexual abuse and sexual exploitation of children and child pornography

(2011/93/EU),<sup>14</sup> Article 19 (assistance and support to victims); and

- Anti-Trafficking Directive (2011/36/EU), Article 14 (assistance and support to child victims).<sup>15</sup>
- Under Regulation Brussels IIa, Article 23, the violation of a child's right to be heard is one possible ground for the non-recognition of judgments in matters of parental responsibility.

Legislation recognising the right of children to be heard in criminal proceedings as victims and witnesses exists in seven of the EU Member States included in the research (in Poland, this applies to child victims only).<sup>16</sup> In three states – Bulgaria, Germany and the United Kingdom (England and Wales) – the right to be heard is not expressly enshrined in law. It remains at the police and prosecuting authorities' discretion to call on a child to testify.

In the United Kingdom, the victim's standing in criminal proceedings (child or adult) differs considerably from that in other countries researched. The victim typically does not play an active role in the proceedings; instead, the state takes the lead in defending his or her rights. There have, however, been some changes since 2013. As part of the new Code of Practice for Victims of Crime, victims may now make personal statements describing how the crime has affected them – physically, emotionally, psychologically, financially or in any other way – and expressing their concerns, requesting compensation and indicating whether they require any support.<sup>17</sup>

<sup>14</sup> Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children, and child pornography, replacing Council Framework Decision 2004/68/JHA.

<sup>15</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

<sup>16</sup> European Commission (2014).

<sup>17</sup> United Kingdom, Crown Prosecution Service (2013).

In civil law, Member States' statutory provisions on a child's right to be heard are applied differently depending on the area of law involved (e.g. family, employment, placement) and on the role of the child (e.g. witness, plaintiff, defendant, subject).<sup>18</sup> In most cases, child witnesses or subjects are entitled to fewer procedural safeguards than child defendants or plaintiffs.

### Practices in numbers

Among the children interviewed, 37 % were victims or witnesses of serious crimes (such as sexual abuse or domestic violence) in criminal proceedings; 29 % were parties or witnesses in custody conflicts in family law proceedings; 16 % were parties to alternative care, family or residential care cases in civil proceedings; and 8 % were victims or witness of other crimes. Ten per cent of those interviewed were involved in multiple proceedings relating to serious crimes and custody conflicts.

Overall, the evidence FRA collected in nine EU Member States shows that children value their right to be heard in criminal and civil proceedings, provided that they are treated in a child-friendly and respectful manner, and find that such treatment enables them to better contribute to the proceedings. Moreover, children link negative experiences with participating to non-child-friendly, inappropriate treatment from professionals.

The data populating process and outcome indicators are derived from FRA's interview-based research, which obtained children's reports and assessments of states' practices and procedures. (See Table 1. For a fuller description of the data analysis, see the methodology section in Annex 1). The first report on child-friendly justice is to be read in parallel with the present report. It presents data based on results from the first phase of the fieldwork only, and used interviews with professionals and the European Commission's analysis of national legislation to populate structural indicators.

Table 1: Process and outcome indicators on the right to be heard

1. Respecting the child's right to be heard	
<b>Process indicators populated through evidence from interviews with professionals and children*</b>	
<b>Measures and procedures</b>	1.1./1.6. Ensuring that professionals are adequately equipped to work with children <ul style="list-style-type: none"> <li>• Requiring training and specialisation of professionals involved</li> <li>• Preparing guidelines and tools for professionals involved</li> <li>• Providing procedures to help support a child before, during and after hearings</li> <li>• Allowing persons to accompany children during hearings</li> </ul>
	1.2./1.7. Adapting settings to children's needs <ul style="list-style-type: none"> <li>• Providing child-friendly facilities, including screens, separate rooms and technological equipment</li> <li>• Controlling contact with other parties in the judicial proceedings</li> </ul>
	1.3./1.8. Providing legal representation and legal aid to children
	1.4./1.9. Reducing the length of proceedings <ul style="list-style-type: none"> <li>• Avoiding undue delay</li> <li>• Prioritising cases involving children</li> <li>• Reducing the number of hearings</li> </ul>
<b>Outcome indicators populated through evidence from interviews with professionals and children*</b>	
<b>Results</b>	1.5./1.10. Deciding to hear the child
	1.4./1.9. Reducing the length of proceedings
	1.1. and 1.2./1.6. and 1.7. Assessing the measures in place and their effect on children
<b>Outcome indicators populated through evidence from interviews with children**</b>	
<b>Results</b>	1.11. The extent to which children who were heard were able to express their views and participate effectively
	1.11. The extent to which children were assisted by a competent professional during court proceedings
	1.11. The extent to which children were satisfied with the way their right to be heard was respected
	1.11. The extent to which children received legal representation and free legal aid

Notes: \* These indicators were partly populated in the first report. The present report addresses both children's and professionals' perspectives, as is necessary for a complete assessment of the outcomes.

\*\* The present report is based on interviews with children, newly populating those outcome indicators based on an analysis of the quantifiable experiences and perspectives.

Source: FRA, 2014-2016

<sup>18</sup> For a full overview of the national civil proceedings in different areas of law and the different roles of children, see European Commission (2014).





## CRIMINAL PROCEEDINGS

### The case of Rosica: supporting a domestic violence victim during criminal proceedings

Rosica\* was a victim of domestic violence in Poland. Before her hearing, her therapist helped her prepare; she found this particularly important, as she has a speech disorder. She appreciated being shown the hearing room in advance and considered the information provided to be sufficient. Among other things, she was told that the hearing would take place only once, that it would be recorded and that the judge would ask specific questions.

Her hearing took place in a child-friendly ‘blue room’ when she was 14. The room was equipped with a visible camera and microphone as well as a one-way mirror. She found the room “cosy”. During the hearing, Rosica was accompanied by the court-appointed psychologist rather than her therapist. The psychologist often could not understand her because of her speech disorder and asked her to repeat her answers several times.

In contrast, Rosica found the judge kind, friendly and clear in her questions. The judge informed Rosica that she was allowed to take breaks; that she did not have to answer all the questions; that she had the right to refuse to testify; and that a prosecutor would observe the hearing through the one-way mirror. She appreciated the judge calling for a break during the hearing, as she had not dared to ask for one. At the end of the hearing the judge told Rosica that “she was brave”.

Despite her negative experience with the court-appointed psychologist, Rosica told the interviewer that she felt safe during the proceedings because most other people involved were kind and friendly.

\* Fictitious name.

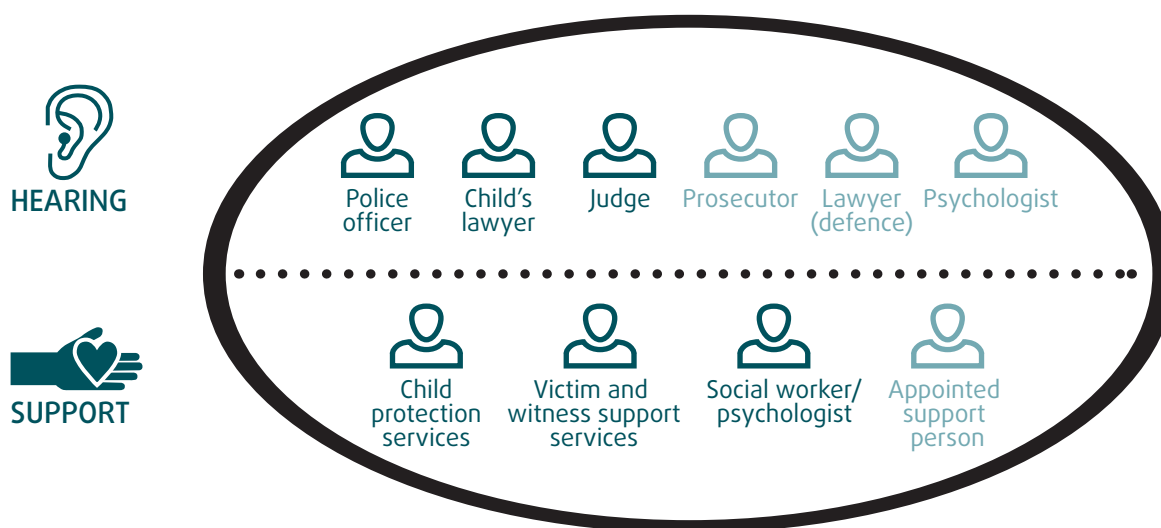
### 1.1. Ensuring professionals are adequately equipped to work with children (process)

supporting them (see Figure 1). This chapter focuses on children’s experiences of being heard. (For information on how children view professionals who provide support, see Section 3.2).

Professionals interact with children in criminal proceedings in the context of either hearing them or

The research findings show that children assess their experience with the justice system positively when professionals, irrespective of their function, make

Figure 1: Most commonly involved professionals – criminal proceedings



Note: Figures in dark green represent professionals who are frequently in direct contact with children in criminal proceedings; figures in light green represent professionals who in most countries either are not in direct contact with the children or are generally present in criminal proceedings less often.

Source: FRA, 2014

them feel comfortable by treating them in a child-friendly manner. For the children, “child-friendly” means that professionals use both verbal and non-verbal communication to facilitate the children’s understanding of the process and their role therein. They also indicate that verbal communication should use appropriate language and questions that are sensitive to their age and situation and that professionals should be friendly and respectful. Children appreciate it when professionals listen to them; this is the key to their assessing professionals positively. Children who assess professionals positively also regard their own participation as more important, assess hearing locations more positively and feel they are treated more fairly than those who do not have a positive opinion of professionals’ behaviour towards them (see Figure 2).

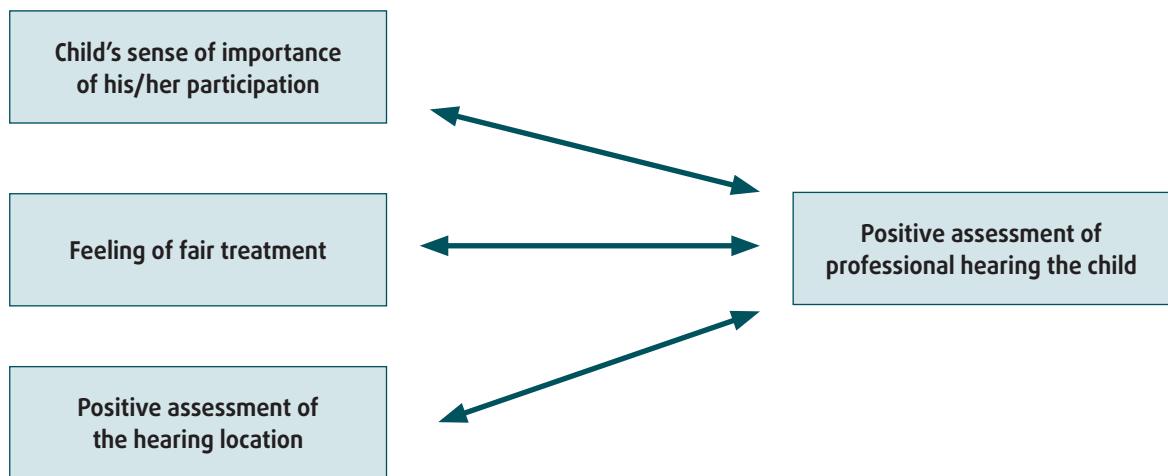
Although children say that they would prefer to be heard by only one professional, in practice they mainly report being heard by a large number of different professionals, especially in cases involving serious crimes.

In the sample, police officers conducted the majority of pre-trial and trial hearings, followed by judges, then psychologists or social workers, and finally other legal professionals, such as prosecutors. Irrespective of the profession of the person who heard the child, more positive assessments of proceedings correlate with hearings carried out in specialist institutions and conducted by professionals with specialised training. For example, positive practices by police officers can often be linked to targeted training being systematically available in their regions.

### Practices in numbers

Forty-four per cent of the children were heard by a police officer, with judges following at 29 %. In a few cases, children were heard by a psychologist (15 %) or other legal professional (12 %). When involved in multiple proceedings, children were mainly heard by judges (68 %).

Figure 2: Components of children’s positive assessments of professionals hearing them



Note: This visualisation is based on calculating the correlations between variables on the assessment of professionals hearing the child using Spearman–Brown correlation tests for ordinal-scaled variables. It visualises the significant correlations at  $p \leq 0.001$  based on  $n = 346$  with a Spearman correlation coefficient of  $r \geq 0.34$ .

Source: FRA, 2016



### 1.1.1. Attitude and manner of questioning of professionals conducting hearings

*Interviewer: "And what do you think is the most important thing to do to ensure child-friendly conditions? What, in your view, is most important?"*

*Child: "These people who run the interviews. I think they are the most important – they should be calm and friendly. It is the key thing." (Poland, male, 16 years old, victim, domestic violence case)*

Children involved in criminal proceedings mostly talk about their interactions with the police and judges, as these are the professional groups most likely to conduct pre-trial and trial hearings, especially in cases of serious crimes. However, children tend to more positively evaluate the attitude of social professionals, such as psychologists and social workers involved in conducting hearings, accompanying children and providing support. This may be because social professionals are more likely to have received targeted training on working with children and play a more continuous role in proceedings. Children also perceive them to be more child-friendly because of their manner of questioning and use of child-friendly materials during hearings. Child-friendly material comprises leaflets, pictures or cards with short and simplified text that further explains relevant information. (For more details, see [Chapter 2](#).) In contrast with legal professionals, who also tend to be less positively evaluated, social professionals are more likely to conduct hearings in child-friendly environments and use child-friendly material. However, only a few children report that child-friendly materials were used during hearings.

Children frequently address professionals' non-verbal communication. They repeatedly identify smiling and using a calm tone as key components of behaving in a child-friendly manner. Child victims of domestic abuse find this particularly important. Eye contact and other non-verbal indicators of interest are also significant. Children are generally highly critical of professionals who focus on writing down the children's answers rather than looking at them while they speak. They appreciate it when professionals sit closer to them; for example, they recommend that judges sit next to them, rather than on the bench. Children also recommend that professionals' physical appearance should not be too serious or too formal, saying that they feel uncomfortable when professionals wear uniforms (such as a police uniform) or wigs and gowns, in the case of legal professionals. They express a preference for informal outfits, such as t-shirts or jeans, and some find it frightening or off-putting when professionals have excessive or unusual make-up or manicures. Although judges' robes were generally singled out as being intimidating, a few children do expect judges to wear them to be clearly identifiable during hearings.

*"And the judge came. He was totally different than I imagined. He was very young and wasn't wearing a robe like most of the judges on TV shows do. He was normal, was wearing jeans and a shirt; my friend at school has the same shirt. It was, like, a bit peculiar. [...] The judge was 30 and my friend is 15. Such an age difference and they wear identical clothes. [...] This showed me he [the judge] is a man like everyone else, not a machine or something like that." (Poland, female, 15 years old, victim, domestic violence case)*

Children do not indicate a strong preference regarding the gender of the professionals who interact with them in hearings. However, many girls do prefer women – especially in sexual abuse cases – as do boys – especially young ones – as they find them calmer and gentler. For children to have a positive experience, the possibility of choosing the professional's gender appeared more important than the gender itself.

Although some children said that judges should have children of their own so that they can understand them better, others did not mention this and focused more on the professionals' age and backgrounds. Some stressed that judges should be neither too young nor too old. Children mentioned that they should have some professional background in child counselling or at least some experience in working with children to enable them to communicate well with children, using an appropriate variety of techniques to respond well to children's varied needs.

*"They told me, they asked me if I wanted to speak, to express myself with a sheet of paper. I told them I did not and that I was able to express my opinion by myself. I compared my sister to myself in this way: she was not able to speak openly, freely, so it was better to give her a sheet of paper where she would draw something. Sometimes she was able to express her opinion on a sheet of paper rather than say it." (Bulgaria, female, 16 years old, party, custody case)*

In terms of verbal communication, children highly appreciate it when professionals are welcoming, greet the children and introduce themselves when entering the room, begin conversation with small talk and show empathy. The majority of children state that professionals should be attentive to their needs, i.e. offer breaks regularly for them to drink, eat or go to the toilet; and allow children to express their emotions freely, including by crying. They appreciate being given more information about professionals' roles. In the children's opinion, professionals should try to speak loudly and very clearly. In addition, to avoid comprehension problems, they should avoid complexity and legal jargon as much as possible and instead use child-friendly terminology adapted to their age, maturity and level of understanding. Children recommend that professionals should also be ready to explain, clarify and respond to questions that may come up, particularly in relation to legal terminology that may need to be used.

Children indicate that not using child-friendly language undermines their full participation in criminal proceedings. For example, an interviewee in France who was a victim of sexual abuse reported that the female police officer kept repeating the term “rape” and was quite sharp during her questioning in the interview. This resulted in the interviewee not wanting to file a complaint about the sexual assault. An interviewee in the United Kingdom explained that, in contrast with her discussions with her support worker, the format and style of questioning during the hearing meant that her responses were restricted, making her feel like her full story could not be told as she would have liked. Although legal proceedings have different requirements from the support process, it would be useful to identify ways to introduce a style of questioning that does not alienate children.

Professionals’ questioning techniques also affect the children’s assessment of them. Children usually perceive detailed questions as a sign of engagement and willingness to seek a good understanding of their situation. However, when questions were repeated, they became afraid that they had not understood the question properly or had given the wrong answer. Large numbers of questions also make children feel uncomfortable. Even where children find defence lawyers friendly on a one-to-one basis, their language and the format of questioning during cross-examination prompted considerable criticism in most of the countries; children often indicated that they were made to feel like suspects and that it was implied that they were lying. Children also suggest that professionals should be more flexible regarding the time and location of hearings to enable them to have their voices heard.

## Children’s suggestions

### *Professionals’ behaviour*

According to children, professionals with child-friendly behaviour:

- Smile and are friendly, polite, cheerful, empathetic and attentive
- Take children and their situation seriously
- Frame hearings as conversations between two persons of equal value
- Adjust their approach and language to the children’s age, rather than treating them like adults
- Speak clearly enough that children can hear them properly
- Listen carefully
- Have an informal attitude and create a relaxed atmosphere
- Engage in “small talk” to make children feel at ease
- Are calm, patient and do not raise their voices at children or rush them (f.ex. if defence lawyers are allowed to speak directly to children, children stress that they should not be allowed to intimidate them, which happens easily due to their role)
- Question children younger than 10 through play
- Offer breaks
- Make food, water and sweets available
- Avoid wearing uniforms or official wigs and robes
- Use child-friendly material during hearings
- Have experience and training in working with children
- Are genuinely interested, engage children and are available and can be contacted at any time during proceedings

Children recommend making hearings child-friendly by:

- Giving children the option of choosing the gender of the professionals conducting the hearing
- Having hearings conducted by only one person and not repeated
- Avoiding having too many people and strangers present
- Asking questions that are appropriate, relevant, clear, concrete and use vocabulary adapted to the children’s age
- Not asking repetitive or excessive questions
- Having professionals explain to children the procedures and the reasons underlying decisions so that they can understand them



The children's suggestions make very clear that many of the Victims' Rights Directive's generic rights, which address all victims independent of age, are particularly important for them. These include:

- the right not to be interviewed in a repetitive manner, and, if more than one interview is necessary, the right to be interviewed by the same person (Articles 20(b) and 23(2)(c));
- the right to choose the sex of the interviewing person (Article 23(2)(d));
- the right to be interviewed by a specially trained person (Article 23(2)(b)).

FRA's research included discussions with children about their interactions with different professionals during the pre-trial and trial phases of criminal proceedings.

### Pre-trial phase

Children involved in criminal cases usually come into contact with police officers first. In most countries, children's opinions about the behaviour of police officers conducting their hearings vary, depending on the particular individuals they encountered. Most children interviewed in Estonia, Germany and the United Kingdom (England) tend to be positive about their experience. As the research with professionals showed, the officers in these countries are more likely to receive targeted training in working with children. Children often describe them as very kind, friendly, humorous and sympathetic. Children also noted that the police officers interviewed them in a "playful" way using clear, child-friendly language; that the officers took breaks when the topic became overwhelming, when they had to cry or when they were distracted; and that the children occasionally received a present after the hearings. Some of the children praised police officers for allowing them to hear the audio recording after the hearing. Children also spoke positively about police officers in direct comparison with other professionals.

*Child: "I think the police do, the police were very, very good. If we didn't understand what they were saying, they would change the language they [were] using to more simple terms. But I think the court system; they were using all these big words and we were like, 'What does that mean?' So ..."*

*Interviewer: "This was the barristers, the prosecution and defence. What about the people in the witness support service? Were they using fancy words as well?"*

*Child: "Didn't really talk to them. So ..."*

*Interviewer: "But the lawyers were just using 'words'?"*

*Child: "Yeah." (United Kingdom, female, 18 years old, victim, sexual abuse case)*

In Estonia, children assess police officers more positively when involved in serious criminal cases than in minor criminal cases. In criminal proceedings in Estonia, the police conduct the hearings and have the leading role, but sometimes child protection officers also attend the hearings. FRA's previous research with professionals found that professionals across Member States who interview children in serious criminal cases are more likely to be trained than those who interview them in minor criminal cases, and the children's assessments may reflect this. However, interviewees in Estonia also report negative experiences. For instance, a child victim of domestic violence stated that police treated her coldly, with distrust and like an adult. She found the police officers more concerned with gathering evidence than with her well-being. The police officers' violation of confidentiality was also viewed negatively: all children who were interviewed at school complained about police officers coming to their school in a police car and in uniform, prompting them to worry that their peers and teachers would find out details of their cases or suspect that they had done something wrong.

Children involved in serious criminal cases generally appreciate being offered the choice of their interviewer's gender; they say that this made them feel more comfortable at the interview and thus more able to provide a full account of their case. However, this choice is not always offered from the outset. Furthermore, in some cases, children's preferences regarding their interviewees' gender are not honoured. For example, in Bulgaria, several female interviewees involved in sexual abuse and exploitation cases spoke of being heard by male police officers, despite specifically asking for female officers. This left them feeling uncomfortable and constrained during their interviews.

Children positively evaluated pre-trial interviews conducted by social professionals not in court, but in specialised multi-disciplinary units where professionals from different disciplines work together on a case. In Spain, children prefer interviews conducted by specially trained psychologists at victim support offices and court-based child-friendly facilities to hearings conducted by judges in court. Victim support offices include *Fundación Márgenes y Vínculos* and court-based technical advice teams include *Equipo de Asistencia Técnica Penal* (EAT Penal) in Catalonia and *Programa de Evaluación y Tratamiento* in Andalusia. In Croatia, where children are predominantly heard by social professionals, assessments conducted at centres for social welfare and the Child Protection Centre of Zagreb receive positive evaluations based on their child-friendly environment and materials and the attitude and questioning techniques of the staff, psychologists and social workers.

## Trial phase

Children in most countries say that they are primarily heard by judges during the trial phase. Croatia is an exception, with hearings primarily conducted by social professionals. In Estonia, children are usually not heard during the trial phase.

In Croatia, children indicated that social professionals conduct hearings during the trial phase. The majority of the interviewed children were heard by court advisors, who usually had specialised pedagogical and psychological backgrounds. Generally, children assess these professionals positively for their attitude, communication skills, child-friendly and appropriate language and positive questioning techniques. Children describe court advisors as kind, nice and approachable. For instance, a 17-year-old girl with multiple disabilities involved in several proceedings, including as a victim in a sexual abuse case, mentioned that the court advisor surprised her by having a song for her to listen to after the hearing.

*“And when she did that [have a song for her to listen to after the hearing], she really won me over. (laughs) I adore her.”* (Croatia, female, 17 years old, victim, sexual abuse, party, custody case)

Although some children describe positive experiences with judges, the majority evaluate judges' behaviour and language while conducting hearings rather negatively. This could be linked with judges' lack of specific training in techniques for hearing children, as well as the fact that they come into one-off contact with children, rather than building longer-term relationships with them. In Germany, children indicated that judges excessively use legal terminology, making it difficult for them to understand their role and what is happening. Some interviewees stated that judges lack sensitivity and empathy. For example, children noted that judges asked inappropriate questions and insisted on them answering against their will, and ignored their requests, such as when they asked for “a moment to think about it” during a hearing. For example, in Poland, one child reported that the judge raised their voice to pressure the child to answer a question. In Spain, more than half of the children evaluate professionals' communication skills negatively, criticising them for lacking sensitivity and asking questions that are irrelevant and unsuitable for their age.

*Interviewer: “What part of this annoyed you exactly? Why?”*

*Child: “As I was testifying, or my mum, he kept on interrupting and said he couldn't hear or I used a wrong form of a noun, things like that. And after that, I got lost in what I was saying.”*

*Interviewer: “But he said that your mum used a wrong form of a noun, right?”*

*Child: “He was talking about case forms. Maybe not about the mum's testimony, but when my dad testified – he did as well – and said something indistinctly, or the judge heard it wrong, he [the judge] immediately said that in Polish some nouns should be inflected in a different way.”*

*Interviewer: “So he was correcting your Polish, wasn't he?”*

*Child: “Yes, he was.”* (Poland, female, 17 years old, victim and witness, domestic violence case)

In Poland, children's opinions vary depending on the location of the hearing. The Nobody's Children Foundation (*Fundacja Dzieci Niczyje*) in Poland has developed special 'blue rooms' to host hearings for victims and witnesses under 15 years of age. The use of these rooms is based on clear guidelines. The rooms have colourful walls, child-friendly furniture, toys, drawing materials and children's books. They are also furnished with one-way mirrors and recording equipment. The hearing is conducted by a judge, who conveys questions through a microphone to a psychologist or social worker, who then relays the questions to the child in an appropriate manner. The legal representatives of the accused, the prosecutor, a recording clerk and the parents of the child are among those who observe the hearing from behind the mirror. The people behind the mirror, such as defence lawyers, can also ask additional questions by phone.

Children positively assess hearings in dedicated, child-friendly 'blue rooms'; they say that the judges are nice, friendly and understanding. They appreciate the informal atmosphere and opening warm-up conversation, being offered a break or a glass of water during the hearing, and being given time to think about their answers and allowed to express their emotions, including by crying. In contrast, they assess hearings in court negatively; children find judges unfriendly, impolite and sometimes even outright rude.

*“She [the judge] asked me about things that were irrelevant for the case, it was pointless to talk about them. [...] I got angry but didn't say a word because I didn't want to make the judge angry. [...] I was afraid.”* (Poland, female, 14 years old, victim, sexual abuse case)

Regardless of the type of hearing, most of the Polish interviewees state that professionals' language was adjusted to their age, that they found the questions appropriate and relevant and that, if a question was unclear, they felt like they could ask for clarification. Despite this, questions could still trigger highly negative feelings and evoke painful memories related to the crime.

In Bulgaria, hearings are usually conducted by judges in court. However, where 'blue rooms' are used, social workers question the children. Children who were heard in 'blue rooms' in Bulgaria evaluate social workers more positively than judges for their questioning.



### 1.1.2. Procedures to support children before, during and after hearings

Aside from the professionals who conduct hearings or interviews, many other people play important roles in ensuring that children are supported throughout hearings. This is particularly the case for individuals who accompany children during the hearings, be they professionals or persons of trust. The number of people present is also important. This is also strongly linked to making protective support available to children throughout proceedings, which is described in more detail in [Section 3.1](#).

#### Professional accompaniment during hearings

Children spoke about being accompanied and supported by a wide variety of social professionals, including social workers. Psychologists are reportedly present during hearings in several countries, including Bulgaria, Germany, Poland, Romania and Spain. Some children noted that they appreciate the support from other professionals, such as witness support staff in the United Kingdom (and in one case in Croatia).

In Germany, almost all interviewees who were heard in court in criminal proceedings were accompanied by a psychosocial assistant. It should be noted that these professionals served as one of the main recruitment channels for this research project, which may possibly bias the research. Children highly appreciate their support, and note that they were the only professionals to use child-friendly materials.

In Croatia, some children spoke positively about being accompanied by social workers, particularly in domestic violence cases. In Romania, children who were accompanied by psychologists during hearings with judges or interviews with the police also report greatly appreciating such support. In Spain, children indicated that the same psychologists who conducted their pre-trial assessments supported them during trial hearings, and commented positively on how psychologists mediated between them and the court.

In Poland, children who were heard in ‘blue rooms’ spoke positively about the empathy and commitment of psychologists, whereas children were negative about court-appointed psychologists. In particular, children criticised them for failing in some cases to protect them from offensive judges, not comforting them, asking them difficult or troubling questions, speaking too fast and making inappropriate comments about the cases and the children’s emotional reactions.

In four countries, interviewed children referred to interpreters. For example, in Estonia, children who

are native Russian speakers said that interpretation services were available during the hearings. By contrast, in Bulgaria, France and Romania, the children complained that interpreters were not present. For example, in Bulgaria, ethnic Roma interviewees not fluent in Bulgarian say that they were unable to properly understand the judge during hearings. In France, unaccompanied foreign children also noted the lack of translation services at hearings.

In Spain, several children mentioned their interactions with forensic doctors during hearings – for example, when a doctor is present as an expert witness. Most of these children assess these professionals negatively because of their behaviour, as well as the inadequacy of the hearing rooms and the number of professionals present.

Children also indicated that they were questioned by prosecutors in Bulgaria, Germany, Poland and Spain. However, children described prosecutors’ participation as limited, as they participated actively in hearings on a few occasions only. In most of these cases, the interviewed children were unaware of the prosecutor’s role and responsibilities. This is of particular concern in Spain, where the Public Prosecutor for Minors is supposed to guarantee children’s rights when they come into contact with the justice system. Children interviewed in Spain did not consider them to be important figures during proceedings, regardless of whether or not they were aware of the prosecutor’s role.

Children’s reaction to cross-examination by defence lawyers is negative. The process of cross-examination is substantially criticised by almost all children, and mentioned recurrently by children from Spain and the United Kingdom (England) in cases of serious crimes. All of the children made serious complaints about the lawyers’ format of questioning and their use of inappropriately technical and confusing language. Some children said that going through this process very negatively affected their ability to participate in proceedings and, in some cases, made them so distressed that the trial had to be adjourned.

#### Presence of numerous people during proceedings

In most countries – excluding Croatia, Estonia and France – children spoke critically about the presence of numerous, largely unknown persons in court. It made them feel stressed or embarrassed – all the more when they had to speak in front of them.

*“It feels kind of strange. Especially with all these strangers. I didn’t know these people and I needed to talk about private matters.”* (Poland, male, 10 years old, victim, sexual abuse case)



Children indicated that it is better for them to have fewer people present during hearings, explaining that interacting directly with many professionals makes the emotional aspect of providing evidence significantly harder.

In Bulgaria, Poland and Romania, children complained about facing a full court. In Poland, direct contact in 'blue rooms' is limited to the judge and psychologist. Nonetheless, some children spoke of feeling uncomfortable because people, at times unknown, are observing behind the one-way mirror. In Spain, children spoke about large numbers of people being involved in court hearings, namely the judge, prosecutor, legal clerk and lawyers from both parties, people close to the victims, witnesses or parties, people close to the defendant (if the judge allows this) and support professionals. (There were two exceptions in Spain, where video conferences were used.) Even though German law provides for the possibility of excluding the public and the defendant, children report numerous people being present at hearings, including the defendant. They also stated that many hearings are conducted by several professionals, and that they are not allowed to choose someone to accompany them, which makes them feel outnumbered.

Children also reported that, during the pre-trial phase, the number of people present on hospital and police premises left them feeling like their privacy was violated. Children spoke of doctors and nurses present at hospitals, as well as of police officers at police stations coming in and out of the interview room and interviews being conducted in large rooms where many unfamiliar police officers work.

In contrast, children in Croatia, for example, highly appreciate being able to testify with the court advisor alone, as well as not having to testify in the defendant's presence.

### Accompaniment by person of trust

In general, children prefer to decide who, if anyone, should be present at the hearings, including both parents and professionals. They appreciate being able to choose who should accompany them in each particular case. However, this was not always possible.

Most of the children appreciate being accompanied and supported by adult persons of trust, who are usually parents or other relatives such as grandparents, but sometimes also foster parents, legal guardians or other continuous support people. They were also happy to be physically accompanied to the hearing location, even if their person of trust was sometimes not allowed to enter the hearing room itself. However, children's assessments of their parents' presence *during* the actual interview or

hearing vary, and may also differ depending on age and case type. For example, in Spain, several interviewees between the ages of 14 and 18 who were victims of sexual abuse talked about feeling uncomfortable at the police station because they had to speak in front of either their mother, father or both parents. Some Bulgarian, Croatian and Polish interviewees as young as nine who were involved in domestic violence cases also said that they feel more comfortable providing testimony with neither parent present, including the one who is supporting them. In Germany, some interviewees spoke of feeling uncomfortable during proceedings, as they found it hard to see their parents suffer and cry and did not want them to worry.

*"It's easier for me when they're not around, when I'm alone, like... Then I can talk without stumbling... If I had the social worker there, I'd be ashamed to talk about some stuff, and especially with Mum."* (Croatia, female, 16 years old, victim, domestic violence case)

Some children actively requested their parents' presence during hearings. However, the professionals conducting the hearings did not necessarily grant this request; interviewees assessed such refusals negatively. For example, one child in Poland indicated that she asked the judge to allow her mother to accompany her; her request was rejected in such a categorical and impolite manner that she was too afraid to ask any further questions, such as asking for a break to go to the toilet during the hearing.

Most of the interviewed children living in residential or foster care in Romania appreciated having a familiar figure with them in court – such as a psychologist or legal representative, usually the head of their placement centre.

Children's experiences and suggestions make very clear that many of the generic rights of the Victims' Rights Directive are particularly important for them. These include:

- the right to be accompanied by a person of one's own choice (Article 20(c)); and
- the right to ask to be heard without the presence of the public (Article 23(3)(d)).

## 1.2. Adapting settings to children's needs (process)

The interviews with children support the first report's finding that making the hearing environment child-friendly decreases both children's stress and the risk of secondary victimisation.



## Practices in numbers

Eighty-three per cent of children assess child-friendly rooms positively, and even more do so (89 %) when these are used in criminal proceedings. They have especially negative views of police stations and rooms in court with video-links (75 % and 71 %, respectively). The use of multiple hearing rooms, which 38 % of children encountered, is also negatively received. When this is the case, the children's general assessment of the proceedings is better when at least one location is a child-friendly hearing room (with negative assessments decreasing from 48 % to 31 % and positive assessments increasing from 11 % to 28 %). Promisingly, the assessment of proceedings' child-friendliness does not differ depending on whether a child lives in a rural or urban area; this indicates that child-friendly hearing rooms are available in both settings.

## Children's suggestions

### Hearing rooms

Children recommend the following for the settings and hearing locations in both criminal and civil proceedings:

- Hearing rooms should preferably be located outside of court buildings
- Hearing rooms should look child-friendly: painted in bright colours and decorated with child-friendly features, such as paintings, drawings, plants or flowers
- Toys should be appropriate for different age groups and there should not be too many (for example, children over 12 years of age prefer not having any toys in the hearing rooms, unless they are suitable for their age)
- Seating arrangements should be comfortable
- Rooms should have a clock
- Toilets should be easily accessible
- Water and refreshments should be available

FRA's quantitative analysis shows that, where children assess the hearing location positively, they also regard the proceedings as a whole as more child-friendly. Children stated that the physical environment should help them feel comfortable, safe and secure, and thus enable them to talk more freely and participate more usefully. Such settings may have toys, drawing pencils, books, a handheld video game console and maybe some food and drinks. Children's opinions on toys and games differ depending on their age. Older children recommend having toys available for younger children, but consider it inappropriate for themselves. Younger children spoke positively about being able to use soft toys to comfort and reassure themselves during

the hearings. However, although children involved in criminal proceedings assess child-friendly settings far more positively than the court environment, they are more often heard in settings that are not specially adapted, either in court or elsewhere.

Children emphasised that child-friendly environments are not sufficient in and of themselves if the professionals conducting hearings do not have a child-friendly approach and do not conduct hearings using appropriate techniques that consider the specific needs of individual children. They should use a safe and friendly setting in tandem with appropriate methods to ensure children's meaningful participation as outlined in the Council of Europe's *Guidelines on child-friendly justice*. FRA's quantitative analysis confirms that professionals who are positively assessed – as being friendly and respectful and as listening – are also more likely to use child-friendly hearing locations.

The children's experiences and suggestions make very clear that many of the generic rights of the Victims' Rights Directive are particularly important for them. This includes:

- the right to be heard in appropriate premises and rooms (Article 23(2)(a)).

### 1.2.1. Providing child-friendly facilities

#### Pre-trial phase

Interacting with police officers at the police station is often children's first encounter with the criminal justice system, so the way in which children are treated there could determine their attitude towards the process. Children identify a number of shortcomings in these first encounters.

For example, in Bulgaria, France, Romania, Spain and the United Kingdom (England), children were interviewed in "normal office rooms" containing desks, chairs, phones and computers. In France, Romania and Spain, children complained about testifying in shared working environments that lack privacy. In the United Kingdom (England), children assessed police behaviour positively, but criticised the poor decoration and lack of adequate furniture in police stations.

*"It was an open room for all the police officers... it was not very practical because everyone heard what I said... it was not very suitable for children... Sometimes I did not want to answer questions but I was obliged to."* (France, female, 13 years old, victim, domestic violence case)

In Bulgaria, some children who were victims of crime reported spending the night at police stations during the criminal investigations, in premises used for juvenile

offenders, without adequate hygiene standards and access to toilets.

*“It was a locked room with dirty sheets and blankets... dark everywhere... mice, rats – things like that. There were two beds, a couch, a table and a chair... A white ceiling, white walls, a cabinet like this one here, a bed over there, a bed over here, a table, bars, very dark... there was no electricity.”* (Bulgaria, female, ethnic Roma, 15 years old, victim, forced marriage, party, residential care case)

In Estonia, child victims and witnesses of less serious offences are interviewed in normal rooms within police stations or in neutral locations such as schools or their home, whereas children involved in serious criminal cases are heard in child-friendly facilities at the police stations themselves. Children in Germany who were involved in serious criminal cases also described being interviewed in child-friendly settings at police stations. They indicated that the rooms have child-friendly decorations, furnishings and toys, as well as video-recording devices to record hearings for potential use in court, and supportive tools for interviews, including anatomical dolls for collecting evidence. Children who were heard in child-friendly rooms appreciated the child-specific equipment but generally found that the video cameras made them feel uncomfortable. Some children also stated that the recording equipment in the police hearing rooms malfunctioned, meaning they had to repeat their testimony to police officers. Children also felt uncomfortable if several people were present in the monitoring room and would appreciate more proactive advice or support from the police.

*“I didn’t like the pressure of there being someone watching me on the other side of the camera... I think also they should give you tips on what to do if you get upset. You should count to 10 or something. It was all quite ‘You are going to be happy clappy and everything’.”* (United Kingdom, female, 12 years old, victim, sexual abuse case)

Children also noted that they were interviewed in other locations in the pre-trial phase, including in specialised institutions. In Croatia, the Child Protection Centre of Zagreb<sup>19</sup> conducts multi-disciplinary assessments that can potentially be used in court. Children assessed there spoke positively about their experiences and describe their rooms as child-friendly, colourful and having age-appropriate toys and materials, including drawing supplies for children to use while being assessed. Their positive evaluation was also based on professionals’ child-friendly manner of questioning and behaviour. Other children in Croatia who were assessed in professionals’ offices at social welfare centres (SWCs) spoke positively about the child-friendly features there. When assessments were conducted in offices that were not adapted, children recommended improving

facilities. In the United Kingdom, a few children spoke about their experiences with police interviewing them and recording statements at Safe Houses. The children evaluated this positively, as they prefer Safe Houses to police stations.

*“[The Safe House was] better than I thought, it was better than it being in the police station [...] there was a little waiting room and then they made us a drink and got straight on with it.”* (United Kingdom, female, 17 years old, victim, sexual abuse case)

In Spain, child-friendly rooms are sometimes used during the pre-trial phase at both victim support services and court-based locations. Specifically, interviewees mentioned *Fundación Márgenes y Vínculos* in different Andalusian cities, a victim support service that carries out psychological assessments and therapy for child victims of sexual violence; the Andalusia victim support service (*Servicio de Apoyo a las Víctimas de Andalucía, SAVA*); and the family support service (*Servei d’Assessorament Tècnic en l’Àmbit de Família, SATAF*) provided by the Catalan administration via family courts. Interviewees most frequently mentioned *Fundación Márgenes y Vínculos*, where they described rooms as being decorated in a child-friendly manner: with a smaller table for younger children, drawing materials and boxes filled with toys for children of different ages. Some of the rooms also have recording devices. Children generally assessed these premises positively, as they are outside the court environment and have child-friendly waiting and hearing rooms. Children also appreciated the pleasant, calm atmosphere and having only one professional (the psychologist) present for the conversation.

*“I was a bit frightened but I came here and I felt very comfortable from the first day, because it was a quiet place, I felt I was in a much quieter place, I mean, it was very different, even the posters, I mean, I was in the waiting room and I looked at the posters, the magazines and it was much more enjoyable, everything [...] of course it matters, at least to me, it wasn’t everything chestnut furniture, lawyer’s room style, with an armchair and everything, it wasn’t, there was a child table, there was, I don’t know, I was more relaxed, everything that happened was still in my head but when I came up it was different, a different atmosphere, you know? There’s no comparison.”* (Spain, male, 19 years old (heard at age 14 and 16), victim, sexual abuse case, assessed at *Fundación Márgenes y Vínculos*)

Children interviewed in Catalonia reported being assessed in child-friendly rooms at the City of Justice in Barcelona. These assessments are conducted by the Team for Technical Advice in Criminal Issues (*Equipo de Asistencia Técnica Penal, EAT Penal*) in child-friendly rooms located in a building complex dedicated to the administration of justice. The rooms have child-friendly

<sup>19</sup> For more information, see the organisation’s [webpage](#).





equipment and a one-way mirror. Children also assessed the premises positively and said that they felt comfortable there. However, several interviewees in Spain also mentioned being interviewed during the pre-trial phase in other locations that were not adapted to children's needs, with numerous people present and professionals with negative attitudes towards them. They all evaluated interactions with forensic experts in hospitals or medical centres negatively.

In Estonia, the police and judges also interact with children in schools and at children's homes. Although being heard in the familiar and safe environment of school could be considered positive, many children instead said that they felt uncomfortable and distracted from their studies. This was a particular issue because interviews took place unexpectedly during school hours and in rooms lacking privacy, meaning that people interrupted and could overhear. Some of the children interviewed in Estonia also criticised the lack of privacy resulting from being asked publicly – in front of schoolmates – to leave class to attend a police interview, or being taken from the school by police officers in uniform, noting that “everyone started whispering and gossiping”.

*“Teacher said that they [police] were waiting and then they [classmates] saw [...] Strange, because, everyone was watching, like where was I going with the policemen and it was weird... they were talking like, what did she do now, or why. [...] When someone comes to school, then it would be better without the uniform.”* (Estonia, female, 14 years old, victim, sexual abuse case)

## Trial phase

Most children reported being heard in court during the trial phase and following interviews at police stations. The only exception is Estonia, where children indicated that they were heard only during the pre-trial phase. Children are heard in different types of rooms in court; the type most often reported is a courtroom that has not been adapted and lacks child-friendly features. To a lesser extent, children are also heard in the offices of the professionals who conduct hearings, such as judges, and in video-link rooms. With the exception of France and Romania, children in most countries also provided examples of child-friendly hearing rooms in court and elsewhere.

The majority of the children described the court premises in negative terms. In some cases, children indicated that they first found the court buildings intimidating, but found them less unfriendly once they became more familiar with the justice system. However, far more children found that the feeling of fear remained unchanged; they mentioned anxiety about uniformed police officers, the security check at

the entrance and being exposed to adult criminals – for example, seeing people handcuffed in the corridors. All interviewees mentioned the buildings' general appearance; children described them as old, poorly maintained and their architecture imposing. Children also spoke about being intimidated by professionals wearing uniforms – for example, police officers or justice professionals in long, dark cloaks.

*“You're always afraid of the gown, it is daunting.”* (France, female, 17 years old, party, custody case)

*“I would be scared when seeing those policemen big and like that when they would stand there, by the door, like that, bodyguards.”* (Romania, male, 14 years old, party, placement measure case)

All the children spoke about not having appropriate waiting rooms. Most reported waiting in corridors with chairs or in shared waiting rooms, sometimes for many hours, on numerous occasions leading to unwanted encounters with the defendant. Children prefer to wait in a space equipped with child-friendly features and without the risk of meeting the defendant.

Children were critical of the excessive formality in the average courtroom: witness boxes, podiums for professionals (for example, for judges conducting hearings), benches for the parties and public, and official decorations (such as national flags). Children also recurrently described rooms as being too small and lacking ventilation, especially given the sometimes high number of people present. Conversely, other children criticised the large size of the room, finding it intimidating. Concerning the room's general appearance, children dislike the prevalence of neutral colours such as black and white and the absence of natural light.

*“In my opinion, it [the courtroom] shouldn't be so black and white because, I don't know how to describe it, it was awful. Catastrophic! Maybe they should add some colours, for example green, so it would be a bit more cheerful. When I came in, they were all like ghosts. I was wondering where I came, they all just looked at me and then the judge came in and he also was in black and white and with a black tie... the chairs were white, black, white, black, black, white, white, black ...”* (Croatia, male, 15 years old, witness, domestic violence case)

Many children indicated they felt comfortable when seeing other children's drawings on the walls, as this signalled to them that other children had been through the same process. Conversely, being obliged to testify with a microphone and in front of the jury made them feel both uncomfortable and, at times, frightened. Finally, children feel very uncomfortable when they have to testify while standing for long periods of time even though chairs are available. They suggested that children would feel better testifying while sitting comfortably.

*“What made me feel very ashamed was to be standing and speaking through a microphone [...] but it was a little, I felt a little uncomfortable, standing and everyone [...] Yes, it was like a table in a U-form, there was a microphone and a sort of steps behind and that is all.”* (Spain, female, 16 years old, victim, psychological violence case)

To a lesser extent, children are also heard in standard offices, described by the children as having desks, bookshelves with binders and computers. Although judges' offices are mainly used, hearings are also conducted in those of other professionals. For example, in France the investigative judge conducts the hearings, and in Spain the public prosecutor for children conducts them. In general, children assessed hearings conducted in these offices more positively than those in regular courtrooms, because the environment is less intimidating. Given that children report being heard in these rooms most often in civil proceedings, [Section 1.7](#) on civil proceedings includes further descriptions and assessments of these rooms.

Children from three countries – Croatia, Spain and the United Kingdom – reported being heard in video-linked rooms. Interviewees described these rooms as small, with desks, chairs, computers and the necessary equipment for a video-link, such as TV screens. Children were universally critical of these rooms' layout and appearance, describing the environment as too formal and the rooms as too small and lacking child-friendly materials, decoration and toys. However, children did appreciate being heard by only one professional and without the defendant being present.

Certified child-friendly 'blue rooms' for hearings exist in only two of the nine participating countries: Bulgaria and Poland. In Croatia, Germany, Spain and the United Kingdom, children gave examples of child-friendly hearing rooms either in court or premises such as safe houses or at child protection centres. In Germany, the children positively assessed the child-friendly hearing and waiting rooms in some courts. These rooms are furnished with a table, chairs, a camera and a TV screen. Children noted that professionals conducting the hearings offered them anti-stress balls (*Quetsch-Bälle*) to use.

The Polish legal framework specifies how to interview children under 15 years of age during court hearings. The interviews must take place in the presence of a psychologist and be video-recorded during the court trial. The recording is later shown in the main courtroom and included in the court files. Children under 15 are heard in child-friendly 'blue rooms', whose certification also requires trained professionals to use them based on specific guidelines. According to the Nobody's Children Foundation, in October 2014 there were over 80 certified 'blue rooms' in Poland, and they are not only located in the biggest cities of each region. However, there are regions where 'blue rooms' are still hardly available – for

example, the Pomeranian Voivodeship – and an increase in the number of certified rooms throughout the country is still recommended. These special rooms are situated in a variety of locations, including courts, NGO facilities, police stations and social centres. Common equipment includes a child-sized table and chairs, a corner with toys for small children, a one-way mirror and recording devices. The children spoke positively about the rooms and general environment. In particular, they were positive about the homely and cosy atmosphere, the bright colour schemes, the availability of toys, booklets and crayons, the rooms' spaciousness, the possibility of choosing the most comfortable place to sit – for example, child-sized chair, normal chair or sofa – and the availability of drinking water.

*“This room is nice. It's a good place to talk, spacious. You can sit where it's comfortable.”* (Poland, female, 14 years old, victim and witness, domestic violence case)

However, for some children, the presence of visible recording devices, together with the knowledge that people are present behind the one-way mirror, was a source of fear and stress.

*“Throughout the hearing, [...] I saw a silhouette, I saw who was standing there [behind the mirror], but I couldn't make out a face. But I knew it was her [a female lawyer] because I saw who was sitting where when I entered the room. And when she stood up I knew it was her, and she had that strange face.”* (Poland, female, 13 years old, victim, sexual abuse case)

Whereas younger children spoke positively about toys, children older than 12 criticised them as too childish and appropriate only for young children. Furthermore, although all rooms have similar equipment, 'blue rooms' situated within courts or at police stations were not as positively assessed as those in other settings. Children consider courts and police stations intimidating and prefer to be heard elsewhere, such as at the Nobody's Children Foundation.

A few children in Bulgaria reported being heard in 'blue rooms', although less frequently than in Poland, as this is not yet standard practice. 'Blue rooms' exist in seven large and three small cities in Bulgaria. The Social Activities and Practices Institute (SAPI) has begun setting up 'blue rooms' for hearings similar to those in Poland and equipped with child-friendly furniture, colourful walls, toys, drawing materials and children's books. These rooms are not usually located in court, but rather in other locations where SAPI is developing community-based services for at-risk children and families.

*“It was very nice. A dream room [...] it's like a child's room [...] Yes, there were toys. [...] Perfect. I felt great.”* (Bulgaria, female, 13 years old, victim, sexual abuse case (heard in a 'blue room'))



As in Poland, children in Bulgaria assess hearings conducted in 'blue rooms' more positively than those in typical courtrooms. They appreciate their child-friendly features and the use of materials such as drawing supplies and illustrated books.

Overall, the children's interviews show that children prefer to be heard outside the court. They consistently report finding court settings intimidating and frightening, often because they associate them with criminality; and usually describe them as inappropriate for children.

### 1.2.2. Controlling contact with other parties during proceedings

Safeguarding a child from seeing the defendant in the courtrooms is crucial to ensuring child-friendly hearings and judicial proceedings. Nearly all children interviewed prefer to be heard without the defendant present. They assessed video recordings and video-links more positively than hearings conducted in court with the defendant present, provided that they are appropriately informed about the procedure and its purpose, who sees the video, who is present and why, with as few professionals involved as possible. Children spoke about various procedural measures to control contact with other parties, including video recordings, video-links, screens and the exclusion of the public; these measures are later described separately.

Video-recorded evidence from the pre-trial phase is a procedural safeguard available in some countries for child victims and witnesses of serious forms of abuse, such as physical or sexual abuse. However, this measure is used more systematically by some countries than others. For instance, children in Estonia are systematically heard only in the pre-trial phase and feel positive about being heard once by police without subsequently having to testify in court. Children in the United Kingdom (England) also reported that this measure is frequently used. Although most of these interviewees assessed this positively, some were worried about people seeing them when the recorded evidence is shown at trial.

In some countries, the measure is not systematically applied. For instance, in Bulgaria and Romania, none of the children spoke about it; instead they criticised the multiple hearings conducted by different professionals, which they faced at both the pre-trial and trial phases of proceedings. In Spain, only one child spoke about video-recorded evidence being used. Moreover, the child assessed the experience negatively; because the defence lawyer was not present at the pre-trial hearing, the evidence was not considered valid, meaning the child had to repeat the testimony in court. Although children overall positively assessed using

video-recorded evidence from the pre-trial phase to avoid having to be heard again in court, some would have preferred to have the choice of attending the trial hearing, as well.

Another procedural safeguard available in some countries is hearing children via video-link from a separate room. Children usually appreciate not being in the same room as the defendant and other persons and being heard with only one professional present. Children also noted that they prefer not to see the court hearing on the TV screen, as they find it a source of stress.

*"I thought that was very good because I myself didn't want to see him and I didn't want people around me. It was a good way because obviously they can see you but you can't see them."* (United Kingdom, female, 18 years old, victim, sexual abuse case)

In Croatia, almost all children interviewed in cases involving serious forms of abuse reported being heard in video-link rooms. However, the procedural safeguard is again not systematically used in all countries. For example, only one child in Bulgaria and two in Spain reported being heard through live video-links. No children reported the practice in Romania.

The regular use of screens was reported in several countries, including the United Kingdom and Spain. Children assessed them positively, as they allowed them to avoid eye contact with defendants. Nonetheless, several children noted that they still did not feel comfortable using this measure because they lacked information and support from professionals, especially given the defendant's presence in the same room.

*"A woman came who I think was the court clerk, I don't know who she was, eh? I was asked how old I was, if I wanted a screen and then I had to remain alone for a little while."* (Spain, female, 16 years old, victim, psychological ill-treatment case)

When it was possible to choose between using a video-link and a screen to give evidence, different children made different choices, with both options being picked for different reasons. Some children said they felt more comfortable using a screen because they would have felt "isolated" in the video-link room. Other children preferred to be heard through video-links, as these gave them a feeling of privacy while discussing sensitive information.

*"I didn't want everybody looking at me."* (United Kingdom, female, 19 years old, victim, sexual abuse case)

Although in some countries it is possible to exclude the public and defendant from court hearings, it is seldom applied in some of them. In Germany, for

example, children criticised the fact that many people, even defendants in some cases, were present for most of the hearing. In Romania, some children who had been involved in human trafficking described being threatened by defendants and their relatives in the hearing rooms, with judges failing to take steps to respond to or prevent such situations.

Particular attention should be paid to children’s accounts of meeting defendants during judicial proceedings. Children always described meeting defendants as negative experiences. They stated that their presence in hearing rooms made them feel unsafe and frightened, usually meaning that they found it very difficult to testify in a free and calm manner. Particularly in Bulgaria, France, Romania and Spain, numerous children reported unwanted encounters with defendants while waiting in court buildings, waiting areas and courtrooms. (For France, no data are available about the protection measures in criminal proceedings.)

Children encountered defendants more often during waiting periods than in hearings themselves. They explained that this was due to a lack of separate child-friendly waiting areas or separate entrances – which can be the case even when the hearing itself is in a child-friendly, separate room. For example, in Bulgaria, a seven-year-old met the defendant when leaving a ‘blue room’. This issue persists even where court buildings have separate entrances for child witnesses. For instance, in the United Kingdom (England), children described a lack of coordination or proper arrangements, resulting in them encountering defendants or their relatives. In other countries, such as Croatia, some children stated that the professionals in court tried to organise their comings and goings so that they would not meet the defendants. However, this was not always successful.

### Practices in numbers

Of the children interviewed, 37 % had contact with the defendant or other parties before, during or after their hearings. This was consistently assessed negatively.

In the United Kingdom (England), victim support or witness support staff and police officers facilitate pre-trial visits for the majority of children, allowing them to express their opinions on procedural safeguards. When NGO support workers were involved, children said they were well informed and noted that they had the opportunity to discuss individually which special measures would be appropriate for them. They highly appreciated having someone thoroughly explain their options; this made them feel like they could make informed decisions, and were thus more likely to assess their overall experience positively.

*“I would prefer to do it [be cross-examined] behind the screen because it’s better to speak face to face than over a [video] link ... We were speaking about it and I was asking questions – if I was behind the screen who would be able to see me? – and they said that only the jury and the judge and the people that asked me the questions would be able to see me. So instead of going into the video-link I decided to do that.”* (United Kingdom, female, 17 years old, victim, sexual abuse case)

In England, some children were critical of measures being implemented without their agreement, understanding or knowledge of all available measures. They described not being properly informed or being pressured to opt for specific measures by judges or defence barristers. This made children feel that professionals prioritised how the evidence would impact the case over their best interests. For example, one child was informed that the judge would choose whether or not to use a video-link, regardless of her preference.

*“I did say that I was more comfortable with screens but they said that it wouldn’t be up to me, it would be up to the judge on the day.”* (United Kingdom, female, 17 years old, victim, sexual abuse case)

*“It did have an effect on me. I wanted to say so much stuff and I thought that I was going to be able to finally say and voice my opinion so he can hear, and it didn’t turn out the way I thought it was going to... It felt like I was just a puppet. I was just being moved around from one place to another and being told what to do. That’s what it felt like. I didn’t feel like I had a choice.”* (United Kingdom, female, 19 years old, victim, sexual abuse case)

Moreover, some children described failures in implementing measures, which resulted in re-traumatisation and secondary victimisation. For example, one girl in Spain reported that her personal data (place of residence) were accidentally revealed during a hearing, making her afraid of repercussions, such as retaliation from the defendant. Moreover, as regarding the pre-trial phase, some children said that technical problems also hindered the implementation of procedural safeguards.

## 1.3. Providing legal representation and legal aid to children (process)

### Practices in numbers

Only 6 % of children mentioned receiving legal support. Two thirds of them assessed the support positively; one third assessed it negatively.

The Victims’ Rights Directive stresses that children should be empowered to exercise their rights (Recital 19), including through legal advice and representation





(Article 24). However, the research shows that children are offered legal advice in a manner they do not always appreciate.

Children involved in criminal proceedings generally did not find lawyers to be sources of procedural support. In Estonia, no children described them as offering such support. In Bulgaria, Croatia and Poland, only one or two children in each country mentioned lawyers. In other countries, a larger proportion of children did speak about lawyers providing procedural support. However, such support primarily came from social workers or psychologists, if it was received at all (see Chapter 3).

## 1.4. Reducing the length of proceedings (process)

### Practices in numbers

Among the children interviewed, the average length of proceedings was 25 months. Some 23 % of children were involved in proceedings that lasted a year. A very similar proportion of children (19 %) was involved in proceedings that lasted more than three years.

### Children's suggestions

#### Hearing Length

Regarding hearing length, children recommend the following:

- The optimal hearing length is up to one hour for older children and less for younger children
- Training should be given to professionals to sensitise them to children's needs
- Pre-determined breaks should be offered

In most countries, children spoke about lengthy criminal and civil proceedings. They highlighted long gaps between different phases; multiple hearings; procedural mistakes, such as technical problems with recording devices, resulting in repeating testimonies; and cases where the defendants or their lawyers were absent, where trials were adjourned or where pre-trial recorded evidence was not considered valid.

The children's experiences and suggestions indicate that many of the generic rights of the Victims' Rights Directive are particularly important for them, such as:

- the right to be heard swiftly (Article 20(a)).

The Victims' Rights Directive requires that "interviews of victims are conducted without unjustified delay after the complaint with regard to a criminal offence has been

made to the competent authority." However, in several countries, including the United Kingdom (England), France and Spain, children reported that considerable time elapses between the provision of evidence, trial hearings and the verdict. Children complained that lengthy proceedings affect their lives negatively.

*"I just wanted everything to be over. But it was taking ages and we kept getting more visits saying it was going to be even longer [...] I wanted it to be over for me to get my normal life back again. But then it was months and months before that actually happened."* (United Kingdom, female, 12 years old, victim, sexual abuse case)

A lack of information during periods of delay may adversely affect children's further participation in court proceedings and could prompt them to withdraw from the process, regardless of their role therein.

*"I felt like giving up because they had been messing me about for so long. I had to wait that long to go to court. I thought they would have been ready by then, it took nearly a year to get into the court."* (United Kingdom, female, 14 years old, victim, sexual abuse case)

*"I wanted to stop. I said it annoyed me, that I was tired of it, and I went out during the two hearings. After they came back to get me. I had to go back in because the judge wanted me to talk. But most of the time I didn't speak."* (France, male, 12 years old, party, parental neglect case)

Children also recurrently criticised that criminal proceedings are often stretched out over a high number of years. For example, in France, one child victim of sexual abuse indicated that four years passed between her providing evidence to the police and the final sentencing. Children perceive this as something that is outside of their control, and do acknowledge that some delays are inevitable.

*"What was long was that they did not find him [the defendant] for about two years. All my Year 11, and part of the Year 12 [high school years]. But we can do nothing about that. Everything takes a long time: the trial two years later, it's very long, but I do not know if we can resolve that."* (France, female, 22 years old (aged 15 to 19 at time of hearings), victim, sexual abuse case)

Children see multiple hearings as another major reason for lengthy proceedings. This was particularly emphasised by children from Bulgaria, Romania and Spain, where pre-trial recording is rarely used to reduce the number of hearings. Children in Bulgaria, most of them victims of sexual abuse, described being heard multiple times by different professionals and not understanding the need for this repetition, given that they had already been heard during the pre-trial phase. They were very critical of the fact that questions asked by judges during hearings repeatedly made them relive traumatic experiences.

## Children's suggestions

### *Shorter proceedings and shorter hearings*

Children recommend reducing the length of proceedings and propose the following:

- The period between hearings and the court's final decision should be reduced
- Children should be video-recorded and the recordings used as evidence at trials (to avoid trial hearings)
- Testimony should be provided once to the judge, rather than several times to different people
- Long waiting times should be avoided and schedules respected
- Courts should be better organised, and include measures to avoid uncertain trial dates and hearing postponements

*"They shouldn't torture the child to tell the story so many times... Very torturous... But just tell it once, I guess, for example... directly to the psychologist to tell an investigator, tell someone, and then they should transfer all testimony to the judge and the child should not be called in again. And in the worst case, [the child should tell] the judge... but not in court."* (Bulgaria, female, 14 years old, victim, sexual abuse case)

*"It was unpleasant for me that I had to retell several times what had happened – police officers, investigating officers, preliminary investigating officers perhaps, I don't know what exactly they were, but it was unpleasant that I had to retell the same thing more than once."* (Bulgaria, male, 16 years old, victim and witness, sexual abuse case)

Children in Spain also criticised multiple hearings, which obliged them to repeat their testimony to a large number of professionals. This is particularly difficult for victims of sexual abuse, who on average face four or five hearings; three interviewees reported extreme examples of up to 11 hearings each. Moreover, many interviewees noted that if the ruling or appeal is pending over the course of multiple hearings, this is a great source of stress.

Interviewees in Croatia indicated that interacting with a wide range of professionals before trial hearings, including long interviews and assessments by the police and social workers and psychologists from the SWCs, also leads to lengthy proceedings.

*"Well, it was a bit strange to me – why so many times. We [he and his sister] had to confirm the same things multiple times, and so on. I mean, we had to go there more than once, sometimes we had to come back to the same place two or three times about the same thing, and I couldn't see the reason for that, exactly... Why we had to go several times, if we had done it already."* (Croatia, male, 16 years old, multiple proceedings/six hearings in one year, including as victim, domestic violence case)

## Practices in numbers

The length of proceedings is directly related to children's assessments of their child-friendliness: the longer proceedings last, the less child-friendly and more negative children find them. Interestingly, when proceedings lasted less than 1.5 years, 35 % of the interviewed children found them child-friendly; this dropped to only 11 % when they lasted two years. Only one child assessed proceedings that lasted up to three years as child-friendly.

The majority of interviewees criticised the procedures' length and wished hearings were shorter, with some suggesting that the length should depend on the child's age. Children were also critical of the lack of child-friendly facilities and of special measures to avoid long waiting times; they would very much prefer their cases to be prioritised. Children interviewed in countries such as Bulgaria, Spain and the United Kingdom frequently described the absence of clear schedules, recurrent adjournments of trials and a lack of information about courts' administrative organisation. In Bulgaria, most children heard in courtrooms spoke about long waiting times in hallways together with other people, who made them feel uncomfortable. Moreover, some children described these corridors as oppressive because there were neither enough places to sit nor enough air to breathe. In the United Kingdom (England), too, children criticised the long duration of hearings, waiting times and delays. They disliked having to be available over the entire course of the trial and having to be present in court for the whole day when they provided evidence. In one example, although the child was required to give evidence on one day only, she was told that she could be called at any time during the trial's five-day period. The uncertainty was a source of anxiety for the child.

*"It was just, it could happen on the Monday, it could happen on the Tuesday. We didn't actually know ..."* (United Kingdom, female, 17 years old, victim, sexual abuse case)

Children in France, Poland and Spain criticised the lack of recording as prolonging hearings, with professionals needing time to take notes or children having to repeat their accounts for the professionals to write them down. For example, children described how a judge dictated their testimony for the record and how they had to stop talking and wait until the recording clerk had typed up the testimony.

*"As the judge was asking me questions, the lady [recording clerk] typed it all down on the computer. Sometimes, the judge would stop me and ask me to hold, which I think wasn't good, because I was talking and talking and then I stopped and something slipped out from my mind. [...] If this had been recorded, I would have been able to talk without interruptions and I might have told them a few things which slipped my mind because of those short pauses."* (Poland, female, 15 years old, victim, domestic violence case)



### Practices in numbers

Twenty-nine per cent of the children interviewed were involved in multiple (usually two) proceedings. Half of those children were involved in both criminal and civil proceedings, and one third were involved in multiple civil proceedings. Nearly half of the children involved in multiple proceedings assessed proceedings negatively (46 %). In contrast, 29 % of children involved in only one proceeding did so.

Particularly serious and complex cases often require multiple proceedings. These make numerous, lengthy hearings (assessed negatively by children) very likely and, unsurprisingly, produce negative assessments of proceedings overall. The increased likelihood of children having negative experiences in such cases makes child-friendly and protective measures all the more important. Multi-disciplinary cooperation – one of the requirements in the Council of Europe’s *Guidelines on child-friendly justice* – is particularly likely to decrease the number of hearings and thus the length of proceedings.

## 1.5. Deciding to hear the child (outcome)

In general, children involved in criminal proceedings perceived their participation as significant to the process and stated that it is very important to be heard.

### Practices in numbers

Sixty-two per cent of the children interviewed assessed their participation as important. When children assessed their participation as important, they tended to regard the proceedings as child-friendly, as well.

Interviewed children – both victims and witnesses – felt that their statements affected the final outcomes and therefore expected defendants to receive a just punishment. They usually stated that, without their testimony, the outcome would have been different. Additionally, child victims found that testifying offered a form of closure. Child witnesses believed they contributed to justice or to ending someone else’s difficulties. Finally, where children found professionals’ attitude during hearings positive and child-friendly, they were more likely to also feel taken seriously.

For example, in Croatia, almost all children found attending the hearings important, saying it allowed them to contribute to clarifying the situation. Many children emphasised the importance of the truth coming out and of defendants being punished accordingly.

*“[One should testify] definitely. Because if someone did something, he has to pay for it.”* (Croatia, female, 15 years old, victim, sexual abuse case)

In Poland, one of the most common reasons why interviewees found hearings important was that these allowed them to present their views of events. The other equally common reason given was that the interviewees wanted to talk to someone about the crimes. In Romania, most of the children considered being heard important, both personally and in terms of the outcome. However, children differentiated between different types of proceedings: those involved in multiple criminal and civil proceedings said that being heard was important in the criminal proceedings, but not in the civil proceedings. In Germany, nearly all interviewees perceived their hearings as influential on the proceedings – some because the sentence imposed was severe, others because a sentence was handed down at all.

Among children who voiced negative views of the value of their participation in criminal proceedings, the reasons given for this fall into four categories: first, when they were disappointed with the outcome of proceedings, i.e. they did not agree with the final verdict, either because the defendant was not found guilty or because they considered the sentence too lenient; second, when the proceedings were still ongoing and the long duration had made the children doubt that they were heard and their opinion appreciated; third, when the hearing was too burdensome, especially where they had to attend multiple hearings; fourth, when children evaluated the attitude of the involved professionals poorly. For example, children from Spain who felt negative about their participation in proceedings used the following terms to describe professionals’ attitudes: intimidating, rude, not very sensitive, a lot of tension, inadequate or bad treatment, distant, and hostile.

*“At the trial, the first time I did not like it at all, because I did not feel listened to by them and felt not well treated at all... The judge’s attitude was one of ‘bad blood’. It was as if everyone was against me. And the lawyer [defence lawyer]... still worse.”* (Spain, female, 13 years old, victim, domestic violence case)

Moreover, even when they found their participation important, several children noted that they did not really feel listened to. For example, in the United Kingdom, children felt that their role and views were almost peripheral to the procedural process, without influence on the final decision.

Children were also asked if they would recommend that a friend participate in criminal proceedings. In response, several children emphasised that they would recommend participation in proceedings that have

a direct impact on their lives. However, there are also children who, regardless of age, categorically advocated that children not be heard, as they consider being heard in court a negative experience. Moreover, older children noted that they found specific systems inappropriate for very young children, as they believe the system itself is not conducive to full participation in proceedings at early ages.

*"It's just good to be heard and that it's going to make a difference."* (United Kingdom, female, 16 years old, victim, sexual abuse case)

*"I would tell her [a friend] not to go to court because it is awful to go there, and if she really had to go, it is up to her to decide, but I think that those statements shouldn't be given, children younger than 18 shouldn't go to court."* (Croatia, female, 15 years old, victim, domestic violence case)

*"Because, if I – who am 17 – practically broke because of how many things there were, I can only imagine what it is like for someone younger. I believe that it would be too difficult for someone younger to bear. These are not easy subjects, not at all."* (Croatia, male, 17 years old, party, custody case)

*"Little kids end up going there. They told us that this woman would come, and before us there was this kid, like, six or seven years old. I mean, it's just a kid. And they put her in the chair, and they started shooting these questions at her... Poor kid!"* (Croatia, female, 16 years old, victim, sexual abuse case)

### Practices in numbers

Although most children's hearings took place when they were between 10 and 16 years old, children's ages at hearings ranged from 2 to 18. Thirty per cent of children spoke about hearings that occurred when they were between two and seven years old. None of these children perceived the proceedings as child-friendly, despite all of them having some form of support and, in most cases, receiving child-friendly information.

## CIVIL PROCEEDINGS

### The case of Lucia: how civil proceedings can be improved

Lucia\* was born in Spain and lives there. She participated in custody proceedings after the divorce of her parents. At her first hearing, she was nine years old.

Lucia did not receive any support before or after the hearing, except from her mother, who gave her a little information about the hearing, and, sometimes, from her mother's lawyer.

At the hearing, she felt very nervous because she met her father, his lawyer and his witnesses in the waiting room and because her younger sister was crying all the time. Her younger sister was not allowed to talk to the judge, even though her mother, sister and she herself requested it. She found the judge disrespectful, as he constantly interrupted her, changed her statement for the court notes and called her a "spoilt girl":

*"[M]aybe I am a spoilt girl... but I don't think so! And I also have opinions! It doesn't even matter if you are a spoilt girl. Because we went there to be listened to, and so I would like to explain things, and not someone [the judge] to tell me I am spoilt and other things."*

Lucia has the following suggestions for improvement:

- "they should tell you what they are going to do... explain what they are going to ask";
- "let someone [the sister] talk if she is crying";
- "he [the judge] should show us some respect";
- "to provide help... and someone sitting with you at least during the hearing... I only had my sister, at least".

\* Fictitious name.





## 1.6. Ensuring professionals are adequately equipped to work with children

Various professionals engage with children at hearings, and do so in different ways, with some conducting the hearings and others supporting children before, during and after hearings. The following two sections look at how children assess the manner in which professionals conducted hearings and the ways in which professionals supported them before, during and after hearings.

### 1.6.1. Professionals' behaviour when conducting hearings

As found in FRA's first report, children involved in civil proceedings are heard more often by social professionals than by legal professionals: an important factor, as children assess social workers' behaviour more positively than that of legal professionals. In addition to hearing children, social workers are also often tasked with providing support based on their specific training (see also Figure 3). It is less likely for other – for example, legal – professionals to have received child-specific training in the civil field. This finding is based on complementary information from the first phase of the research, interviews with professionals, and from this second phase. In custody conflicts, children were heard either by multiple persons of different professions or by a single professional (a judge or a social professional); they prefer the latter

approach. The majority of children involved in civil proceedings indicated that the most important aspect of proceedings is the child-friendliness, attitude and manner of questioning of professionals conducting hearings, as outlined below. This parallels what children stated about criminal proceedings (see Section 1.1).

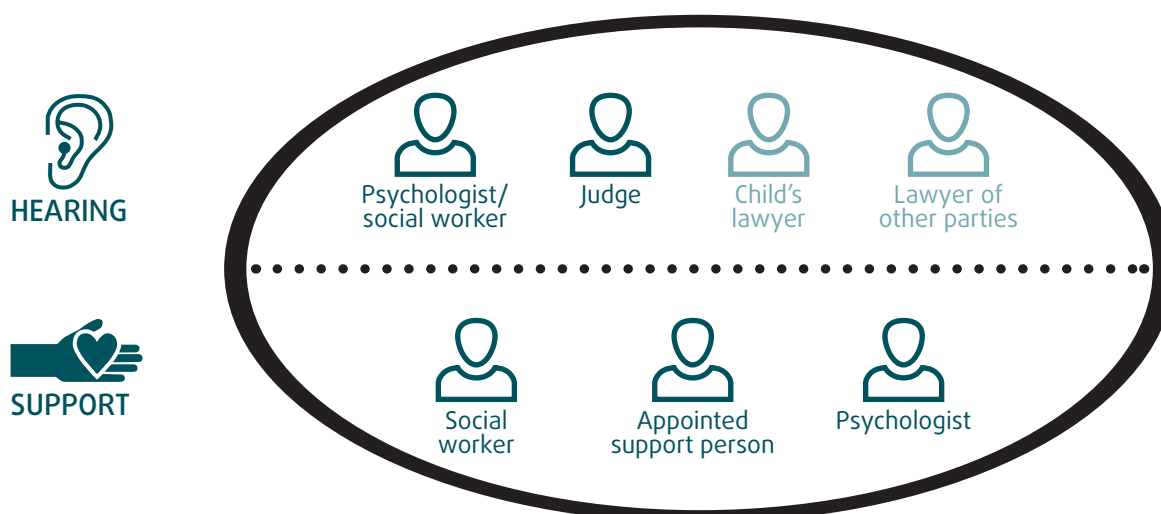
#### Practices in numbers

In contrast to criminal proceedings, in civil proceedings the majority of children interviewed were heard by a judge (67 %), followed by a psychologist or social worker (27 %). Other legal professionals (5 %) or police officers (2 %) heard children in only a very few cases.

#### Hearings conducted by judges

In countries such as Bulgaria, France, Germany, Poland, Romania and Spain, judges play the leading role in conducting court hearings in civil proceedings. Children's assessments of judges are strongly dependent on the individual professionals' demeanour; children gave positive evaluations when judges treated them with respect and friendliness, asked about their wishes, showed empathy, gave them attention, and offered breaks. Conversely, they spoke negatively about judges who were unkind and unwelcoming, did not use child-friendly language, were in a hurry and rushed hearings, or whose non-verbal communication they found intimidating, such as due to not making eye contact or writing during hearings.

Figure 3: Most commonly involved professionals – civil proceedings



Note: Figures in dark green represent professionals frequently in direct contact with children during civil proceedings. Figures in light green represent professionals either not in direct contact with children in most countries or generally less present in civil proceedings.

Source: FRA, 2014

*"[T]he judge was very kind and explained again that I had nothing to be scared about, that she didn't eat people – again speaking in a friendly, joking manner – and that whenever I felt the need to take a break in the course of the hearing, I could interrupt them and we would continue if I was willing to, or finish if I refused."* (Bulgaria, female, 16 years old, party, custody case)

In Bulgaria, children involved in cases relating to foster care and institutional placement measures complained about not being asked their wishes and feelings by the judge. Irrespective of the type of case involved, the majority of children interviewed in Bulgaria were not able to identify judges as such, but rather referred to them as the "people dressed in black".

In France, children talked mostly about their experiences with children's judges (*Juge des enfants*), and some spoke about family affairs judges and guardianship judges. Children's judges have jurisdiction over educational support. They decide on educational support measures when the health, safety or 'morality' of a child are endangered, or when the conditions of a child's education are seriously threatened. They also have jurisdiction when children are prosecuted and in cases related to child protection; the judge assesses how educational support measures are being implemented, whether they need to be extended or discontinued and whether or not a decision to place a child in foster care should be taken. Usually hearings are conducted by the same judge – which children prefer, as it allows them to develop a trusting personal relationship.

*"I was feeling well. Since she was doing all she could so that we felt well, we did not feel stressed [...] She said that we could relax, that there was nothing stressful for us. [...] The judges are kind."* (France, male, 13 years old, party, institutional placement case)

*"I was a little stressed before going in, but when she explained things, the how and why I was there, it was better. [...] I thought that the judge was nice, funny, not rushed, relaxed. She was funny sometimes, it relaxed me."* (France, female, 12 years old, party, child protection case, parental neglect case)

Some of the children interviewed were parties in custody cases, in which family affairs judges (*Juge aux affaires familiales*) conduct hearings. Such judges have jurisdiction over diverse matters relating to children, such as divorce, parental authority and guardianship cases. Article 338(1) to (12) of the Code of Civil Procedure regulates the hearings. The judges may interview the children and hear the children alone; children can be accompanied by a lawyer or a person of their choice. Pursuant to the Act of 5 March 2007, children have a right to such hearings if they are capable of discernment and the proceedings concern them, so these are no longer held at judges' discretion. According to Article 338(2p) of the Code of Civil Procedure, children or parties to the

procedures can present requests for hearings to judges without having to follow any formal, specific format. When a child makes the request, the judge can refuse to hear the child if the judge finds that the child is not capable of discernment or that the procedure does not concern the child. Otherwise, as noted, children have the right to be heard by the judge if they request this. However, some of the children interviewed reported not being heard by the judge and others described not receiving any answers to their requests to meet.

Some of the children interviewed in France under specific procedures for unaccompanied foreign children spoke positively about their interactions with all professionals involved, including social workers, guardianship judges and children's judges.

*"I was with my social worker, I was with my foster family, there also must have been the guardianship judge [...] This is the only ruling I have been to, and the judge welcomed me very well. [...] as soon as I got in, she immediately said my name, she said '[name of the interviewee], how are you doing?' [...] she directly said 'hi [name of the interviewee]', I remember that."* (France, male, 18 years old, party, child protection case)

In Germany, children involved in custody cases are usually heard by judges after an individual assessment by one or more professionals (often psychologists). The majority of those interviewed found professionals' and judges' attitude and communication skills poor. Children described judges' attitudes as rather formal and unfriendly. They complained about the lack of interaction with, and feedback from, judges; their poor interpersonal skills; and the impression that judges lacked interest in the hearings and were not listening to them.

*"Oh well, it was rather, he acted as if he listened, but you just stood there with such an empty person that simply was just there, like a wax figure, who then, which you then were allowed to chatter on about your topic. So nothing happened."* (Germany, male, 15 years old, party, custody case)

Some children even complained that professionals shouted at them, tried to influence them and threatened them during the hearings.

*"Well and I was there because my parents they are separating and I just did not want to go to my father anymore and that's why I was in court to testify about this again. And they [the judge and the legal counsel] just tried to coerce me then to do so, that I go to him anyway and they also said if you do not meet with him or something, we have to lock you up here in this room together with him. And such things."* (Germany, male, 15 years old, party, custody case)

In Spain, children complained about judges' attitude, behaviour, lack of empathy and weak interpersonal skills.



*“The worst was clearly the manners of the judge. Because I know he is the boss, it will be anyway whatever he says... but at least he should respect us, you know? ...He [the judge] made me feel like shit, I mean. So, with his feet on the desk. He treated me as if I was stupid. As if I was three years old. He should have behaved... nobody explains anything to me and he behaves like this... He made me feel really bad.”* (Spain, female, 14 years old (aged 9 during hearing), party, visitation rights case)

*“A little, as I have said before, a little unpleasant. He [the judge] spoke loudly, very loudly, and shouting and pulling a face. But well, if this is his job ...”* (Spain, male, 12 years old, party, custody case)

In Romania, the children interviewed were primarily parties in foster care and institutional placement cases and, to a lesser extent, in custody and adoption cases. The child protection institution there drafts a report after consulting a child about the possible options for placement measures. This report is submitted to the judge, who is supposed to make a decision based on the report. Those interviewed were heard in court by judges, and their assessments of these professionals again depended on the individual judges. Children complained that some judges' lack of interpersonal skills resulted in them not participating in the hearing.

*Child: “She spoke in a tone... she started to talk to us like that, to ask us questions... in a harsher way like that, with me that what... why I came to the centre, why did I not like it in my home, something like [the way they do it] in the police. And I would not say anything and, all of a sudden like that, she told me the cat got my tongue.”*

*Interviewer: “And how did you feel?”*

*Child: “I did not like it, because, when I saw she approached me like that, I no longer wanted to say anything and I particularly did not like that she told me the cat had got my tongue. Because it hadn't [she smiles]. But if she had been able to talk to me nicely, and ask the questions in turn, I would have answered.”* (Romania, female, 14 years old, party, institutional placement case)

In Romania, the majority of children involved in foster care and institutional placement measures cases reported that judges heard them briefly and did not ask questions concerning placement measures and their future.

*Interviewer: “If you had been the judge, what question would you have asked yourself that they did not ask you there?”*

*Child: “How I feel in the centre. And I feel quite bad. It's not that type of education that you have when you are next to a parent. No... there's nobody to offer you what you want.”*

*Interviewer: “So you would have liked to be asked how it is in the centre.”*

*Child: “Yes, far away from the family. And it is really difficult and you have... bad company.”* (Romania, female, 16 years old, party, institutional placement case)

In Poland, children involved in procedures about adoption and parental rights assessed hearings conducted in court by judges ('direct hearings') more positively than indirect hearings, usually conducted by psychologists in custody cases. Almost all children heard in court assessed judges' interpersonal skills positively. Some children admitted that they initially found some words too difficult, but said that the judges asked them if they understood and rephrased when necessary.

## Hearings conducted by social professionals

Children in several countries described being heard by trained social professionals outside the court environment, particularly in custody cases. This is usually the case in Croatia, Estonia, Poland and the United Kingdom (England and the Scottish Children's Hearings System), where children describe institutions that have clear procedures in place to assess, support and hear them.

The United Kingdom (Scotland) uses a special system of lay judges to hear children in civil cases. These 'Children's Panels' seek to obtain the views of the children, their family or carers, and relevant professionals, such as social workers and teachers. Children also give their views prior to the hearings. If children are unable or reluctant to express themselves sufficiently, a 'safeguarder' may be appointed to report back.<sup>20</sup>

In the United Kingdom (England and Northern Ireland), the Children and Family Court Advisory and Support Service (CAFCASS) guardian is responsible for ascertaining the child's wishes and feelings and reporting them to the court. Courts do not routinely hear directly from children in either public or private family law proceedings. However, in any decision regarding a child, the court must have regard to the 'Welfare Checklist'. This includes the fact that the CAFCASS guardian is responsible for ascertaining and reporting on the child's wishes and feelings. Children's views of CAFCASS professionals, usually social workers or guardians, vary depending on the particular professional involved; assessments were positive where a trusting relationship had developed with professionals and children received comprehensive support and information from them. Children were critical of the professionals being changed, especially when trust had already been built; they explained that a good relationship with professionals is necessary to facilitate their participation. Moreover, given that these professionals form the main channel of communication between children and decision makers, children preferred to have a closer, informal relationship with them. Children suggested that showing interest in children's lives would generally enable them to participate more openly in the process.

<sup>20</sup> FRA (2015a).

Similarly, the majority of the children interviewed in Scotland who had been involved in the Scottish Children’s Hearings System spoke about needing to build a relationship with panel members to establish the confidence and trust that positively affects their participation. Children complained about the panel’s changing composition and suggested having at least one panel member consistently present to reduce repetition and create confidence. These children also repeatedly criticised the panel’s negative, intimidating atmosphere and panel members’ focus on negative aspects of children’s lives.

*“Even a panel member smiling at you would make some changes.”* (United Kingdom, female, 18 years old, heard regularly in Scottish Children’s Hearings System since age 9, subject to care supervision order)

Furthermore, some interviewed children with experience in this system stated that social workers sometimes created a “public spectacle” by showing up during school hours to ask them to come to hearings.

*“[B]eing pulled out of school by [a] social worker wearing a social work badge, that got people talking... everyone automatically looks at you and starts talking.”* (United Kingdom, male, 19 years old, heard regularly in Scottish Children’s Hearings System since age 7, subject to care supervision order)

### Children’s suggestions

*Enabling children to speak more confidently and participate more fully in Scottish Children’s Hearings System:*

- Hearings should be informal, especially for younger children, and have fewer people present
- Panel members should smile and focus on positive features of children’s lives
- Greater consistency of panel members should be pursued to develop stronger relationships between them and the child, including by enhancing pre-hearing contacts
- Panels should be conducted in alternative locations, such as in rooms with small rather than large tables; waiting areas should be made more welcoming
- Children should be able to confer privately with panel members; having all people other than the child and the panel leave the hearing room should be mandatory, rather than optional

In Croatia, children interviewed in custody cases are assessed by psychologists and social workers at SWCs. Assessments include evaluating the children’s situation to decide what custody arrangements would be best for their wellbeing. A report with experts’ opinions on

whether a child should be heard is submitted to court; in practice, most judges agree with the report and children are not heard unless it is recommended. Children generally assess the psychologists’ and social workers’ attitudes positively. The children noted that they like it when professionals joke and are kind to them, but dislike it when they are very formal and serious. In particular, they praised how psychologists conduct the assessments and ask questions. Children prefer to be asked open questions, unrelated to very personal matters. A few children interviewed in Croatia also mentioned being assessed by professionals from the Child Protection Centre of Zagreb, which they described as child-friendly.

In Estonia, child protection officers both contact children when civil cases are launched and usually hear them; only few children spoke of being heard by judges in court. Although children generally assessed child protection officers positively, they were also critical of hearings that were unexpected or in locations lacking privacy, such as their school.

In Poland, courts task the Family Diagnosis and Consultation Centres (FDCCs) with conducting evaluations of children’s situations in divorce and custody cases. FDCCs are now to be remodelled into advisory teams of court experts working at each regional court. In these ‘indirect hearings’, children are individually assessed by psychologists, rather than being heard in court. A standard assessment includes individual interviews conducted by psychologists in their offices as well as the completion of forms and psychological tests by children. While the individual interviews are conducted, the interviewee’s family members wait in a special room, equipped with a one-way mirror. During the waiting time, the dynamics among family members are also assessed. The vast majority of children were positive about the professionals, their interpersonal skills and the place of examination, which they described as nice, well-equipped and conducive to such an interview. They also praised professionals’ language and the child-friendly features of the methodology and materials used, such as drawings.

*Interviewer: “For what would you give a star to that place?”*

*Child: “For them giving me these sheets of paper which I could fill out – those about my hobbies, and other things, I like filling things out.”*

*Interviewer: “You like filling out such forms?”*

*Child: “I have a cool signature.”*

*Interviewer: “What do you mean?”*

*Child: “I can sign my name in different ways.”*

*Interviewer: “What else did you like?”*

*Child: “This silence and [the time] when I was drawing.”* (Poland, male, 11 years old, party, custody case)





According to the children, the psychologists were nice and friendly and listened carefully. Several children described feeling that the professionals were engaged in their conversation when they took notes and looked straight into their eyes. However, several children criticised the indirect hearings for being too long because of lengthy waiting periods, questionnaires and psychological tests. Furthermore, some younger children criticised the psychological tests and language used in them as inappropriate for their age. For example, they felt negatively about having to draw their family or providing particular nouns or adjectives, as they either found those exercises difficult or did not understand the point.

*“The lady [the psychologist] was listening to me. She was noting down every sentence, every word I said. She asked me even to take pauses so that she could note down everything I said.”* (Poland, female, 20 years old (heard between ages 8 and 9), party, divorce case)

*“I had some assignments to do, I needed to answer questions, for example what I do when my dad comes from work, and I needed to write down the answer. Later, I got a piece of paper and I needed to draw different adjectives and nouns, but I didn’t know how to do it.”* (Poland, female, 11 years old, party, custody case)

*“They wanted me to draw a fruit tree. [...] I just wondered why I was doing it.”* (Poland, female, 13 years old, party, custody case, victim, domestic violence case)

In Germany, children interact with a wide range of professionals throughout proceedings, including legal counsel, contact supervisors, psychologists, and Youth Welfare Office and protection services staff. These professionals can be instructed to conduct supportive interventions for children and can be heard as additional witnesses to help judges assess children’s best interests. Children assessed these professionals ambivalently, often depending on how genuinely supportive they found them.

### Children’s suggestions\*

#### Preparing for hearings

Children recommend that children should do the following to prepare themselves for hearings:

- Children should bring their own toys, games and books to hearings, which can be used in silence and prevent boredom during court proceedings
- Children should bring a book on children’s rights with them, and use it to explain their rights to the judge and other professionals
- Children should be kind and respectful towards the judge

\* These suggestions primarily come from children interviewed in Germany, who repeatedly mentioned a publication by Szillat (2011).

Courts can also appoint scientific experts – for example, psychologists – to assess children and write expert opinions on certain aspects of their situation, such as the bond to a certain person or a parent’s parenting skills. These experts are intended to act as expert witnesses or persons providing a service for the judges, a function in which children assessed them negatively.

### 1.6.2. Professionals supporting children before, during and after hearings

In contrast to criminal proceedings, in civil cases, children do not find having others present to support them that important. They often prefer to be alone with the professional hearing them, instead. This is particularly true in custody cases, in which children are very conscious of potentially exacerbating conflict or tension between parents. The children appreciate professionals’ presence during hearings when they are supportive. Making protective support available throughout proceedings is further discussed in Section 3.1.

#### Professional accompaniment during hearings

Various professionals, such as social workers, psychologists and legal counsel, accompany children during hearings in different countries. For example, in Bulgaria, social workers or psychologists must by law accompany children in civil hearings. The children interviewed confirmed this in practice, but also criticised these professionals’ behaviour.

*“After the judge heard me, the social worker stood up and said I was lying. And then she started saying things which according to her I had avoided on purpose when in fact I had not been asked about them at all. The judge didn’t pick up on that and didn’t ask her anything else... I felt angry but I didn’t say anything.”* (Bulgaria, male, 14 years old, victim, domestic violence case, party, custody case)

In Germany, children reported being accompanied by legal counsel during hearings with judges. Legal counsels are active in *Kindschaftsachen* pursuant to § 151 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction<sup>21</sup>; these include all procedures assigned to family courts – for example, parental custody, visiting rights and guardianship matters. The legal counsel is appointed as a party to the proceedings, enjoys all procedural rights, and is the representative of the child’s interests next to the parents.<sup>22</sup> The legal counsel is supposed to determine the child’s will and best interest, and has to inform the child

21 Germany, Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction (*Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit*, FamFG).

22 *Ibid.*, para. 158.

about the proceedings in an age-appropriate manner. The legal counsel may request the formal or informal hearing of certain persons associated with the child and may propose or reject certain entities or persons as legal representative (guardian ad litem; *Vormund*) or supplementary curator (*Ergänzungspfleger*). The legal counsel may appeal in the interest of the child; if the child is older than 14, the legal counsel and child may be entitled to appeal independently of each other. Legal knowledge is required of both the legal counsel and the guardian ad litem. Psychological and pedagogical skills are desirable. Although children appreciated the information provided by legal counsels before hearings, they did not always consider their support effective during hearings.

*“She could have said also, when the judge asks me for instance such a stupid question and I can’t answer, then she could have said, he can’t answer it. Next question or something.”* (Germany, male, 11 years old, party, custody case)

In Romania, children are usually accompanied to court by placement centre staff, social assistants, legal representatives or psychologists, who do not, however, participate in the hearings themselves. Although most children appreciated having a familiar figure for emotional support in court, they found it insufficient and would appreciate further support during hearings.

*“So... I was asked a simple question and I left and I did not like that. Mmmm... Number two, I did not like it that the case manager did not intervene when I needed help ...”* (Romania, male, 17 years old, party, institutional placement measure case)

*Child: “I would sit there and think, trying on my own to come up with an answer to those words or questions she would ask, but it would not work out very well [...]”*

*Interviewer: “Was there someone there to help you deal with how you felt?”*

*Child: “There was nobody, it was just me with myself.”*

*Interviewer: “I mean someone from the centre, a psychologist, a social worker, someone to talk to?”*

*Child: “There was nobody ...”* (Romania, female, 16 years old, party, placement measure case, victim, robbery case)

In Spain, some children said that psychologists were present during hearings, but were not always happy with their support.

*“When the hearing was coming to an end, the last psychologist spoke meanly to me. He was unkind and angry [...] I told him that I did not want my father to enter the room but the psychologist told him he could enter.”* (Spain, male, 11 years old, party, custody case)

## Presence of numerous people during proceedings

As with criminal proceedings, children involved in civil proceedings frequently complained about the high number of people at hearings. For example, children involved in the Scottish Children’s Hearings System found it intimidating that so many people attend: a three-member lay panel, parents, the children’s reporter and potentially also foster carers, other family members, legal representatives, a ‘safeguarder’, education or health professionals and other supporters are all present.

In France, children involved in child protection cases are heard by children’s judges, with a clerk present. When children are below 12 years old, parents, foster parents and social workers are also present; the children were largely critical of this. They stated that they prefer being heard alone by the judge, as they can explain better without other people present.

In Romania, the law – although inconsistently applied – provides that children are to be heard in court. Several children complained about being heard at public court sessions with many unknown people present. Some children were also critical of being heard together with their siblings. Similarly, in Bulgaria, children described having to testify before many, at times unknown, people.

## Accompaniment by a person of trust

All children greatly appreciate being supported by persons of trust throughout proceedings. However, older children in particular often did not want them present during the hearings themselves. In custody cases, the conflict between parents further complicates the situation, making it even more important to consider the child’s specific situation and wishes. In France and Germany, children spoke positively about being heard alone with professionals, without their parents present. Nevertheless, parents’ presence in court outside the hearing room can still be a source of stress.

*“Again there I lied because I was stressed. I wanted to be at my mother’s, I could go on. Yet I said the same thing, I put myself in even more crap. I was too scared. I saw him in the waiting room – if you saw the face of my father, even my teachers are afraid.”* (France, female, 16 years old, party, custody case)

In other countries children also spoke negatively about being heard with their parents present. In Croatia, most children – particularly those over 12 – said they prefer being alone both during hearings with the SWC psychologists and social workers and during court hearings with judges. They noted that their parents’





presence put them under emotional pressure and caused stress because they feared parents' reactions to their statements – for example, when asked with whom they would prefer to live.

*“If he [father] had shown up, I would have been scared to death I think... It would have been embarrassing, I wouldn't have said anything, and I would have been paralysed... I feel like he would have swallowed me had he been sitting at the same table ...”* (Croatia, female, 18 years old, witness and victim, domestic violence case)

In Croatia, younger children spoke ambiguously about parents' presence in custody cases. Children stated that they feel more comfortable without their parents, while also acknowledging that their presence reassures and comforts them.

*“Well, I did sort of enjoy being alone with her when we spoke... I could be independent in my answers and things like that... I did not like when I was in there with Mum and N [mother's partner], as Mum would sometimes jump in the middle of my sentence and say something completely different... I did not like that... I start telling something and it turns out like a completely different story, different words, and all... but I preferred when Mum was with me in there.”* (Croatia, female, 12 years old, party, custody case)

In child protection cases in France, children below 12 years old are heard with their parents, foster parents and social workers present. In such cases, most children under 12 disliked having their parents present, explaining that they prefer being heard by the judge alone, without both parents and social workers, so that they can speak more freely.

*Interviewer: “What might help a child to be comfortable during a meeting with a judge?”*

*Child: “There should be fewer people that you don't know. We should be able to talk one on one with the judge. There are young people who don't want their parents to be there. There are things I didn't dare to say with my social workers there.”* (France, female, 12 years old, party, child protection case, parental neglect case)

## 1.7. Adapting settings to children's needs (process)

A child-friendly environment facilitates children's meaningful participation in judicial proceedings. Several of the children interviewed were involved in multiple (civil and criminal) proceedings – for example, in custody disputes or cases on institutional placement measures after domestic violence episodes. In these cases, as with criminal proceedings, the environment should prevent secondary victimisation.

### Practices in numbers

Children assess courtrooms positively in civil proceedings (44 %) more often than in criminal proceedings (22 %). They tend to assess both offices of court personnel and public institutions negatively (52 % and 67 %, respectively).

#### 1.7.1. Hearing rooms

Children are heard outside court more often in civil than criminal proceedings. They describe broadly two different types of locations, depending generally on whether they are heard by social professionals outside the court environment or by a judge in court.

Hearings conducted by social professionals, such as social workers and psychologists, outside the court environment or in hearing rooms with child-friendly features in court are always more positively assessed than those held in courtrooms – provided that children also find the professionals' approach child-friendly. If invited to court, children prefer professionals' offices, such as the judge's chamber or small courtrooms, to the usual courtrooms. However, they still consider court intimidating and usually said that the rooms were rarely designed specifically for them and lacked child-friendly features. Interviews with children also highlighted that child-friendly features should be adapted to children's ages.

*Interviewer: “Do you remember what that place was fitted with?”*

*Child: “There were many toys there.”*

*Interviewer: “Were they cool?”*

*Child: “Not really, because they were for small kids.”*

*Interviewer: “Did you find anything for yourself?”*

*Child: “I found one toy, a little alien.”* (Poland, male, 11 years old, party, alternative placement measure case)

#### Hearing rooms outside of the court environment

In several countries – including Croatia, Estonia, Poland and the United Kingdom (England and Northern Ireland) – children usually reported that hearings were conducted by social professionals outside the court environment, mainly in their offices. They rarely reported attending hearings in court.

This is the case in the United Kingdom (England, Wales) for child parties in custody cases. Courts do not routinely hear directly from children in either public or private family law proceedings. However, in any decision regarding a child the court must have regard to the 'Welfare Checklist'. This includes the fact that

the CAFCASS guardian is responsible for ascertaining and reporting on the child's wishes and feelings. In this instance, the CAFCASS guardian is responsible for ascertaining and reporting the child's wishes and feelings to the court. Data available about the description and assessment of the CAFFCAS premises are limited, but children noted that the meeting rooms within them had child-friendly features. However, older children considered them inappropriately childish for their age group.

*"The rooms weren't that comfortable and I did not feel they were appropriate for a teenager... I just wouldn't want to be around any toys... It's almost condescending."* (United Kingdom, female, 13 years old (when heard), party, custody case)

In Scotland, the Scottish Children's Hearings System deals with children under 16 years of age who are in need of care and protection as well as with the welfare of child offenders. The formal Grounds for Referral to a Children's Hearing are established in Article 52(2) of the Children Act 199 (Scotland). Where there are concerns about a child's care and protection, the matter is referred to a children's reporter, an independent official who investigates the welfare concerns and decides if compulsory measures of supervision are needed to protect the child. If compulsory measures are deemed necessary, the matter is referred to a children's hearing. The panel hearing the matter consists of three lay members drawn from the community, who decide on what action should be taken in the interests of the child. The matter can be considered by the Children's Hearings System only if both the child and the child's parents accept the grounds for the referral. If the grounds for referral are not accepted, the matter must be referred to the sheriff, who determines whether the grounds for referral are made out before sending the matter back to the children's panel.<sup>23</sup> Children involved with the Scottish Children's Hearings System described being heard by three lay panel members at hearing centre meeting rooms furnished with a large table and chairs. They all criticised the furniture and its arrangement, speaking about both the table and the panel members' seating arrangements around it. Their comments indicated that sitting on the opposite side of a large table to the panel hampered discussing their matters with the panel.

<sup>23</sup> For more information, see the government's webpage on the Children's Hearings System.

*"When you enter the room it is quite an intimidating thing, because you walk in and then you can see these people sitting across the desk, and you can feel them following you from the minute you walk in the door to the minute you sit down... There is a massive big round table and it's almost like a huge divide between the panel members. It's almost like 'we're here, you're there, that is the line you don't cross'... How can you vent how you feel to people when there is a mental divide, but also a visual, physical divide there with a huge table?"* (United Kingdom, male, 19 years old, subject to care supervision)

In Croatia, psychologists and the social workers' offices at SWCs are used for children's assessments. Children reported that these offices sometimes included child-friendly features and assessed this positively. Conversely, children felt neutral about assessments conducted in normal offices.

*"It wasn't very big... like, a normal office. There were some pictures... It was OK."* (Croatia, female, 14 years old, party, divorce case)

In Estonia, child protection officers hear children in what children described as ordinary offices with cabinets, tables, chairs, papers and some toys. Children's positive assessments were generally based on the child-friendly features and toys, as well as due to finding hearings less stressful in non-intimidating settings outside court.

In Poland, children involved in custody cases are assessed by psychologists at FDCCs, usually in their evaluation rooms and offices. Interviewees recurrently described these rooms positively – as quiet, calm and not intimidating, and therefore conducive to conversation. Interviewees also spoke about the waiting rooms, describing them as painted in bright colours and equipped with tables, chairs, child-friendly features and one-way mirrors. The professionals use the mirrors to assess family dynamics, and children assessed them ambivalently; while some assessed them neutrally, others spoke of feeling uncomfortable because they did not know who was behind them. The child-friendly features, including toys, books and crayons, were praised by children below 12 years old. However, those aged 12 and above considered the toys inappropriate, such as the children of this age group interviewed in the United Kingdom (England).

*"I remember thinking that it resembled a school or something like that, but not quite. [...] there were toys, but for very small kids, for me there wasn't much."* (Poland, male, 12 years old, party, custody case)

In Germany and Bulgaria, children are assessed by several specialists and professionals outside court before being invited to court hearings. In Germany, children reported numerous interactions with a wide range of professionals, such as LCs, contact supervisors,



psychologists and Youth Welfare Office and protection services staff. Interviewees generally spoke positively about the offices where assessments are conducted, based on their child-friendly features and being separate from the intimidating court setting.

In Estonia, children spoke about hearings conducted in neutral locations such as schools, children's homes and shopping centres. They were usually positive about these locations and appreciated being outside the court, provided that hearings were not unexpected and were conducted in private rooms. Children's assessments were always negative when hearings were held without privacy in school rooms or at their homes and they were interrupted or risked being overheard. For example, several children related negative experiences with hearings conducted at school, caused by a lack of privacy, not knowing about professionals' visits beforehand and, at times, the disturbance to their studies caused by repeated hearings. For example, one child reported numerous hearings, some of which took place at school during school hours. She complained that hearings usually took place during her maths lessons, negatively affecting her grade. She told the child protection workers that she wanted the hearings to take place after school, but without success.

*"I told them, but they told me they have no other choice. Because they had no time, like in the evenings and so on."*  
(Estonia, female, 13 years old, party, custody case)

She also said that the hearings were usually conducted in rooms lacking privacy, such as the headmaster's office, where children would interrupt. She further mentioned that she was always asked in front of her peers in class to attend hearings.

### Hearing rooms in court

In Bulgaria, France, Germany, Romania and Spain, children reported being heard in court by judges. They primarily described these hearings as taking place in judges' offices and small courtrooms and, to a lesser extent, in child-friendly rooms. In France, children were heard not in regular courtrooms but in judges' offices, which they assessed neutrally and described as "normal offices"; nevertheless, they preferred these small offices over courtrooms. Although professionals' child-friendly behaviour plays an important role in children's positive assessments, most children nevertheless criticised the court as an intimidating setting.

*"The places stress you out. For a start, you go in and there's cops, you do not know them, they are there, they frisk you. You might think you are going to be arrested... The court is a big stress. I think I had tears in my eyes."*  
(France, female, 16 years old, party, custody case)

In Germany, children are also heard in the judges' offices or in small rooms. Like in France, children in Germany assessed these offices neutrally. One child reported being heard in a child-friendly room when she was eight years old. She noted that books and games were available and that the judge offered her some wooden toys, which she found nice but too childish for her.

In Spain, children are heard in normal courtrooms, small court offices and professionals' offices. They usually assessed all of those locations negatively because of their lack of child-friendly features. Some children reported that as an exception some professionals' offices, such as those of psychologists, were equipped with child-friendly features, including toys and drawing materials. One child described being heard in a child-friendly room provided by SATAF at the family courts at the Barcelona City of Justice. The child assessed it positively because of the room's decoration and the availability of drawing materials.

In Romania, courts generally do not have child-friendly features. The specialised Juvenile and Family Court in Brasov is an exception. It is a specialised court that currently exists only in Brasov; however, the legislative framework provides for the establishment of more specialised courts countrywide. This court involves psychologists in supporting children before and during trials. Limited data are available about this court's physical description. However, only two of the nine children interviewed who were heard there reported being heard in child-friendly rooms. Moreover, one of these two children, a 14-year-old boy, stated that the security staff there did not allow him to touch the toys.

*Child: "There were many, there were cuddly toys, the same as here."*

*Interviewee: "Oh, there were... Well, and you only looked at them, did you not also play with them?"*

*Child: "Well no, because they [security guards] would not let us, I went like that towards them, looking like that. He [the security guard] would say: 'What are you doing there, what are you doing?' [...] He would ask. I don't know if he was a policeman or a gendarme, I don't know what he was. He believed I wanted to steal or something [smiles]."*  
(Romania, male, 14 years old, party, institutional placement measure case)

Children heard in other Romanian courts indicated that these hearings were conducted in both normal courtrooms and judges' offices. The children assessed the latter more positively than the former, as professionals' offices had familiar elements such as computers or documents, as well as personal items such as family photos. Non-adapted courtrooms are also used in Bulgaria. Most children assessed them negatively because they lack child-friendly facilities.

*"It is a bit scary inside [the courtroom]. The furniture was somewhat dark, the blinds were dropped, the judge was dressed in black like a priest and he was also bald".* (Bulgaria, female, 15 years old, party, institutional placement measure case)

Children in Romania said that they do not feel comfortable testifying in a big room full of people and that they feel scared or ashamed of talking about private issues in such conditions. Children were also unhappy about being heard while standing, even though chairs were available in the rooms.

In Croatia, Estonia, Poland and the United Kingdom (England and Northern Ireland), children are hardly ever heard in court. Nevertheless, a few children interviewed in these countries did speak about such experiences, which they always assessed more negatively than experiences outside court.

In the United Kingdom (England and Northern Ireland), children reported meeting judges informally, usually in their chambers, as the meetings are not considered an official part of hearings. In Estonia, children reported being heard in both judges' offices and normal courtrooms; they assessed the latter setting negatively because of the lack of child-friendly features in hearing and waiting rooms. In Croatia, only one interviewee reported being heard in a standard courtroom, characterising it as intimidating and without child-friendly features.

*"[T]he location was a disaster. So when I came there [in front of the building], I saw broken windows on those buildings, and I felt as if I was in the middle of the battlefield... I think the room was not fit for the court at all, let alone for children."* (Croatia, female, 17 years old, party, custody case)

When children are heard in court, the waiting areas are particularly relevant for children. In the majority of cases, the interviews suggested the absence of child-friendly waiting rooms in courts. For example, in Bulgaria, all children mentioned both that such waiting rooms were lacking and the lack of privacy there.

*"I sat down next to a woman there cause I'm sort of slim, ha-ha [laughs]. There were benches and also several chairs... on the other side were the two social workers and the gentleman [another party] was standing deeper in the corridor... at the end... we had a chat with the social worker about how I was doing, how the school was, we talked about usual stuff... just to pass the time... If you'd like to drink some water, there is inside, I mean, in the toilet"* (Bulgaria, male, 14 years old, party, institutional placement measure case)

Specific waiting areas do not exist in Croatia, either. Children described waiting in shared waiting rooms or normal corridors with chairs. This is also the case in

Romania, where all the children experienced waiting in corridors, even if they were ill or have chronic conditions.

*"Yes, I would make many changes, for it is not right... Especially, for example, since I have health problems, I'm not allowed to stand, I'm not allowed to do many such things and, for example, I get sick, many times I did, if I stand like that, for long, I can't breathe or I'm hot or something, I faint, I can no longer take it... I feel sick. For example, there, if I were to be sick, as we stood for two hours waiting, I don't think any judge would have come to... make me better; it would still have been the gentleman from the centre... They should put, if they however do not have us in the hearing room, or if it's full, they should make more... rooms or, if not, to schedule people, like when you go to the doctor ..."* (Romania, female, 14 years old, party, institutional placement measure case)

However, a few children did experience child-friendly waiting areas. Whereas the majority of children interviewed in France encountered shared waiting rooms without child-friendly features, a few spoke about the child-friendly waiting rooms available at the Court of Rennes.

*"Just a house for children. It was good for children, I saw they were having fun."* (France, female, 16 years old, party, custody case)

In Germany, child-friendly waiting areas or 'play-rooms' (*Spielzimmer*) are available in only a few courts, such as the Higher Regional Court Berlin and the Higher Regional Court Bavaria. Interviewees described a play-room in which they could wait, which was furnished with books, toys, games and a hot drinks vending machine, although no food. Like hearing rooms, these waiting rooms were perceived as too childish by older children; two interviewees who used the place (11 and 15 years old) stated that they are for very young children. One of these interviewees was even critical of the shared children's waiting room, as she found the other children's crying stressful and confusing. One 12-year-old interviewee described a children's corner at the District Court Baden-Württemberg, marked out with rugs and containing seating for children. However, they also found this area to be only for very young children.

Children involved in the Scottish Children's Hearings System noted that the waiting areas have child-friendly features, such as toys. However, they also found the toys inadequate and were critical of the lack of refreshments.

*"... a wee box of toys, but they were the most depressing things you ever saw."* (United Kingdom, male, 18 years old (heard regularly in Scottish Children's Hearings System since age six), subject to care supervision order)





### 1.7.2. Controlling contact with other parties in proceedings

Children reported procedural safeguards being implemented less often overall in civil proceedings than in criminal proceedings, and those heard in court reported differently about the procedural safeguards available, depending on the country where the hearing took place. One reason that children gave for preferring to be heard outside court was that this usually goes hand in hand with having controlled contact with other parties in the proceedings.

For example, in Romania several children described being heard in public court sessions, even though national legislation provides that children in civil proceedings should be heard in chambers. One child described her discomfort at feeling that the other people present were looking at her, particularly when she was asked an unexpected question about her family.

*Interviewer: "Aha. Was there any moment when you would have liked the hearing to stop?"*

*Child: "Yes, for at a certain point everybody was looking at me. And the lady judge kept on asking me questions."*

*Interviewer: "Aha. And you would have wanted her to stop."*

*Child: "Yes."*

*Interviewer: "And what to happen?"*

*Child: "That the others turn around, and put their fingers into their ears."*

*Interviewer: "Did you tell anyone? Something like 'I don't feel quite all right now'?"*

*Child: "No..." (Romania, female, 18 years old, party, institutional placement measure case)*

Particular attention should be given to children involved in multiple proceedings, both civil and criminal, who are typically parties in custody cases linked with domestic violence cases in which they are victims or witnesses. In Bulgaria, child victims and witnesses in domestic violence cases treated in civil proceedings complained about meeting the defendant, mostly the father, in court. Children described meeting defendants outside hearing rooms, in corridors and in courtrooms; these meetings occurred not during the hearings themselves but when, for example, the courtroom doors were opened after the trial was finished and people, including defendants, were allowed to enter. Children explained that they felt scared that the defendants might seek revenge. Aside from these cases, children in Bulgaria also mentioned positive experiences where the court took special protection measures. For example, a few children reported that the judge asked parents, attorneys and other visitors to leave the courtroom during the hearing.

*"The first thing I always asked was who would be the people, what people would be present at the hearing. My biggest concern was that my father would be there because I found this really oppressive, so when I said I did not want him to be present, they took my opinion into consideration and he went outside." (Bulgaria, female, 12 years old, victim, domestic violence, and party, custody case)*

In another example, a 16-year-old said that he was invited to the court hearing and, while waiting, began to cry. The judge found his emotional state to be unstable, adjourned the trial and recommended that the hearing be conducted by a psychologist in a 'blue room'.

*"Here [the blue room] will be better for us compared to courtroom, in the presence of the relatives, the parents of my father, the others... she said that we will be heard, we will not see them and we will be only with [name of the psychologist] in the room." (Bulgaria, male, 16 years old, party, custody case (criminal proceedings for father's alleged child abuse not yet started))*

In Spain, interviews involved numerous child parties in custody and visitation rights cases, in which, in the vast majority of cases, the mother had been a victim of domestic violence. There is limited information about the children's roles in the mothers' proceedings. The interviewees reported feeling unsafe during the civil proceedings on custody rights, as they met the defendant, usually their father, during these. Moreover, some spoke about the consequences of being forced to see their parents against their will during proceedings. For instance, courts designate 'meeting points' (*Puntos de Encuentro Familiar*): social services offices where social workers supervise visits and/or pick up/drop off the child. Interviewees involved in cases where supervised visits took place at meeting points were fearful of meeting their parents, the defendants in domestic violence cases. They also spoke negatively about the attitudes of the meeting point professionals and their premises.

*"The meeting point is one of the worst things that ever happened to me." (Spain, female, 14 years old, party, custody case (father sentenced in domestic violence case))*

*"The first time [she attended the meeting point] I was very nervous because I did not want to see him [the father] from the very first moment I had to go, I stated I did not want to see him.... And I was asked why I did not want to enter, and I answered that because of everything that he had done to me, which I had not liked, and because he always said to me he would not do it again but did it. And this is why I did not want to go." (Spain, female, 11 years old, victim and witness, domestic violence case, and party, custody case)*

In Estonia, one child indicated that the police recorded her evidence and that she decided not to attend the court hearing. This decision was taken into consideration and she did not have to testify in court. However, she

was nonetheless asked to be present at the courthouse while the hearing was going on and thus waited for two hours.

*“I was just sitting, hands clenched, hoping for us to win this court hearing... I was so scared of our parents, that I will see them, afraid of what they might do to me in the future... if I saw my father, my father and his eyes, I think I would be too scared to speak ...”* (Estonia, female, 18 years old, party, custody case linked with domestic violence case)

Despite all this, the child met her parents in the corridor after the court hearing, when they came out. The child stated that her father told her “it is not over yet”. She mentioned that she was protected by the police, who escorted her parents out of the courthouse, and that two orphanage teachers and her brother accompanied her. She told us that she nonetheless felt extremely frightened.

The waiting areas, particularly in court, are among the most likely places for children to meet people whom they are scared to meet. Scottish children also described having to share the waiting area with any other people also attending the panel hearings, even those involved in their own case. One child explained that he worried that he might have to wait in the same area as his father, who did not attend the hearing.

*“I didn’t want him to be there and I had stressed this because he hadn’t been part of my life at this point since 1999, so I didn’t want anything to do with him, I still don’t... He would have been told to sit there as well, which would have been even worse.”* (United Kingdom, male, 19 years old (heard regularly in Scottish Children’s Hearings System since age seven), subject to care supervision order)

The lack of appropriate, child-friendly waiting rooms in some countries also exposes children to unwanted encounters with possible criminals. For example, in Romania, children described having to wait in corridors for long periods of time, feeling scared and witnessing people handcuffed or fighting.

*“As if I were in jail [...] Well, I don’t know what I didn’t like. Because I would see people handcuffed, I would see the cuffs. It gave me shivers, I didn’t... I didn’t like it.”* (Romania, male, 10 years old, party, institutional placement measure case)

*“Just fear, there were two people who killed each other there, they were with guns, the policemen caught them... for they had a fight.”* (Romania, female, 13 years old, party, adoption case)

## 1.8. Providing legal representation and legal aid to children (process)

As in criminal proceedings, children involved in civil proceedings rarely receive any legal representation of their own and often do not find lawyers supportive in the procedure. In Croatia and Poland, none of the children mentioned them. In Romania, rare mentions of legal counsellors were usually critical of the lack of interaction with them. In other countries, some children in custody cases had lawyers’ support, although they sometimes spoke of not understanding these lawyers’ roles and responsibilities. Moreover, these lawyer are not always their own. In France, children involved in custody cases initially reported having a lawyer, but half of them were in fact represented by a parent’s lawyer. In Spain too, children generally reported being supported by their mothers’ lawyers, whom they usually assessed positively.

In the United Kingdom, children assessed procedural support from solicitors and guardians positively. In Germany, children reported receiving procedural support from legal counsels, but criticised their attitude, the lack of clarity over their role and the absence of follow-up to their wishes and opinions. Children in Scotland found that the advocates’ support benefits their participation; they praised advocates for the pre-hearing meetings and for accompanying them and acting as spokespersons during the hearings.

Overall, children assessed legal support ambivalently; they found it positive when lawyers informed and supported them, and negative when they believed lawyers prioritised their parents’ interests over or against their wishes.

*Child 2: “Legal counsel – who actually should represent our opinion – stated something completely different from what we wanted, now in our case. We didn’t want a legal guardian and she said that she voted for a legal guardian.”*

*Child 1: “And she even proposed one, didn’t she? She proposed one.”*

*Child 2: “Yes, she proposed one. That’s absolutely the worst.”* (Germany, both female, 15 years old, parties, custody case)

*“Now it’s over, because the first time the lawyer said that I wanted to see my mother, when I didn’t. I had already seen her four times in her office, she understood nothing. It was my father who told me I could have a lawyer. She still has my file but it doesn’t matter. If necessary I will get another lawyer.”* (France, female, 13 years old, party, foster measure case and custody case)





A few children who were represented by their parents' lawyers reported being unaware of their right to their own lawyer and regretted that their rights and the procedures were not explained properly to them. Children's assessments of their own lawyers' support were both positive and negative, with some regarding their support very positively.

*Child: "The lawyer helped me, when I cannot really find the words, she helps me. It was me who spoke most, but when I had trouble, she did it for me. I saw her once before, maybe a week before."*

*Interviewer: "And the lawyer in the court of appeal?"*

*Child: "The same: I saw him once before, but only an hour before. It was a bit short: I was able to explain to him, but a bit quickly. It's because [name of city] is not that near."*

*Interviewer: "If you had to say who helped you in this process, with the judge ..."*

*Child: "I don't know... mainly the lawyer." (France, female, 13 years old, party, custody case)*

## 1.9. Reducing the length of proceedings (outcome)

### Practices in numbers

Civil proceedings tend not to last as long as criminal proceedings. However, some particularly long civil proceedings have lasted more than 10 years.

While civil proceedings do not generally last as long as criminal proceedings, highly contested custody cases become lengthy as cases go through all court instances. Children in nearly all of the countries described the lengthy proceedings in highly contested custody cases negatively, particularly where family situations were unresolved and children's daily life was affected.

*"I know that there are many cases [in court], but court decisions should be quicker in cases of persons who are waiting to know what happens to them, who they are going to stay with, who they are going to go with... than in cases where traffic fines are decided ..."* (Spain, female, 13 years old, victim, domestic violence case, and party, custody case)

*"Because I have a feeling that proceedings are dragging on at the court without things being taken into account. I don't know whether there are that many cases, or what else would be the reason why things are not resolved quickly, as soon as possible... Or do they think that our case is not that urgent ..."* (Croatia, female, 17 years old, party, custody case)

Children in Bulgaria also complained about the length of civil proceedings. One interviewee spoke about being involved in eight-year-long proceedings for custody rights, which went through all court instances. The child generally assessed her experience positively and particularly appreciated the kind and understanding judges who conducted her hearing. However, she repeatedly mentioned that the proceedings' length affected her daily life, as the changes in custody between her parents over their course made her feel unprotected.

*"Well, because we talked to several [professionals], I think there were four, we reached the final instance. And the first case, I think that back then my father won it and we appealed, I felt desperate then that I would have to go to him which I did not want to happen. What did we not do?! We even scratched him because he came with police to drag us out and take us against our will. It was disgusting. It was a very unpleasant experience for both my sister and me. So, when I reached the required age, we decided it was better for me to state my opinion on who I wanted to stay with. And my mother did not interfere in what I was going to say and so on. She told me simply to decide for myself who I wanted to stay with and so on."* (Bulgaria, female, 16 years old, party, custody case)

Several children also reported being involved in multiple, long proceedings with several hearings related to interconnected family cases, such as when children were parties in custody cases and victims and/or witnesses in domestic violence cases. Some children perceived these proceedings as one long hearing and all children found the process's length a source of stress.

Proceedings are also lengthy when children must interact with numerous professionals. In countries such as Bulgaria, Estonia and Germany, children were critical of being heard by too many professionals and having to repeat their testimony at multiple assessments or hearings. For example, in Estonia, children involved in civil proceedings were heard several times – in one case up to 23 times – by different professionals, including child protection officers, lawyers and, to a lesser extent, judges. In Germany, too, children spoke of interacting with a variety of professionals, including LCs, contact supervisors, psychologists and Youth Welfare Office and protection service staff. This differs from children involved in criminal proceedings, who are usually heard only once or twice.

*"To me, it was really, really needless. I thought, I had spoken it out once. I had spoken my mind. I had said everything what I wanted to say. I really didn't get why I had to repeat it 50 times. And every time, I had to tell it to another person. [...] Actually, they didn't believe me." (Germany, female, 14 years old, party, custody case)*

In regions where models of multi-disciplinary cooperation exist, children tended to say less about repetitive hearings.

However, proceedings may also extend in length because of continuous monitoring; these focus on change rather than repetition. Children assessed such proceedings more positively. For example, in France, children involved in child protection cases had annual hearings conducted by children's judges, which they perceived as part of the process and assessed positively. Children considered it normal that the judges – who usually remained the same, which they greatly appreciated – had the opportunity to assess their situations over time. Moreover, some interviewees conveyed that they would appreciate being heard more often as, if trust has developed with the judge, they see her or him as a support person.

*“But what I find disappointing is that we do not often see the judge, it is very rare... A young person who needs to see a judge, they should see him more often. If they want to see him, they should go to see him more often... it should be more regular, kind of every two months, to see the judge... It is understandable that it is not every month, but every two or three months, yes. But if it's every nine months, every year... Because the age of majority comes quickly. And at 18 it stops.”* (France, male, 17 years old, party, institutional placement measure case)

In France, some children involved in these periodic hearings reported feeling more comfortable with the process and being better able to express their feelings on foster care measures as they grew older and gained familiarity with proceedings and those conducting the hearings.

Similarly, children involved in the Scottish Children's Hearing Panel attended a number of hearings over 10 or more years, allowing them to reflect on the changes in how they are listened to over time. Generally children felt that they were listened to more with age and that as younger children they were neither encouraged nor enabled to give their views. From a longer-term perspective, some of these children recognised that the panel hearing system had beneficial outcomes, even though they had issues with it.

*“If I had not gone through any of that, I would have ended up in jail. I would have caused trouble and destroyed my mum's life, destroyed everything.”* (United Kingdom, male, 19 years old (involved in Scottish Children's Hearings System for nine years))

Children raised different issues in evaluating the duration of assessments or hearings. They particularly mentioned examples of lengthy assessments. For example, the feeling most commonly identified by children assessed in FDCCs in Poland was boredom caused by waiting

periods ranging from 15 minutes to two hours. Children strongly criticised having to wait after completing the questionnaire and after the psychologist's individual interview. Boys between 11 and 12 years old were particularly emphatic about their boredom being intensified by the lack of age-appropriate toys. In Croatia, children also complained about the length of assessments conducted by psychologists and social workers in SWCs.

When it comes to court hearings, there were also examples of them being too short. For example, in Romania, the majority of children involved in cases about foster care and institutional placement measures criticised the hearings with judges in court as too short. This brevity reinforced children's belief that they were not asked their opinion on placement measures, and resulted in their disappointment. Children indicated that not having enough time to talk to the judges at hearings both negatively affected their ability to participate in the proceedings and was a source of fear and stress, as it prevented them from knowing the decision on their placement.

*Interviewer: “Do you remember how long it lasted?”*

*Child: “A minute.”* (Romania, male, 14 years old, party, institutional placement measure case)

*“There were three persons and I was only asked one question: ‘Do you like it there, meaning, the centre you are at now?’ and I replied: ‘Yes, I am OK now, I am OK’. But in no way was I asked whether I wanted to be adopted by someone or to move elsewhere than where I was staying... It was not OK because I was asked a simple question and it was as if I had been sworn at, I mean a simple question and... Two minutes I was there, that's it... I also know that a child should be there for more than two minutes.”* (Romania, male, 17 years old, party, institutional placement measure case)

## 1.10. Deciding to hear the child (outcome)

### Practices in numbers

Seventy-seven per cent of children involved in criminal proceedings regarded their participation as important. However, only 50 % of children involved in civil proceedings were of this opinion. Furthermore, 21 % of them thought that their participation was unimportant, compared to only 9 % of children in criminal proceedings.

Children involved in civil proceedings were more likely to rate the importance of their participation lower than those involved in criminal proceedings. Children involved in civil proceedings felt this way because either they

were not able to meet the judge early in the process (in countries where children are usually heard by judges) or they could not meet the judge at all (in countries where children are usually heard by social professionals); their opinions, particularly on institutional placement measures, were not taken into account; and the specific system limited their participation.

Despite often assessing the significance of their participation more negatively, children still found it very important to participate in civil proceedings, as decisions made in court had a huge impact on their daily lives and personal circumstances. Among the children interviewed, topics of decisions included custody, adoption and institutional placement measures.

*“For me that [being heard] made a massive difference... it felt like a weight had been lifted off my shoulders.”* (United Kingdom, female, 14 years old, party, custody case)

Children indicated that participating was important because it allowed them to share their view of the case, talk about a difficult family situation and confide their troubles and feelings to someone.

*“I felt good because someone listened to me, took me seriously, listened until I was finished without interrupting me. [...] My mum is sick, my dad has been drinking and he used to hit me. Finally, I could tell somebody about this and it felt relieved.”* (Poland, female, 21 years old (17 at hearing), party, institutional placement measure case)

Children’s responses indicated that that they felt heard when they perceived professionals to be positive and respectful, their statements and opinions were taken seriously and the outcome met their expectations or was comprehensible.

Children had various reasons for negatively assessing the fulfilment of their right to participation and feeling of being heard. For example, in the United Kingdom (England and Northern Ireland), children were critical of being unable to go to court or meet the judge. Children involved in custody cases indicated they did not feel heard if they were unable to meet the judge or if this meeting took place late in the process. Most children who did speak to the judge found it a highly positive experience and an opportunity to be heard.

*“I felt really good about it, because I felt like everything I wanted to say had been said. I knew that he wasn’t ignoring me, I felt like he genuinely cared, not just as... because I know that sometimes in cases, judges, I think especially if they don’t meet the children they think of it just as a case, not as a real story.”* (United Kingdom, female, 14 years old, party, custody case)

Children in England and Northern Ireland who interacted only with social professionals, without experiencing the court environment and process, assessed proceedings negatively because of their perceived lack of involvement. For example, some children tried to contact the judge and did not receive any response until around the end of the hearings; they therefore felt that their views went unrepresented.

*“Not until the end. We didn’t really get our voices heard in the proceedings like right until the end. We just wanted to be heard and it was not fair that children are just in the back, when it’s mainly about the children, where they want to go. I think every child has a right to have their voice heard in the proceedings.”* (United Kingdom, female, 14 years old, party, custody case)

Similarly, in Poland, a relatively large number of children involved in the psychological evaluations that form ‘indirect hearings’ stated that they were unaware of the connection between these and the judicial proceedings; without direct contact with judges, these children did not realise they were involved in judicial proceedings. Some children also clearly expressed their preference to give their opinion on their family situation directly to the judge.

*“I would prefer talking to the judge, because I could say everything, about what could change at my home once I am back. [...] I could tell [the judge] that I want to go back home and why.”* (Poland, male, 11 years old, party, custody case)

However, it needs to be noted that hearings outside court and by trained professionals (in most cases social professionals) were always more favourably assessed by children. Children wished to be directly heard on the one hand but also to feel safe and comfortable thanks to the professionals’ behaviour and the location of the hearing. This implies either that the link between an indirect hearing and the decision needs to be more clearly conveyed and the outcome in relation to the child’s statement better explained or that direct hearings with judges should be conducted in child-friendly locations, preferably outside court, and by specifically trained professionals.

There are also examples of children being directly heard but nonetheless not considering their opinion to have been taken into account. Children involved in the Scottish Children’s Hearings System tended to feel that their voices were not really heard and had little impact on proceedings or the ultimate decision. They felt decisions were already made before they entered the hearing.

*“They [panel members] are only interested in what everyone else has to say and then you get your wee five minutes at the end... they never really spoke to you about it. They were only talking to the social workers... rather than actually getting it from the horse’s mouth.”* (United Kingdom, male, 19 years old (involved in Scottish Children’s Hearings System for 11 years))

Children involved in foster care and institutional placement cases particularly felt that what they said at a hearing did not affect the outcome. In Romania, children indicated that they believed the decision remained entirely in the hands of the child protection institution and judge, although they found hearings important and appreciated being heard at them. In Bulgaria, children reported that they believed whether they were heard was unimportant because, no matter what they said, the judge did not respect their opinion.

## CRIMINAL AND CIVIL PROCEEDINGS

### 1.11. Extent to which children’s right to be heard is met in criminal and civil proceedings

Table 2 provides an overview of the population of process and outcome indicators in criminal and civil law in the Member States surveyed based on the analysis of the children’s interviews (see detailed tables analysing the population of individual indicators by country in Annex 2). As these indicators are populated using results from qualitative research, they should be read as indicative of a situation.

Table 2: Populating outcome indicators on the right to be heard, by EU Member State, based on children’s interviews

EU Member State	BG	DE	EE	ES	FR	HR	PL	RO	UK
Reducing the length of proceedings	Often not implemented	Partly implemented	Often not implemented	Often not implemented	Often not implemented	Partly implemented	Partly implemented	Partly implemented	Usually implemented
Extent to which children who were heard were able to express their views and participate effectively	Often not implemented	Often not implemented	Partly implemented	Often not implemented	Often not implemented	Partly implemented	Partly implemented	Often not implemented	Often not implemented
Extent to which children were assisted by a competent professional during court proceedings	Partly implemented	Partly implemented	Partly implemented	Usually implemented	Partly implemented	Partly implemented	Often not implemented	Partly implemented	Usually implemented
Extent to which children were satisfied with the way their right to be heard was respected	Often not implemented	Partly implemented	Partly implemented	Often not implemented	Partly implemented	Partly implemented	Partly implemented	Partly implemented	Partly implemented
Extent to which children received legal representation and free legal aid	Often not implemented	Often not implemented	Often not implemented	Often not implemented	Often not implemented	Often not implemented	Often not implemented	Often not implemented	Often not implemented
Extent to which children feel that professionals were adequately equipped to work with children	Often not implemented	Often not implemented	Partly implemented	Often not implemented	Often not implemented	Partly implemented	Often not implemented	Often not implemented	Often not implemented
Extent to which children feel that child-friendly facilities, including screens, separate rooms and technological equipment, were provided	Often not implemented	Often not implemented	Partly implemented	Often not implemented	Often not implemented	Often not implemented	Often not implemented	Partly implemented	Often not implemented

Usually implemented
  Partly implemented
  Often not implemented

Note: Where indicators are populated using results from qualitative research, they should be read as indicative of a situation.

Source: FRA, 2014–2016



## 1.12. Children's and professionals' perspectives

Taking both phases of FRA's research together, professionals and children have shared their experiences with children's participation in judicial proceedings. This gives a more holistic picture of how children are treated in criminal and civil proceedings, allowing similarities and differences in the two groups' perspectives to be addressed. The evidence provided by the professionals is often confirmed by what the

children reported, but the different details highlighted by the two groups indicate different priorities and levels of importance. Many promising practices described by the professionals are also valued by the children, although their implementation often seems to be much less dependable than it appeared in professionals' interviews. Children also have difficulties with some practices recommended by professionals.

Table 3 provides a comparative analysis of the professionals' and children's interview findings.

**Table 3: Right to be heard from children's and professionals' perspectives**

Professionals' view		Children's view
<b>Defining child-friendliness</b>		
Child-friendly settings, safeguards, video-links, specialised courts, etc.	●	The child-friendly attitude of professionals is most important.
<b>Professionals are adequately equipped</b>		
Need for systematic training	●	Rather negative assessments of judges hearing children. Negative assessments of police officers in territories with no systematic training. Low awareness among court staff of child-friendly spaces in court.
Need to standardise procedures through guidelines	●	Positive experiences with hearings by judges or expert psychologists are often due to personal commitment, but not systematic. However, when judges conduct hearings in settings that require specific training and provide guidelines, their behaviour is positively assessed. Such positive assessment also applies to police officers working in territories where consistent training and guidelines exist.
Social professionals hearing the child	●	Except for individual assessments by expert psychologists, hearings done by social professionals are positively assessed.
One person hearing the child	●	Children want to be heard by only one person.
Value of supportive materials	●	Use is rarely reported by children.
Panel hearing systems	●	Children do not want to be heard by several people. Panels lack privacy and the situation is confusing.
<b>Support</b>		
Not too many people present during hearings	●	Children prefer as few people as possible present during hearings. Those present need to have a transparent function. The public is to be excluded.
Professional support before, during and after the hearing	●	Often assessed ambivalently and not necessarily appreciated during a hearing, unless the person shows clearly that (s)he represents the child's interests.
Accompanying person of trust	●	Children very much appreciate support by a person of trust. This person (often a parent) needs to be present before and after the hearing, but not necessarily during it. Children would like to have the possibility to choose.



Professionals' view		Children's view
<b>Child-friendly facilities</b>		
Not being heard in the courtroom	●	Children do not want to be heard in court, even if separate child-friendly rooms exist. Particularly in criminal proceedings, the court environment is intimidating. In civil proceedings, settings are generally less formal and offices in courts can be appropriate.
Pre-familiarisation	●	Pre-familiarisation visits to courts or outside court are highly valued by children.
Physical environment needs to be adapted to children's needs	●	Child-friendly hearing rooms are highly valued, but not as highly as the professionals' behaviour. Such rooms are not always available, particularly in civil proceedings. Older children's needs in such rooms differ from those of younger children.
Being heard at neutral locations, such as schools	●	Lack of privacy and often unannounced.
<b>Controlling contact with defendant or other parties</b>		
Procedural safeguards in place, such as separate entrances, child-friendly waiting rooms, use of video recordings, screens	●	Children emphasise the importance of controlling contact. Where applicable, children very much appreciate having a choice about the type of procedural safeguard used.
Video-links	●	Live video recordings, particularly the cameras, are often intimidating for children, even more so if they do not know exactly who is watching and listening.
<b>Legal representation</b>		
Importance of legal representation	●	Only very few children report having legal representation. Professionals appear to be unaware of this reality. In family law cases, legal support stems mostly from parents' lawyers, who children regard as helpful.
<b>Length of proceedings</b>		
Reducing the length of proceedings and multiple hearings through video-recorded evidence, multi-disciplinary cooperation and prioritising cases with children	●	The element of time is very important: children have difficulties with the number of hearings and the time periods between different phases of the proceedings, e.g. until a case comes to court or a decision is made. Children would appreciate professionals' suggestions on the use of video-recorded evidence, multi-disciplinary cooperation and prioritising cases to reduce the lengths of proceedings.
Multi-disciplinary victim support teams hearing children in the pre-trial phase, including the prosecutors	●	Even when multi-disciplinary teams hear children before a trial, they are heard again in court, so the number of hearings is not reduced.
<b>Deciding to hear the child</b>		
Children's participation is important if protection is assured; children are more often heard in criminal proceedings	●	Child participation is equally important in criminal and civil proceedings, but professionals need to be child-friendly and the environment needs to be safe.

● Shared perspective

● Partly shared perspective

● Different perspective

Source: FRA, 2016





Professionals mentioned several promising practices that children also value. For some of them, systematic implementation seems to be lacking. Table 4 lists

promising practices that are described in more detail in FRA's first report and with which children have specifically had positive experiences.

**Table 4: Promising practices on the right to be heard from children's and professionals' perspectives**

Issue	Promising practices from children's and professionals' perspectives
Adequately equipped professionals	Judges who are trained by Nobody's Children Foundation hearing children in 'blue rooms' in Poland. Psychologists hearing children in centres for social welfare in Croatia and Estonia. 'Indirect hearings' in family diagnostic centres in Poland. Victim support services in Spain.
Support received	Dual representation by a guardian and legal representative in the United Kingdom (England and Wales) to prepare and provide support throughout proceedings.
Child-friendly facilities	The use of 'blue rooms' in Poland.
Controlling contact with defendant or other parties	Child-friendly hearing rooms in police stations in Germany. Separate entrances to police stations in Estonia. Use of separate rooms for waiting and hearings.
Legal representation	Legal counsellors, guardians or solicitors representing the children's interests, as done in Germany, Romania, Spain and the United Kingdom.
Length of proceedings	Positive feedback from Germany and Estonia, where existing legislation appears to be consistently applied.

Source: FRA, 2016



# 2

## Right to information



Respecting children's right to be informed, as guaranteed to children by the EU, the Council of Europe and the UN, is crucial to their wellbeing and effective participation in judicial procedures. General Comment No 12 on the right to be heard of the Committee on the Rights of the Child states, "Particular attention needs to be paid to the provision and delivery of child-friendly information, adequate support for self-advocacy [and] appropriately trained staff."<sup>24</sup>

*"I needed to be told in advance so that I could prepare myself emotionally and not go there [the hearing] and be stressed out, so it was terribly important for me to be told when this [the hearing] will take place, what the questions are going to be like, and so on."* (Bulgaria, male, 16 years old, victim and witness, sexual abuse case)

Various provisions in EU secondary criminal law lay down the right to be informed as a generic right:

- Victims' Rights Directive, Articles 3 (right to understand and be understood), 4 (right to receive information from the first contact with a competent authority) and 6 (right to receive information about their case);
- the Directive on combating sexual abuse and sexual exploitation of children and child pornography (2011/93/EU), Recital 50;
- the Anti-Trafficking Directive (2011/36/EU), Article 11 (assistance and support for victims of trafficking in human beings).

The majority of countries studied have explicit criminal law provisions on children's rights, as victims and witnesses, to receive information about their rights and the judicial procedure. However, in Scotland, this right is not enshrined in legislation for either victims or

witnesses. Moreover, in certain countries – for example, Poland and Romania – the right to information is more extensive for victims of crimes such as domestic and sexual abuse than for other victims. Rules concerning children's access to information before, during and after civil proceedings vary between as well as within states, depending on the area of law involved and the child's role in the proceedings. For example, in the area of family law, children in seven of the countries studied have a statutory right to receive information on the relevant systems and procedures.

This chapter assesses the implementation of children's right to information in the nine EU Member States studied, asking who informed children about what, how they were informed, and whether or not the information received was sufficient and appropriate to help them understand the process.

### Practices in numbers

Across all countries and types of proceedings, the majority of children interviewed (86 %) reported that they received some information in one form or another at some stage of proceedings. The most common experience was receiving information orally from one or several people. However, only 38 % of them found the information sufficient.

Children stated that missing information caused fear and stress and impeded adequate participation in judicial proceedings. Children involved in both criminal and civil proceedings agreed that information is usually not provided early enough in the proceedings and that child-friendly materials are often either unavailable or not used. Children rarely reported the appointment of a specific professional to inform them systematically throughout proceedings.

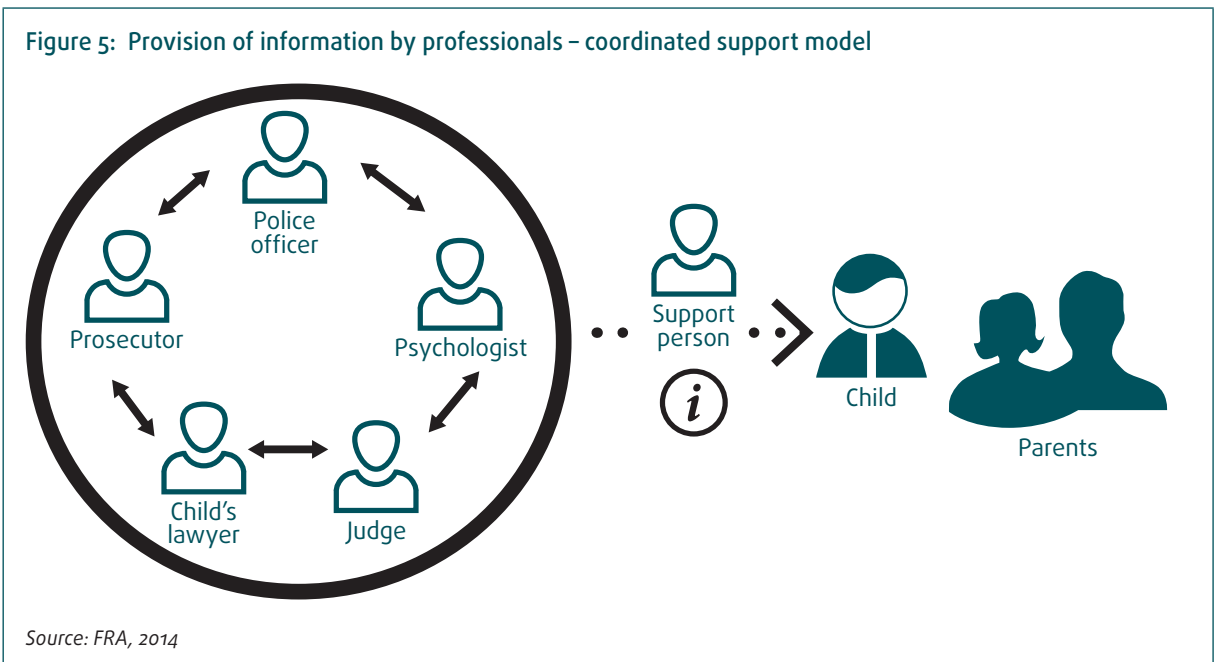
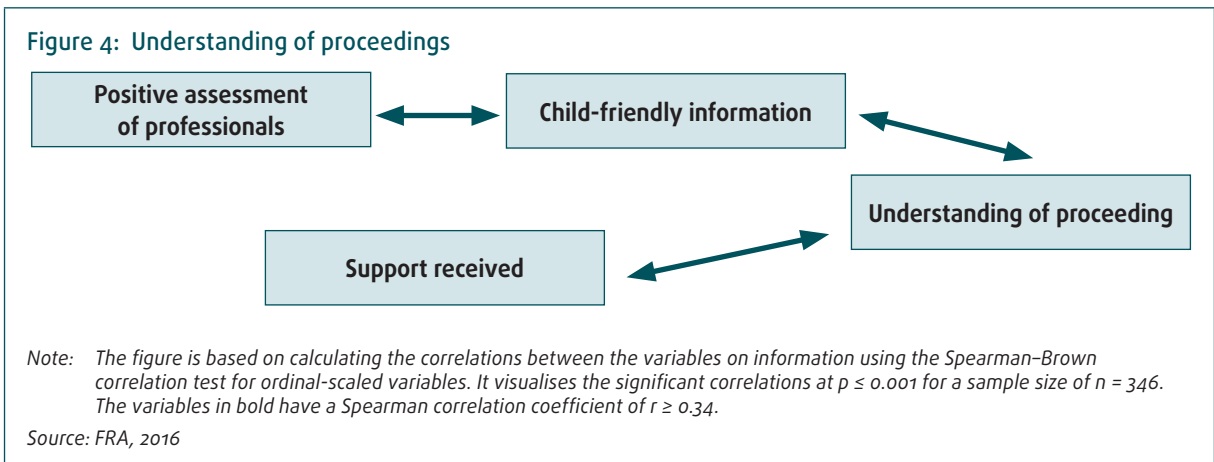
<sup>24</sup> UN Committee on the Rights of the Child (2009).

Whether or not information is provided and the form it takes have a decisive impact on children’s assessments of proceedings; none of those who did not receive any information, or who received it in written form only, evaluated proceedings positively as child-friendly. Conversely, when children received oral as well as written information, they perceived proceedings more positively, as they obtained information in a way they could understand or, if not, could ask questions until they had understood to their satisfaction.

Children’s responses indicated that it is useful for them to receive information on the appearance of courtrooms, the different players and their seating arrangements there; the venue of the proceedings; and the hearing, including whether it is voluntary or obligatory, their behavioural guidelines and the availability of support. Children also stated that they like to receive feedback on their performance in court and an explanation of proceedings’ outcomes.

Figure 4 visualises key elements that help children understand proceedings. For this to happen, children need to receive information in a child-friendly format specifically adapted to their needs, age and level of understanding, and from a child-friendly professional who talks in a friendly and clear way and provides ongoing support. This fits with professionals’ suggestion to have one contact point to support children consistently throughout proceedings (see Figure 5).

In criminal proceedings, information seems to be provided more systematically before hearings than during or after them, when this depends on the particular legal professional the child meets. In countries where children evaluated pre-trial information positively, it usually included pre-trial court visits and preparatory meetings with professionals. Concerning information received after the hearings, only few children reported being informed of the outcome in a child-friendly, systematic manner.



## Practices in numbers

Sixty-two per cent of the interviewed children felt that they did not receive sufficient information. Younger children appear more likely to have received information in a specifically prepared child-friendly format; this was the case for most children up to the age of six, and went hand in hand with them receiving support. In general, children who received support were also more likely to receive information in a child-friendly format and – importantly – to also have understood the information.

The evaluators' assessments of whether interviewed children had understood the information they received indicated that all children up to the age of six had understood. Conversely, according to the evaluators' assessments, children between eight and 11 least understood the information they received. There is then a turning point: children aged 12 to 18 were mostly assessed as having understood the information received. This may be linked to the increased likelihood of receiving support and the ability of children in this age bracket to more actively influence the process, e.g. by asking clarifying questions. There are also clear country effects, with children from Germany and the United Kingdom being more likely to have understood proceedings. Some answers imply that this may be linked to them being more aware of their rights, e.g. via their school education.

Children involved in civil proceedings, particularly custody cases, indicated that parents had a pivotal role in informing them. Foster parents or staff at hosting centres were the main source of information for children involved in other types of civil proceedings, such as those related to placement measures or for unaccompanied foreign children. As with children involved in criminal proceedings, most children involved in civil proceedings conveyed that the information they received was insufficient and/or inappropriate. Some noted that, even if social professionals at times informed them, this was not done systematically. Moreover, children's reports suggest child-friendly materials are less available in civil than criminal proceedings.

This chapter presents children's descriptions and assessments of the different informational processes by type of proceedings. The data populating process and outcome indicators are derived from FRA's interview-based research, which obtained children's reports and assessments of states' practices and procedures. (For a fuller description of the data analysis, see [Annex 1](#)). FRA's first report on child-friendly justice is to be read in parallel with the present report. The first report presents data using results from the first phase of the fieldwork alone (i.e. interviews with professionals and the European Commission's analysis of national legislation) to populate structural indicators; see [Table 5](#).

**Table 5: Process and outcome indicators on the right to information**

<b>2. Respecting the child's right to information</b>	
<b>Process indicators populated through evidence from interviews with professionals and children*</b>	
<b>Measures and procedures</b>	2.1./2.3. Ensuring that children are appropriately informed and facilitating understanding of procedures and court rulings Setting clear responsibilities for who informs them Providing a multi-disciplinary approach to information and support (professionals' report only)* Elaborating guidelines and protocols on how to inform children (professionals' report only), when and on what
	2.2./2.4. Ensuring availability of informational material adapted to children's needs
	2.3./2.4.3. Providing information and advice to children through targeted, adapted information services (professionals' report only)
<b>Outcome indicators populated through evidence from interviews with professionals and children*</b>	
<b>Results</b>	2.5.1. Assessing the importance of information and its effect on children
	2.5.2. Assessing measures and their effect on children
<b>Outcome indicators to be populated through evidence from interviews with children**</b>	
<b>Results</b>	2.5. Evidence of children's understanding of their rights
	2.5. Evidence of children's understanding of the procedures, including the final decision and its consequences
	2.5. Evidence of children's assessment of the child-friendly character of information/material provided

Notes: \* These indicators were partly populated in the first report; this report addresses both children's and professionals' perspectives, which is necessary to give a complete assessment of outcomes.

\*\* This report is based on interviews with children, newly populating those outcome indicators through an analysis of the quantifiable experiences and perspectives.

Source: FRA, 2014–2016



## CRIMINAL PROCEEDINGS

### 2.1. Ensuring that children are appropriately informed (process)

#### Practices in numbers

Only 7 % of children interviewed received both oral and written information. The majority of those who did were involved in criminal proceedings concerning serious crimes. Children involved in less serious proceedings in more indirect roles – for example, as witness to a minor theft – were the least likely to be informed.

*“I really liked to know through my own channels, and not through those of my parents. It was good that it came through both... Maybe it’s better for some children if they explained to them in person, rather than by letter.”*  
(France, female, 15 years old, victim, sexual abuse case)

Children’s experiences with being informed in criminal proceedings vary across countries. In some countries – such as Germany, Poland and the United Kingdom (England) – children reported receiving better information and preparation in criminal proceedings than in civil proceedings.

In Croatia, Estonia, France and Spain, children were ambivalent about the information received and reported that professionals at times did not provide information systematically. In other countries, such as Bulgaria and Romania, children spoke negatively about the process of informing them either because they did not receive any information from any professionals or because the information was insufficient or misleading.

When discussing who should provide the information, all children interviewed clearly tended to prefer being informed by their parents, indicating that they feel more comfortable when someone they trust provides information.

*“[I] preferred it that my mum and aunty told me [rather] than a stranger coming to tell me.”* (United Kingdom, female, 17 years old, victim, sexual abuse case)

## Pre-trial information

### Children’s suggestions

#### Who provides information

Children recommend that:

- A person of trust should inform and accompany children throughout proceedings to provide both emotional support and information
- Parents, along with other individuals providing support, should be the ones to convey information
- Children should receive information personally and not only through their parents
- If a child does not trust the parents, or to avoid manipulation by parents, a child-friendly professional of trust should provide the information

Children’s reports on the provision and type of information before trial differed depending on various factors, including the professionals and institutions involved. Children from several countries, including Germany, Poland and the United Kingdom (England), generally described being well informed and supported by professionals before trials in criminal proceedings; their experiences were more positive than those of children in some other countries.

In Germany, children involved in criminal proceedings generally considered themselves properly informed and prepared for criminal proceedings. These children reported receiving information and being prepared for trial hearings by psychosocial assistants, psychologists and the police. Children who received information from counselling services before filing complaints with the police, and from psychosocial assistants before trial hearings, assessed the information positively.

*“I did know a lot. I could hardly have known more, actually.”* (Germany, male, 15 years old, victim, sexual abuse case)

*“The information was good. At a good point in time. It wasn’t too short. In such a way that one wasn’t totally overstrained by the situation. In such a way that one knew that there will be a court session soon and that one had to be heard there. And not too early. If that was the case, you would have forgotten it again already.”* (Germany, female, 18 years old, victim, sexual abuse case)



However, children in Germany were more positive about information received before trial hearings than before police hearings. This is because no advising or supporting professionals – such as psychosocial assistants or witness support assistants – were involved at early stages of proceedings. Therefore, the quality and quantity of information received depended very much on the extent of family members' knowledge of criminal proceedings. In contrast, the informing process before trials generally includes pre-trial visits to courts provided by psychosocial assistants, victim support centres and, at times, by schools.

*“Before the court I also got information. Myself, [the psychosocial assistant], my mum were there [visiting the court] and had a look at everything. Then [the psychosocial assistant] explained to me who sat where and how it would proceed and that they go into another room to discuss the sentence. And this I found quite good... My psychologist gave me a tip [what to do before and during the hearing, for example: tell the assistant if she wanted to leave the room, have a break and play games] about how I can manage to not be too nervous before the court proceedings and before the hearing at the police. I think that this was good of her.”* (Germany, female, 12 years old, victim and witness, sexual abuse case)

Children in Germany highly appreciated receiving information before hearings. They particularly valued the psychological and legal support and explanations of proceedings provided by psychosocial assistants; children said that only they used child-friendly material, such as books and pictures. Although the functions, authority and backgrounds of psychosocial assistants and witness support assistants differ significantly, they are all tasked with informing children about the details of proceedings and the progress of their cases. Witness support assistants prepare child witnesses for hearings and see to administrative procedures, and both they and psychosocial assistants may assist child victims during hearings at police stations or in court. To a lesser extent, police, lawyers and parents also play a role in giving information. Aside from professionals, children mentioned school, TV and the internet as information sources.

In Germany, children reported receiving the following information on pre-trial issues:

- pre-trial/police hearings: the consequences of filing a complaint to the police, that police officers have to open an in-depth criminal investigation procedure when informed of a suspected case of sexual abuse;
- the venue, date and time of the hearing;
- that the video of the hearing will be accessible to the judge and the prosecutor;
- a visit to court or a look at an empty courtroom;
- seating arrangements in court;

- the right to be heard: an explanation of what it means to be heard and the fact that it is voluntary;
- support: an explanation of children's right to support, the possibility of having a joint plaintiff attorney and legal representation at juvenile court, the availability of psychosocial assistance and the possibility of choosing who accompanies them;
- behavioural guidelines: that children should stay calm during the hearing, not be nervous, not lie and tell the truth in full;
- rights during the hearing: that children may answer a question by saying that they do not remember any more, if that is the case, and that they may take breaks and stop the hearing.

In Poland, similarly to Germany, children involved in criminal proceedings reported having more information and preparation than children in civil proceedings. Most of these children reported being prepared for hearings by psychologists from victim support organisations, such as the Nobody's Children Foundation, and described having meetings with professionals before being heard in a 'blue room'. Preparatory meetings were positively assessed, particularly for the pre-trial visits and informative materials that they included. Children said that professionals showed them the hearing rooms and explained that the hearing would take place once only and would be recorded. Psychologists also clarified why recording was needed and prepared them for some specific questions that the judge might ask.

In contrast, children not heard in 'blue rooms' reported being informed by parents, foster parents or institutional caregivers before hearings; they assessed the information received this way as insufficient. Some children in foster or institutional care in Poland and some children with disabilities also indicated that they did not receive information from their caregivers before hearings and that they learnt about the hearings only on entering the courthouse.

*Interviewer: “How did you learn about the hearing?”*

*Child: “When I was staying at the facility, they called there and informed about the case. Just like that.”*

*Interviewer: “And who passed this information to you?”*

*Child: “My caregiver.”* (Poland, female, 17 years old (living in foster care), victim and witness, sexual abuse case)

In the United Kingdom (England), children involved in criminal proceedings generally spoke positively about their experiences with being informed before trials, particularly when charitable organisations and witness support services were available. Children indicated that pre-trial information was mainly verbal and focused on organisational matters, such as what would happen at the hearing, the court building and the roles of those

present. Most children who attended trial hearings reported taking part in pre-trial court visits arranged by the Young Witness Service. Children generally assessed these very positively, believing they facilitated their participation by providing information, familiarising them with the court layout, alleviating anxiety and promoting confidence. Visits allowed them to see what a court really is like and thus helped rid them of any misconceptions that may have emerged from media representations.

*Interviewer: "Did you go and have a look around and see the video-link room?"*

*Child: "That wasn't organised [by court]. I asked for that. It wasn't mentioned and I thought 'I have never been in a court before, I don't know how it looks, where I am going to be standing, stuff like that.' I had questions of my own. It was only when I asked [charitable organisation] that they sorted it out for me and realised that they hadn't given me a date for a visit." (United Kingdom, female, 19 years old (17 at hearing), victim, sexual abuse case)*

*"[They explained] who the judge was going to be and the judge is, if they were friendly or not... they explained that the jury wouldn't be people I knew, just the public." (United Kingdom, female, 16 years old (15 at hearing), victim, sexual abuse case)*

*"It wasn't as bad as I thought, it seemed nothing like on telly [television]. Just like a big classroom, I think." (United Kingdom, female, 17 years old (15 at hearing), victim, sexual abuse case)*

Children in the United Kingdom (England) also reported that being informed before a trial included meeting the barrister in advance and home visits by the Young Witness Service. Children explained that, during home visits, Young Witness Service staff showed them a video about going to court and gave them information booklets. Children appreciated being informed in a child-friendly environment and that professionals spent enough time with them to explain proceedings, supported by child-friendly materials. Moreover, children highlighted that, when a continuous, trusting relationship developed with a professional, they felt more comfortable asking questions. They also recommended that professionals give children their contact details so that they are easily contactable.

In France, children indicated that they were mainly informed by parents and lawyers. In the few cases where psychologists and ad hoc administrators were appointed, children also positively assessed their role in informing them.

*"The letters were adapted, and my lawyer was there to help me if I did not understand. She played a very, very important role." (France, female, 15 years old, victim, sexual abuse case)*

*Interviewer: "Why is it important [that your psychologist explain things to you beforehand]?"*

*Child: "Well, at least, you know what you can expect. You know how it will happen. At least, it's... How do you say that? At least, you know how it will happen so it is easier to... You already think about how it... About what they will tell you. So it's OK. [...] Well, according to what she [the psychologist] told me, I already imagined... I made a bit of a movie in my mind for myself, to better understand [...]. [It enables you to] think about questions the judge could ask, and so, to think about the answer. Thinking about it first." (France, male, 16 years old, victim, sexual abuse case)*

Children who were prepared and supported before hearings by professionals such as lawyers, ad hoc administrators and psychologists generally regarded the information received positively. However, some children considered the information insufficient.

*Child: "I was contacted again by the judge who was dealing with it to arrange a meeting... They did not speak to me about it much before, they didn't explain it to me, and that's a bit regrettable. [...]"*

*Interviewer: "Do you remember if they informed you well about the meeting?"*

*Child: "No, exactly. I think it was my lawyer, with whom I get along very well, who told me about it. I don't remember. First they told me that the guy had been found, and then they told me that there was going to be a meeting. Later, I got the date of the meeting. I was told through my lawyer, then by letters. I had no contact with the judge. I don't know what I would have liked. To have been told more about it." (France, female, 15 years old, victim, sexual abuse case)*

In Estonia, children spoke positively about being informed by their parents and professionals, as well as approving of the information received. However, children criticised the police for providing insufficient information and behaving improperly – for example, visiting them or handing over legal documentation without explanation.

One child, who was supposed to be a witness in a theft case, stated that two police officers with a dog visited her at night at the orphanage, frightening her. It should be noted that this case involved a minor crime. This report's findings relating to criminal proceedings mostly pertain to serious cases, as the interviews covered only a low number of minor cases, and these only involve a few countries, such as Estonia. Police officers who work on minor cases – such as this one – are not trained in working with children; they are assessed as not being as good as trained officers, who are usually in charge of serious cases.

*"[I was] scared because I didn't know what the whole thing is about, because the investigator didn't say: 'don't worry, we know that you are not guilty'." (Estonia, female, 18 years old, victim and witness, theft case)*



In Estonia, child witnesses criticised the lack of information about their role and the potential consequences of their statements and outcomes of the trial. One child, a witness in a theft case, noted that he received a court summons from the police without explanation. Only after the child protection worker explained it to him on the following day did he understand that he was a witness.

*"[A] black car came next to the house and a man gave me an invite."* (Estonia, male, 14 years old, witness, theft case)

Similar experiences were noted by children from Croatia, with several children complaining that the way the official subpoena was delivered made them feel frightened. They suggested that these should be delivered differently.

*"I mean, if you ask me, I think it's kind of stupid that they come to your home, like, to give you the summons... As if you're some kind of, I don't know, as if you did something. As if you're guilty of something, you know."* (Croatia, female, 17 years old, victim, domestic violence case)

Several children in Estonia also complained that they were approached about participating in hearings at school without warning, which they found disturbing and frightening. Children always assessed unexpected hearings negatively.

*"[The] teacher said that [police] were awaiting and then [classmates] saw ..."* (Estonia, female, 14 years old, victim, sexual abuse case)

In Spain, summonses are addressed to parents or legal guardians. That means that children rarely read them themselves and that pre-trial information is generally first provided by parents. Children highly appreciated it when psychologists at victim support centres also prepared and informed them as part of conducting their assessments. Police and privately hired lawyers also informed the children.

*"I think the only person who informed us was the assessment psychologist."* (Spain, female, 14 years old, victim, sexual abuse case)

*"[My lawyer] told me, during the trial we will be with him and well, we the lawyers will also be there, we will ask you some questions and you only have to tell the truth."* (Spain, female, 16 years old, victim, psychological ill-treatment case)

In Croatia, children indicated that pre-trial information is generally provided by parents or foster parents alone. Some children noted that parents withheld information because the case was sensitive or they believed that children should not be aware of too many details.

*"Well, parents more or less informed me, but that was the only information that I got."* (Croatia, male, 14 years old, victim, physical abuse case)

*"I really don't know anything about what phase it [the proceedings] is in. Because supposedly we as children shouldn't know about it. That's what social services told us. My mum, even when she learnt something, does not want to tell us, because like, that's not good. She says that the social service advised her that she should not pass such information on to us."* (Croatia, male, 17 years old, victim and witness, domestic violence case)

The staff from SWCs also provide information, and one child noted that the social worker arranged for her to avoid seeing the perpetrator. To a much lesser extent, the witness and victim support services and the police also give children information by means of leaflets, books and pictures. Even if children felt more comfortable with their parents, they nevertheless preferred being informed by professionals, such as the SWC psychologists and witness and victim support service staff, rather than by their parents.

*"Yes, they said they would arrange for me to avoid seeing him [the defendant], that we will be in a different room, that the voices will be blurred [talks unintelligibly]; that they would ask him some questions too, that there won't be any inappropriate behaviour."* (Croatia, female, 13 years old, victim, sexual abuse case)

In Bulgaria, the Child Protection Act provides that "before the hearing the court or the administrative body should ensure information to the child, which is supposed to help the child to form an opinion, and to inform the child about the possible outcomes of his/her wishes and of any decision or opinion of the court or administrative body's decision."<sup>25</sup> Children reported being informed by social workers, psychologists and the police. However, information provision was not timely; children reported negative experiences, with information provided just minutes before hearings and without any other preparation. Most children also considered the information received insufficient, as it covered only the hearing's date and purpose; no information was provided about the defendant's presence and the consequences of the children's statements.

*"Well... before we entered the courtroom, in front of it, in the corridor, the psychologist told me that she was there to help me and that if there was anything I didn't understand, it would be better for me to ask about it; or if there was anything I didn't remember or didn't know, I shouldn't try to make it up to give an answer but should simply say that I didn't remember... The psychologist had told me that, uh... if I didn't like something, some question, I could keep silent and not answer it."* (Bulgaria, male, 16 years old, victim and witness, sexual abuse case)

25 Bulgaria, Child Protection Act, Art. 15, para. 3.



*“They [told us] to be there at this hour – in front of the arrest... in front of the police... and they take us from there and drive us with the police car ...”* (Bulgaria, male, 12 years old, victim, sexual abuse case)

In Romania, children spoke of being informed by the police, foster parents or placement centre staff, usually social workers. They reported receiving little information about the hearings’ purpose and consequences and their rights as crime victims. For example, one child trafficking victim noted that the police told her only that she was protected by the law – a fraction of the information she should have received as a victim. By law, police officers must inform crime victims about their rights, available services and the organisations that provide them, their right to legal aid and financial compensation, the conditions for becoming a protected witness and the procedure. Children spoke of being unaware of their rights and sometimes of their role and why their statements were taken. This was particularly the case when they were involved in alleged sexual abuse cases, in which children did not seem to understand that their hearing was part of the justice process to eventually punish the perpetrator(s).

No matter how much information children received and where, the provision of information was regarded as very important.

*“I think it’s important to inform a child, so they can understand. What the place is for: for the child to feel more comfortable going there. So they know where they are going and why.”* (France, female, 17 years old, party, child protection- case, parental neglect case)

### Children’s suggestions

#### *Necessary information before hearings*

Children recommend that the following information be conveyed before hearings:

- Who will conduct hearings and who will be present (functions, tasks)
- Date, time and location of hearing
- Presence of defendants and their parents or other relatives
- Course and length of hearing, what elements proceedings entail
- Possible questions and how many there will be
- Possibility of refusing to testify or to answer some questions
- Explanation of confidentiality policies relating to testimonies
- Children’s role, rights and duties
- Support available and possibility of receiving counselling
- Behavioural guidelines, i.e. possibility of having breaks and stopping hearing

### Information during hearings

Children reported being informed during hearings by the professionals conducting them. However, the majority of children indicated that they would have liked to receive feedback from the professionals and more information, including about the defendant’s presence and behavioural guidelines.

During hearings in Poland, judges and psychologists inform children about proceedings and their rights. Children reported that judges informed them at the very beginning of hearings about:

- the obligation to tell the truth;
- criminal liability for false testimony;
- the possibility of refusing to answer some questions, e.g. if they did not remember;
- the right to refuse to testify;
- the right not to testify in their parent’s presence (i.e. when the parent is a victim in a domestic violence case and the child a witness);
- the obligation to turn off their mobile phone;
- the possibility of testifying in the company of a person of trust;
- the possibility of requesting a break.

Most children did not mention receiving any feedback after hearings – except for one child, who said that the prosecutor explained that she should not be worried about the mistakes she made while testifying as they showed she was telling the truth.

*Interviewer: “After the hearings, after you testified, did you have any feedback from anybody? Say, the prosecutor told you it was OK?”*

*Child: “After I got out [of the courtroom] I was always like ‘What would you say, was this all right?’”*

*Interviewer: “And what did she tell you?”*

*Child: “Yeah, she [the prosecutor] always said it was OK, that I shouldn’t worry, that I said the right things and even if I made a mistake it was OK because it would look suspicious if I had learnt everything by heart. I made a lot of errors but everything went down as it should.”* (Poland, female, 18 years old, victim and witness, sexual abuse case)

In Germany, children indicated that police and judges informed them about proceedings during police and trial hearings. Some children spoke about receiving a ‘witness instruction’ (*Zeugenbelehrung*) before hearings in court started. Most children assessed this negatively; they indicated that judges read all the “legal issues” in an intimidating way and roughly reminded them about their duty to tell the truth, making them have doubts about their role in the proceedings.



*"Then you feel as if you were the accused... You get so nervous and sometimes you gasp for breath. That's how I felt. And when further inquiry comes, you think immediately that you are portrayed as unreliable. Well, that's how they have to be. However, they are really rigorous about it."* (Germany, female, 16 years old, victim and witness, sexual assault case)

Children heard in Germany mentioned that the judges usually greeted them before and after hearings and sometimes complimented them on their behaviour, which they highly appreciated. However, children also spoke about a lack of prior information and of being shocked by the defendant's presence in the courtroom.

*"He [the judge] came to us afterwards. He shook our hands. He said: 'You were very brave. You are the toughest children whom I've ever had before court until today.'"* (Germany, female, 13 years old, victim and witness, sexual abuse case)

*"I actually think that the information which I got was good. [...] I would have liked to know earlier that the accused will sit in the back. But for the rest, everything was OK."* (Germany, female, 14 years old, victim and witness, domestic violence case)

*"The door opens and you come in there. I have never been in a real courtroom. It really hits you. [...] Maybe, it would have been a little bit better, if they at least had said that there are quite a lot of people and that he [points to the accused] is there, as well. And that it is really big. So you don't run into such a wall."* (Germany, female, 18 years old, victim, sexual abuse case)

In the United Kingdom (England), children reported receiving information from legal professionals during trial hearings and in court. Where this information was provided, the children greatly appreciated it. However, overall, children from the United Kingdom (England) were ambivalent about the information received during trials; its quality appears to depend on the individual legal professional rather than any systematic practice. Furthermore, children conveyed that they felt nervous and disempowered because they received insufficient explanations of procedures. Some children noted that there were no clear communication channels between people in the courtroom and staff in the waiting room, resulting in information not being conveyed in a timely manner. One child stated that she did receive information from the charity support worker and the police, which enabled her to continue with the trial proceedings.

*"I think our barrister was quite helpful, she did come and talk to us quite a lot and if I had any questions I could ask her."* (United Kingdom, female, 14 years old, victim, sexual abuse case)

*"They had to go all the way up to the courtroom to ask the question; to come all the way back down to tell me. Which was rubbish because if you were in hospital or something and you didn't have a clue about what was going on, there would be an uproar about it. But in a courtroom, what can you do but wait?"* (United Kingdom, female, 19 years old, victim, sexual abuse case)

*"[Receiving information from the charity support worker and the police is] what made me stick through it; otherwise I would have given up."* (United Kingdom, female, 19 years old, victim, sexual abuse case)

Children also described being summoned and then not heard. They were unanimously negative about long waiting times before testifying.

*"On day one, I remember being dressed smartly ready to go and we were sat waiting; and then somebody came through and told us that actually I am not going to be on the stand on the first day... nobody is... and it is just the barristers and the judge talking."* (United Kingdom, female, 19 years old, victim, sexual abuse case)

Children interviewed in the United Kingdom (England) also indicated that they were not sufficiently informed to make informed decisions about special measures, such as choosing to provide evidence via video-links or in witness boxes with screens. Children complained that the use of special measures was generally based on what would be best for the case, rather than what would be the most child-friendly.

*"There wasn't any options. They just said I would be behind a curtain."* (United Kingdom, female, 17 years old, victim, sexual abuse case)

In Spain and France, children indicated that police and judges gave them insufficient information during police hearings and trials. However, when judges provided information about the hearings, children appreciated it.

*"Nobody explained to me what a video conference is."* (Spain, female, 14 years old, victim, sexual abuse case)

*"I didn't understand what I was doing there. [...] I was questioned, I had just finished working, it was my mother who came to pick me up from work and who took me directly to the police questioning. So I didn't even know I was going to be questioned."* (France, female, 19 years old, witness, murder case)

*Child: "She [the judge] spoke to me, she told me stuff to reassure me, how it was going to happen."*

*Interviewer: "What would happen after?"*

*Child: "No, in fact, she spoke to me just before. She spoke to me to reassure me..."*

*Interviewer: "Before the hearing?"*

*Child: "Well, before the person came in [...] The person came in five to 10 minutes after."*

*Interviewer: "Right. So during those first five minutes, first 10 minutes, what did the judge tell you?"*

*Child: "Well, what would happen, who... Yeah, it was what would happen."* (France, male, 16 years old, victim, sexual abuse case)



In Croatia, court assistants and judges inform children about the proceedings and their rights. However, as in Spain and France, children mainly deemed the information provided insufficient.

*“We sat in that room before the trial, about half an hour before the trial we came and we sat there and then she explained everything to me in detail, what I have to do, what will happen and so on.”* (Croatia, female, 18 years old, victim, sexual abuse case)

In Bulgaria, children noted that the lack of information during proceedings was a source of anxiety and fear. They indicated that the social workers or their parents generally told them only about the questions they would be asked and about the court setting; they did not receive information on the roles and functions of those present in the courtroom. Furthermore, children reported not receiving any information from judges conducting the hearings. In Romania, children also complained about the lack of information received during the hearings.

*Interviewer: “Were you thinking about anything in particular while being heard?”*

*Child: “No, I was thinking that they called me there for something else, maybe... I do not know what problem, but I did not think they called me for... for this thing.”*

*Interviewer: “So, you did not know why you are going there?”*

*Child: “No, I did not know, because nobody told me anything.”* (Romania, female, 16 years old, party, institutional placement measure case)

## Children’s suggestions

### Information during hearings

Children recommend the following regarding information conveyed during hearings:

- Information should be provided early enough for children to be prepared
- Information needs to be consistently provided in a timely manner, at regular intervals, including information on proceedings’ timescales
- Professionals conducting hearings should introduce themselves and explain their profession and functions, practical arrangements and children’s behavioural guidelines

In general, children reported receiving support and encouragement in the form of feedback directly after the hearing more often in criminal proceedings than in civil proceedings.

## Information after trial

Most children said that their parents told them about the outcome after trial. Professionals also provided this information, although to a lesser extent. In general, most children conveyed that they were poorly informed about the outcome.

In Germany, children indicated that parents and lawyers usually informed them about proceedings’ outcomes. Usually, they were informed as sentences were announced in their presence. Other children said they were informed later, and a few children said they were not informed at all.

In Poland, children stated that parents usually informed them about the outcome. To a lesser extent, courts also sent out letters with information on the judgment and its justification. In general, children conveyed that they were poorly informed about outcomes of both concluded and ongoing proceedings, where further stages were still pending. However, children who were heard directly by the judge and lived with their biological or foster parents during proceedings indicated they were well informed about outcomes more often than children in alternative care facilities. It appears that, while the family court is obliged to inform the alternative care facility about the outcome of the proceedings, the criminal court has no such obligation.

*“I think that young people who have been testifying should get a letter with the judgment or reasons for the final decision in the case. I know the judges have a lot on their plate, but a thank you note would be appreciated.”* (Poland, female, 15 years old, victim, domestic violence case)

In the United Kingdom (England), the police or parents inform children about the outcome of proceedings. Children indicated that probation officers visited them at home and informed them of the date and conditions of the defendant’s release. Children said that this information was shared in a way that they were able to understand. However, some children did report being left without information for long periods of time.

*“Someone came and told us what day he would be released, about his sentence and stuff.”* (United Kingdom, female, 17 years old, victim, sexual abuse case)

*“It would have been nice to have been kept up to date, we did go months without knowing and wondering and then trying to get hold of [police officer] to see what was going on and we couldn’t get hold of her.”* (United Kingdom, female, 17 years old, victim, sexual abuse case)

In Spain, although parents usually informed children about the outcome of the proceedings, children complained about the lack of information in general.

In Croatia, few children reported receiving feedback and information about the outcome of proceedings. Parents and SWC staff usually provided the information. In Bulgaria, children were informed about sentencing in different ways: the police informed some by phone, others heard from relatives or were not informed at all. In Romania, some children indicated that the lack of information about the defendant's whereabouts and proceedings' outcome affected their daily lives.

*Interviewer: "You're saying that nobody told you how long it will last until you get a decision, until you know something."*

*Child: "No, I knew that I wanted to go to another family, I mean I wanted... I go on Saturdays and Sundays, and I was not allowed because... as it were because I am in danger... and this is precisely why I asked what's going on with him."* (Romania, female, 14 years old, victim, sexual abuse case)

### Children's suggestions

#### Information after hearings

Children recommend that the following important information be conveyed after hearings:

- Children should receive feedback, including encouragement and information on how their testimony may influence proceedings
- Judges should explain the outcome, including "what and why"

*"If you put yourself into the child's shoes and you explain to them something with complex words the child will say: yes, all right, now say it to me with normal words. If you explain things calmly, relaxed, in a good atmosphere I think the child will understand."* (Spain, female, 14 years old, victim, sexual abuse case)

## 2.2. Providing information material adapted to children's needs

### Practices in numbers

Around 27 % of interviewees indicated that they received information in a form specifically developed and adapted for children at some stage in both criminal and civil proceedings.

The interviews with children indicated that, in most countries, they only rarely received information in the form of specifically prepared material, and this was usually not systematically done.

In Poland, one child found really helpful the special informational booklet published by the Nobody's

Children Foundation, which her therapist gave to her.<sup>26</sup> Children also spoke about using alternative sources of information. These include websites and the popular TV court show *Judge Anna Maria Wesołowska*, which examines criminal cases – on one hand simplifying issues, while on the other familiarising viewers with the nature, appearance and functioning of criminal courts.

*"Well, I read it [the material from the Nobody's Children Foundation] once and twice, then I only went over it from time to time, and then there were rather these [TV] shows."* (Poland, female, 18 years old, victim and witness, sexual abuse case)

In Germany, children reported that psychosocial assistants were the only professionals who used child-friendly material. Children described being informed with the help of books, stories and pictures of a courtroom. In Spain, only two children heard by psychologists from the *Fundación Márgenes y Vínculos* reported using drawings and receiving written information in the form of a book describing different professionals' roles.

*"Yes, they had talked about having to go to court, and they gave me the information at that point, and then they told us again so that we wouldn't be scared to go there."* (Spain, female, 16 years old, victim, sexual abuse case)

In Croatia, a few children mentioned that the police and the witness and victim support services used leaflets, books and pictures. Furthermore, several children mentioned that they watched TV to imagine what the court would look like.

*"Like, I pictured the whole thing to myself. I thought: well, I'm going to be in the courtroom, the way you see in the movies. The courtroom, the judge, you know how it goes... The prison ..."* (Croatia, female, 16 years old, victim and witness, domestic violence case)

In the United Kingdom (England), children reported receiving written materials and leaflets from the Young Witness Service, as well as information packs from charitable organisations supporting child witnesses and victims. Children usually assessed these materials positively, although they explained that they were not consistently available.

All in all, only a few children reported the use of child-friendly materials during hearings, such as leaflets, pictures or cards with short and simplified text additionally explaining relevant information. In some countries, none of the children interviewed reported using such materials.

<sup>26</sup> For more information, see the organisation's website.

### Children’s suggestions

#### Child-friendly material

Children provide the following advice:

- Informational booklets with pictures of the hearing room and who will be present, a film or cartoon, as well as flashcards and drawings, should be available
- Materials should be adapted to different age groups – for instance, booklets for young children or TV series for older children

## CIVIL PROCEEDINGS

### 2.3. Ensuring that children are appropriately informed

#### Practices in numbers

In civil proceedings, children receive the least information as parties in cases on alternative family care.

Children’s reports on who provided information on proceedings varied depending on the type of case involved. Across all countries, children involved in custody cases were mainly informed by their parents. To a lesser extent, professionals also played this role. Foster parents or host centre staff fulfilled the role for children involved in procedures about institutional care or for unaccompanied children. As with criminal proceedings, those who were positive about the informing process appreciated being informed by professionals as well as their parents or foster parents; although parents and foster parents are generally persons of trust, children saw them as potentially insufficiently familiar with procedures and biased in both custody and care-related cases. Professionals’ involvement was neither as prevalent nor as systematic in civil as in criminal proceedings. Furthermore, even in the United Kingdom (England, Wales, Scotland), the only country where professionals systematically take on an informing role irrespective of the type of proceedings, children’s assessments of the information received remained rather negative. They considered it insufficient and not easy to understand.

As in criminal proceedings, children involved in civil proceedings also spoke positively about preparatory, pre-hearing meetings conducted by professionals. During hearings, practical information about what hearings entail was appreciated (i.e. who, what, when, where and how, behavioural guidelines and feedback from professionals). After hearings, children appreciated it when the outcome was explained to them.

There is a fine balance between appropriate and inappropriate and too much and too little information.

*“[I] got a feeling that I’ve been informed too much, especially when it started to mess with my private life, school, studying and so on.”* (Estonia, female, 14 years old, party, custody case, victim, domestic violence case)

### Children’s suggestions

#### Information in custody conflicts

In family law cases, children recommend considering the following:

- Background information about the case should be provided
- Excessive detail, such as about conflict between parents, should be avoided
- However, information should not be so scarce as to compromise substance
- Information should be tailored to the children’s age or emotional situation; specifically, children below 12 should not receive too much information

### Pre-hearing, pre-assessment information

In most of the countries, before hearings, children were informed by parents in custody cases, and by foster parents or host centre staff in institutional placement measure cases. Having professionals give information is a systematic practice only in the United Kingdom.

In the United Kingdom (England), children involved in custody cases reported receiving verbal and written information about different people’s roles and about developments in proceedings throughout the process from CAFCASS professionals, i.e. guardians or social workers. Children interviewed in Northern Ireland did not speak about CAFCASS professionals.

*“Then she [CAFCASS guardian] spoke to us as a group and then individually. She told us that she would be representing us, our perspective. We would tell her how we felt and she would be representing us in court. So she gave us a brief summary of what she would be doing for us.”* (United Kingdom, male, 15 years old, party, custody case)

However, some children indicated that professionals were not always easy to reach or did not provide enough details to help them understand the consequences of being involved in proceedings. Children mentioned that solicitors and parents also informed them. They assessed the information ambivalently, depending on the individual who provided it. Some considered using legal jargon inappropriate.

*“The solicitor, I think I only saw her once, she came around and I didn’t understand what she said at all, like nothing. But she did help a bit, like, she did go to the judge and say what we wanted – because she told us as well – but I didn’t understand what she said... They used those words that you didn’t understand, I didn’t understand every word that they said, as opposed to that the social worker would use. For instance, a guardian, I didn’t know what that meant at the time, I was like 12. So, like you’re always asking questions, you should explain it to me before or give me something to read, for all the big words I don’t understand.”* (United Kingdom, female, 14 years old, party, custody case)

*“I think my solicitor was really good, as he explained everything very well and spoke to me as an equal and not as a child. I felt as though I was being treated correctly and I feel he told me everything that I should know. Some things he couldn’t tell me because it was confidential but I think he told me everything that he could tell me, in the correct manner.”* (United Kingdom, male, 15 years old, party, custody case)

In the United Kingdom (Scotland), children involved in the Children’s Hearings System reported receiving a letter with the time, date and venue of their next hearing from the Scottish Children’s Reporter Administration. The letter also included a ‘Have Your Say’ form intended to facilitate their participation in the hearing by providing a little more information on what to expect. Children assessed this information as insufficient and overly formal. Children involved in this kind of proceedings found the documentation they received overwhelming in both length and content.

*“We were told it was all formal, it was a legal thing that had to be done for whatever reason and they would say you are here because this is a problem, this is unacceptable. They never really went into any depth about it, they never really explained... basic information.”* (United Kingdom, male, 19 years old (heard regularly in Scottish Children’s Hearings System since age seven), subject to care supervision order)

Children in the United Kingdom (Scotland) also had concerns about the use of their data and noted that they were unaware of the number of professionals with access to their files.

*“We weren’t told that all these people have got access to your story, all these people know what happened to you when you were a child. No one told us this... they told me the social worker had told them and I was like ‘why didn’t she ask me if this was OK’ or at least tell me that she was doing it... It made me angry, it made me annoyed, it made me want to lash out at the social worker... it also made me feel, well, you seem to know everything about me, but I don’t know the next thing about you... it made you feel unimportant.”* (United Kingdom, male, 19 years old (heard regularly in Scottish Children’s Hearings System since age seven), subject to care supervision order)

In Estonia, children involved in custody cases received information from parents, relatives (usually grandparents) and child protection officers. Foster parents and placement centre professionals provided information if children were in foster or residential care. When children felt comfortable with their parents, they preferred information from them. If not, children stated that they preferred professionals, such as child protection officers, to provide them with information. In Estonia, children also complained about hearings conducted at school or at home without warning.

*“I think the child protection worker should have told me. Then I could have spoken with my class teacher, if it happened during her class I could have asked to be away. Or that I could come after classes.”* (Estonia, female, 13 years old, party, custody case)

*“They did it unexpectedly, nobody notified me. The judge visited unexpectedly, nobody warned me and then she was here and I had to talk and I did not understand why the judge even came here.”* (Estonia, female, 11 years old, party, custody case)

In Germany, children in custody cases generally reported receiving information from their parents, primarily their mothers. Children who were involved in multiple proceedings considered the amount and quality of information received before court hearings in civil proceedings rather poor compared with that received before criminal hearings.

*“[My mother told me] that I should not do things according to how she might like or according to how my father might like. Instead, I should say what I really want.”* (Germany, female, 9 years old, party, custody case)

In Croatia and Spain, children involved in custody cases also reported receiving information before trial hearings mainly from their parents. Most children considered the information they received insufficient; even if they stated a preference for their parents to inform them, most would have also appreciated receiving further information from professionals. In Croatia, only the few children who also received information from SWC staff assessed the information as sufficient.

*“My mother... [told me] about the existing types of trials as we were being summoned. For instance, about the custody changes, she told me: this decision may be contested at the National Audience or at the Supreme Courts, things like that [...] She told me, what she told me whenever I had to visit a psychologist is that we would speak with an expert that day, that this expert was going to ask us some questions and that I had to answer them as I liked.”* (Spain, female, 13 years old, party, custody case, victim, domestic violence case)



*Child: "You mean, was I informed on what was going on at the court?"*

*Interviewer: "Yeah."*

*Child: "Well, no. I mean, Mum and Dad told me they're getting a divorce, that I'll be living with my mum, and that I'd be able to visit my dad over the weekends, sometimes after school, and things like that." (Croatia, female, 13 years old, party, custody case)*

*"A lawyer would be better, because he would inform me better of things." (Spain, female, 14 years old, party, custody case, victim, domestic violence case)*

In Poland, children interviewed in custody and institutional placement cases were assessed in indirect hearings by FDCC staff. They reported receiving the following information beforehand from their parents or foster parents, psychologists and social workers:

- that they would talk to a psychologist;
- that they would be asked about their family situation;
- the course and aim of the assessment;
- that they would complete some tasks, e.g. filling in forms;
- that it was possible to meet their parents or other relatives during the assessment;
- whether participation in the assessment was mandatory or voluntary.

However, this information was not always provided systematically to all children interviewed and some found the information they received insufficient. Children particularly criticised the lack of information on the assessment's purpose. (It should be noted that from 1 January 2016, the FDCCs were remodelled into advisory teams of court experts functioning as part of the regional courts, to move away from the practice of indirect hearings replacing direct hearings.)

Most of the children who assessed the information as appropriate and sufficient were informed by psychologists and social workers or by their relatives, supported by these professionals. In contrast, most of those who received information from their parents or foster parents alone assessed the information as unclear and insufficient.

*"Our parents only told us before that we would talk to psychologists, but didn't say about what. They probably didn't know." (Poland, female, 13 years old, party, institutional placement measure case)*

Children in Poland who were involved in cases about adoption or deprivation of parental rights and heard in direct hearings conducted by judges reported receiving information mainly from their parents or caregivers before the hearing. One child indicated that she also

received a letter addressed directly to her. Children appreciated receiving the following information:

- that the judge would ask about their opinion on the family's situation or adoption;
- that the judge would be friendly;
- that children should be honest and tell the truth;
- that the hearing would take place in a separate room;
- that the hearing would be conducted by a judge accompanied by a psychologist and a court clerk.

In France, children involved in child protection cases reported receiving information before the hearing from social workers and parents, usually their mothers or foster mothers. Some criticised the lack or inaccuracy of the information provided by their educational social workers. Children felt insufficiently informed or unprepared for hearings where sensitive issues were decided, such as decisions on placement measures.

*"For a start, they [social workers] did not know much about the questions I asked them about the judge. They would say 'yes, but on that I can't answer you', 'I don't know about that'... And they even are part of the justice system. I feel they cannot really help you. They tell me to stop calling my father, to leave him alone. But I can't. I feel they don't understand me that well. I think that at the same time there are things they don't know, and things they do not want to say to me." (France, male, 13 years old, party, foster measure case and custody case)*

Children who were parties in custody cases mainly received information from their parents and, to a lesser extent, from psychologists and lawyers. Some strongly criticised the lack of reply to their requests to meet the judge.

*"I had written a letter, and then I wrote another letter, but the judge did not agree to see me. It was after the first judge – I think it's because we cannot see two judges in a year. I do not see why she could not see me. It was a bit unfair. When I met the other judges, it was because I had written a letter." (France, female, 13 years old, party, custody case)*

*"And what's more, it [the care placement] was done quite unfairly. They trapped me, to get me here, it was totally weird: my parents had go to the police, around 2 p.m. I was due to be heard, at 6 p.m. they announced that I was going into a home, when I should have been going back to my house... what I did not like was having to say goodbye to my mother in front of the police, sort of 'you will perhaps see her again one day.' Young people here have had a letter, the parents knew: I was not aware at all, they could perhaps have told me, at 2 p.m., that that would happen." (France, female, 15 years old, party, child protection-related case (inadequate parenting))*

In Bulgaria, children involved in custody cases reported receiving information from parents and Child Protection



Department (CPD) staff. They often stated that social workers provided insufficient or even misleading information about hearings, particularly about the questions they could expect from the judge.

*“She (the judge) asked me very different things from what I had expected. It wasn’t what they had told me she would ask.”* (Bulgaria, female, 15 years old, party, institutional placement measure case)

Only the few children in Bulgaria who were prepared by psychologists and heard in ‘blue rooms’ by these same psychologists assessed the information they received positively. In these cases, children reported that the psychologist visited them at home and explained their rights during the hearings, who would be present and the kind of questions they would be asked. A small group of children also positively assessed being prepared for hearings by social workers from SAPI using supporting material. SAPI pioneered the ‘blue rooms’ initiative, and together with local municipalities or local NGOs establishes ‘blue rooms’ around the country.<sup>27</sup>

Children in Bulgaria involved in foster and residential care placement cases reported receiving information from social workers and psychologists who worked at the centres and service providers that hosted them. They criticised the lack of information received on the hearing’s purpose and the residential or foster care measures’ length. For example, a child said that she and her siblings were taken away from their family without being informed why and where they were being taken.

*“The first time they took us away, I was scared I didn’t know what they were going to do with us. They took us from our home. There was this woman, her name was [M]. I don’t know the names of the rest. She is a social worker... But she took us so rudely that I got scared – I don’t know what they are going to do to us. Mummy didn’t let us go and that [M] [the girl starts to stammer] went to call the police, she went to a doctor and around the shops and after that she came back with the police. Daddy was at home; later, he got cancer and then on 23 April he died, last year. Then, we went to the school and she [M] took my brother without letting him take his backpack. And our cousin [P] grabbed his hand and my brother didn’t know what they meant to do to us. And he thought they were taking him to the principal [the girl starts to stammer again] and some other boys grabbed him, too.”* (Bulgaria, female, 12 years old, party, adoption case)

In Romania, children involved in institutional placement cases reported receiving information before the trial from placement centre staff or, if in foster care, foster parents. Most children considered the information insufficient, as it was generally limited to the trial’s date and time and, sometimes, guidelines for their behaviour (e.g. children were told to behave well, not

to yell, to dress nicely or to be on time). Children mainly reported not receiving information about the hearing’s purpose. Children also indicated that social professionals were unable to provide accurate information because they had limited knowledge about judicial proceedings, despite their mandate to inform children.

*“We were not told why. And I kept insisting, ‘Madam, why, why?’, I felt like she [the educator] did not notice me then, at that moment. And I asked several educators why we had to go... they were all telling me that I have to say whether I wanted to remain in the placement centre or not. That’s it. It was as if none of them knew anything else other than this.”* (Romania, female, 18 years old, party, institutional placement measure case)

The majority of the children reported being told that they were to be heard only a few days before the hearing, some a week before and a few on the day itself. Children complained that this was not enough time for them to process the information and prepare for the hearing. Children described feeling very nervous and stressed because of the insufficient warning and lack of information and explanations from professionals. For example, one child said that he was told he would have to leave his foster family three days before the hearing and then, almost immediately after the decision, he was taken to a placement centre.

*“I was, how to put it, desperate, to use this word. I would say: ‘Oh my God! Three days... These three days, what am I to do [unintelligible]?’ I went to all my friends, all my relatives, everybody I knew, and I told them this, that, what’s going on and I ... I ... I got to the very last day and... well... I was thinking: ‘Only three days ago I was home and now, what am I to do?’ ”* (Romania, male, 14 years old, party, institutional placement measure case)

## Children’s suggestions

### Unaccompanied foreign children’s specific information needs

Unaccompanied foreign children recommend that:

- Translation services should be available during the information process
- Information about proceedings should be more accessible and proceedings should be explained in an adequate and proper manner

## Information during hearings

Children reported that, during hearings, they were given some information by professionals conducting the hearings and individual assessments. However, the majority of children conveyed that they would have liked to receive more information, including behavioural guidelines, explanations of the process or information about the use of their data.

<sup>27</sup> For more information, see the organisation’s [website](#).



In the United Kingdom (England), children reported being informed by their guardians and social workers during hearings; while some said that they were well informed, others conveyed that the information provided was insufficient. The latter group of children commented on the difficulties this caused in understanding the information and its implications.

*“I think if things were explained to us... the reasons why so-and-so said this, and I think I would have understood it more, I would have been more accepting of it. But because nothing was ever broken down to us, that’s when it got frustrating... Nothing was ever fully explained to us really.”* (United Kingdom, female, 13 years old, party, custody case)

*“I think they need to make it clearer to the kids that are going to it [the hearing] why they [the panel] are making the decisions they are making, and what they have taken into account when they are making those decisions... They [children] don’t understand that, and it’s just going to lead to resentment.”* (United Kingdom, male, 18 years old (heard regularly in Scottish Children’s Hearings System since age six), subject to care supervision order)

Children in Scotland mentioned that, when supported by an advocate, they could request additional information. Very often children also said that they asked their parents for further information. Children involved in the Scottish Children’s Hearings System criticised panel members’ language during hearings.

*“I didn’t understand what they were talking about or what they were saying... I would agree to things but I didn’t know what I was agreeing to.”* (United Kingdom, female, 18 years old (heard regularly in Scottish Children’s Hearings System since age nine), subject to care supervision order)

*“[T]hey would be talking and I wouldn’t understand because they were talking to the adults. So the young ones wouldn’t understand... I didn’t know until my mum explained to me a bit better when the meeting was done and she told us what really was happening.”* (United Kingdom, male, 19 years old (heard regularly in Scottish Children’s Hearings System since age eight), subject to care supervision order)

### Children’s suggestions

#### Scottish Children’s Hearings System

For the Scottish Children’s Hearings System, children recommend:

- Panel decisions should not include difficult language and excessive information
- Documentation provided during proceedings should not be too long and overwhelming, both in terms of quantity and type of information

In Estonia, children complained about receiving insufficient information about rules and procedures

during hearings, which in some cases resulted in unpleasant situations. Some children criticised the lack of information on how data given during the hearings were to be used.

*“I didn’t know when to stand up and then I got yelled at: ‘you should stand up when you talk to a judge!’”* (Estonia, male, 14 years old, party, custody case)

*“[A]t the end of the meeting they should say clearly, ‘this we take into account, this we don’t, it is not relevant and we decide this.’”* (Estonia, female, 14 years old, party, custody case, victim, domestic violence case)

In Germany and Spain, even where children felt more comfortable when their parents informed them, most appreciated receiving further information from judges and legal counsel. However, some children described receiving insufficient, or even misleading, information from these professionals.

*“He [the judge] actually didn’t say anything at all. He just started with the questions.”* (Germany, male, 13 years old, party, custody case)

*“And then they started to threaten us and to tell us that the place where they were sending us, well, that was full of problem children, that there were flick knives, that the children hit each other, that they stuck forks into each other, that it was extremely dangerous. Of course, they made us afraid of this place. My sister and me were so frightened that we said that we were not going to a children’s refuge on any account and that, yes, that we needed to sleep. And at the end I think that what we underwent in those days was also horrible.”* (Spain, male, 16 years old, party, custody case, victim, domestic violence case)

In Croatia, most of the children assessed by SWC psychologists and social workers indicated that they did not feel properly prepared for interviews, as professionals did not inform them how interviews would be conducted and about the type of questions.

*“I think they might have been thinking that I was too young to understand.”* (Croatia, female, 14 years old, party, custody case)

In Poland, children heard in indirect hearings reported that psychologists gave them some information during assessments at the beginning of the process. Most of the children reported being informed that there was no obligation to answer all the questions, as well as being told the topic of the evaluation and that the time to answer questions was unlimited, the tasks were not for a grade, the conversation was confidential and the room was equipped with a one-way mirror. Children heard in direct hearings reported that judges gave them information during the hearings, with some saying that judges explained the hearing’s purpose, who was involved and why they were being recorded.



*Interviewer: "Did the judge explain to you the purpose of the hearing?"*

*Child: "Because they were revoking the parental rights of my parents and I had to testify. I was already 15 then and I had to make a decision about my siblings."*

*Interviewer: "Did anyone explain to you why it had to be recorded?"*

*Child: "They can show it to my parents, to prevent them from saying they don't believe [it]." (Poland, female, 15 years old, party, deprivation of parental rights case)*

Children in Bulgaria did not report experiencing having judges provide them with information during trial. Similarly, in Romania, only a few children reported that a judge informed them of the possibility to interrupt and ask for clarification if there was something they did not understand. Where children were not aware of that possibility, FRA's research indicated that they did not dare to speak up.

*Interviewer: "And when you went to the hearing, were there moments when you would have liked to stop the hearing?"*

*Child: "Yes."*

*Interviewer: "Could you have talked to anyone about this?"*

*Child: "No, I did not ask anyone about this, but even when... right when I was thinking, when I was speaking to those people there, I wished I told them I wanted to leave, that I would stay no longer, but I was thinking like that, that maybe it is not allowed, maybe she would talk also very... and afterwards in a worse manner and I told myself that at least I would take it, for maybe she won't keep me there for long and I would be there the time I need to and afterwards so that... they no longer take me. Anyway, I told Mr Director I no longer want to go to the final hearing." (Romania, female, 14 years old, party, institutional placement measure case)*

Children indicated that they lacked general information about proceedings, which caused them a great deal of anxiety in court.

*"Yes, because I was scared at the beginning, I did not even know how it looked like on the inside at least, I was given information after we passed the door, after we entered." (Romania, female, 16 years old, party, institutional placement measure case)*

Children indicated that, during hearings, judges did not provide information about their role or rights. Moreover, they criticised the little time allocated to hearings, which often resulted in judges not providing sufficient explanations. Only a few children described receiving feedback from the professionals who accompanied them to court; these children described appreciating how they praised their behaviour.

## Children's suggestions

### Information during hearings

Children recommend the following during hearings:

- Professionals who conduct hearings should introduce themselves and explain their profession and functions, the hearing's practical arrangements and behavioural guidelines
- Children should receive feedback at the end of hearings, including, for example, encouragement and information on how their testimony may influence the proceedings
- Judges should explain the next steps

### Information after hearings

The majority of children said that, after hearings, their parents told them about the outcome, with professionals – including guardians, lawyers or host centre staff – fulfilling this role to a lesser extent. Most of the children indicated that they were unaware of the decisions' implications, which negatively affected their wellbeing, particularly in domestic violence cases. Furthermore, because of a lack of information over the course of the hearings, the final outcome was unexpected for several children, leaving them disappointed by the decisions.

In the United Kingdom (England), children reported being informed about the outcome by guardians and social workers and recommended that professionals be made available to address any questions and doubts children may have.

*"We didn't know what the decision was. I don't know, we didn't get to know overall what the outcome was... They [the social worker] should have told us as well. I don't know, they were on leave when we moved back with our mum so anyway... because we wanted to know if it's real or if it's just a rumour... They should give out contact details, not even their phone number but an email that you can contact 24 hours, just in case something's happened." (United Kingdom, female, 14 years old, party, custody case)*

Children involved in the Scottish Children's Hearings System reported that the panel's decision was sent to them. Following each panel hearing, a report comprising the same or an edited version of the information sent out to other professionals, detailing the outcome of the hearing and the decision made by the panel members, is sent to the child. The report also contains details pertaining to other children within the same family. Despite appreciating being given this kind of information, children found the documents themselves lengthy, unclear, at times irrelevant and not adapted to their needs.

*"[I]t was frustrating to go back and it got me reading things and got me very angry about the stuff that they were saying and... how they perceived me as a young person. Now, I don't ever read them... Sometimes I have to shred it because I feel that I don't want to know." (United Kingdom, female, 18 years old (heard regularly in Scottish Children's Hearings System since age nine), subject to care supervision order)*

In Croatia and Poland, children reported that their parents informed them about the proceedings' outcome. In Germany, lawyers as well as parents generally told children about the proceedings' outcome. In France, parents, social workers and lawyers usually played this role. In France, children involved in both child protection measures and custody cases said that judges did not explain the reasoning behind their decisions, causing them stress and fear. The majority of children in Bulgaria reported not being informed; if they were informed, it was by either their parents or their own lawyers.

In custody cases, children rarely reported that they received feedback directly after hearings. For example, in Poland, only one child noted that the psychologist gave her feedback after the evaluation, which she appreciated very much. The child indicated that the professional thanked her for the comprehensive information she had provided and reassured her that this information helped her better understand the situation.

Practice seems to differ when it comes to hearings relating to placement decisions. In Bulgaria, most children involved in foster and residential care placement cases reported being informed by social workers directly after the hearing. However, some mentioned that the information was insufficient (i.e. they were unaware of the reasons for being placed in such institutions and/or they did not know for how long they would be there).

In Romania, children noted that placement centre staff and foster parents usually told them about the proceedings' outcome. However, most found the information provided entirely insufficient; children repeatedly described being moved without being told why they were being taken from their homes or from one placement centre to another.

*"I was in school, just like that. My mother [foster mother] only told me once, I had a very bad fight with her, and she said 'You wait and see that I'm going to take you to a centre', and after a week I had gone to school with my brother and so, just like that, from school they took me to the centre. They just simply put me in the car, I did not even know what was going on. [...]"*

*Yes, I did not even know what it was all about, just like that, I found myself at another centre. And a lady educator from there told me: 'Did your mother not tell you?' 'Well, no, because I fought with her one day and she said you are going to a centre.' How should I, a child, get it?"*

*They just took us, how should I have felt then, I was scared, 'Where on earth are they taking me?' And mother was also not coming with us, so it was simply like they were kidnapping us. [...]"*

*No, the class teacher did not say anything, they spoke to the director before coming to class and they just called me, you know. They said that '[Name] we want to talk [about] something to you'. And I went to the hallway, my brother was there with a lady and I said 'But what happened?' and they said 'Well you see that... let's go in the car'. I got scared, I sat like that and said 'I should go out and see if maybe mother is outside, I don't know what's going on'. And then I stepped into the car, I went home, they said 'Pack your bags', I took some clothes, I asked where we were going and they said that 'It does not matter, did your mother not tell you?' And I said no, and they just took us to another centre. And the following day mother came and explained to us." (Romania, female, 16 years old, party, institutional placement measure case)*

## Children's suggestions

### Child-friendly information for children

Children involved in civil proceedings recommend that:

- Information should be provided in a child-friendly manner by well-mannered professionals
- Professionals should be more informal when providing information: they should be relaxed, talk slowly and explain when something is unclear
- Professionals should take the time to explain procedures and reasons for decisions to children, e.g. regarding foster care or parents' rights to access the child
- Child-friendly language should be used and legal jargon avoided
- Information should be tailored to the children's age
- Pre-trial visits should be available. Schools could also organise these
- Professionals should teach parents how to inform children about proceedings
- Courts should send information that is child-friendly in both content and format; court letters should be addressed to the child involved

*Interviewer: "What is the best way to inform a child?"*

*Child: "It depends on the age. For six to seven year olds, you can explain to them with pictures, photos, [special] texts... I would have liked something like that. When you're young, you can play. You could act out meeting the judge before meeting him. Help them understand in their own words, words that are not words of adults. It would be good if the child is not told three days before. I think at least a month." (France, female, 17 years old, party, child protection-related case (inadequate parenting))*



## Children with special needs

The research identified different groups of children with special needs. Most of these children indicated that their needs were not met in the information process.

In some countries, including Bulgaria, Croatia and Estonia, children who were not fluent in the local language were interviewed (either in their local language or with a translator); they reported interpretation services being available to differing degrees. In Estonia, children not fluent in Estonian reported that interpretation was always available, although some would have preferred being heard in their native Russian. Furthermore, some children from the Russian-speaking minority noted that they received court invitations in Estonian, rather than in Russian as they would have expected. In Croatia, children said that interpretation services were available for those who did not speak Croatian fluently. However, in Bulgaria, those who were not fluent in Bulgarian, usually of Roma ethnicity, reported not being offered interpretation or translation services at any stage; they described being unable to understand the hearings' questions or purpose, or even that they were unable to comprehend the proceedings' purpose. For example, a 14-year-old boy of Roma ethnicity who had witnessed a murder did not have a clear understanding of his role as witness. Furthermore, during the hearing he was not able to follow the questioning and no interpretation was made available.

*Interviewer: "Was there anyone there who could speak your language?"*

*Child: "No, there wasn't. They were Bulgarian." (Bulgaria, male, 14 years old, witness, murder case)*

Children who were involved in custody cases linked with domestic violence cases complained about not being informed of the outcome and implications of the cases, as well as about not receiving information about the defendant/parent. Particularly in these cases, children found the lack of information on proceedings and their outcomes a source of fear and stress, given their implications for children's daily lives.

*"I would have liked to know what will happen, the decision, after I told the whole truth. Do I go with my mother and everything's OK, am I going back with my dad and he will kill me? It stresses me all the time – luckily I'm speaking with you about that! [...] I want to know in two weeks if it will happen suddenly. I just hope not to see him again. I would like to know if I'll see him again, if he will be entitled to visit." (France, female, 16 years old, party, custody case)*

Unaccompanied foreign children – interviewed in Bulgaria, Croatia, France, Germany and Poland – form another specific group of children involved in civil proceedings. Most of them reported not understanding

the proceedings. The lack of translation services, in terms of both documents and representation at hearings, contributed to this lack of comprehension.

*Interviewer: "Have people taken the time to explain what was going to happen when you arrived in France?"*

*Child: "I did not speak French. But they asked me 'do you understand or not?' If I said that I did not understand, they repeated things to me. When I do not understand, I say so. Because maybe they'll say something that you do not like, and you say yes, and then you regret it."*

*Interviewer: "Do you know what will happen after? Has somebody explained it all?"*

*Child: "No. I do not ask anyone. I would like an adult to explain what will happen after. But I am not worried." (France, male, 16 years old, party, unaccompanied foreign child case)*

In Poland, one child party in migration proceedings indicated that, before the hearing, an officer of the Polish Border Guard explained to him that he had been arrested for 24 hours and the next day the court would decide on his further place of residence. Conversely, a child in France described how information was translated by the court-appointed translator and an interpreter was present during the hearing. The child indicated that, immediately before the hearing, the judge informed him about his right to refuse to testify and that, immediately after the hearing, he learned that it was decided that he would be sent to a certain Guarded Centre for Foreigners.

Having usually experienced harsh living conditions before their arrival, these children commonly did not consider it that important for them to receive information, as long as their basics needs were met.

*Interviewer: "Do you know what will happen after?"*

*Child: "I do not know. But they told me that I'll go to another place. When it is verified that I am a minor, I will go elsewhere. I would like to know where I'm going, name of the town, to know the names of the towns in France. I'm not worried. I did not expect to have what I had when I arrived: I did not even have clothes, now I have some. I sleep, I eat... As long as I have a roof, if it's in France, that's fine for me." (France, male, 16 years old, party, unaccompanied foreign child case)*

The sample also included children with intellectual disabilities who had little understanding of the proceedings in which they were involved. Some also lived in state care and explained that professionals gave them the same information as that used with other children, without adapting its format or content or providing any additional support.

Numerous children in the sample were involved in institutional placement cases. Children from Bulgaria,



France, Poland and Romania involved in these proceedings all felt that they were not sufficiently informed or prepared for hearings. For example, in Bulgaria, children reported a lack of professional support, especially when the proceedings' outcome differed from the child's understanding of their best interest. Moreover, some child victims of domestic violence conveyed that nobody explained why they had to be placed in a residential centre, while their fathers – the defendants – remained in their home. This lack of understanding often resulted in children believing that their placement measure was a punishment, not a protective measure in their best interest.

*“You know why I went to court? Because I ran away, I used to run away a lot... and was very naughty. [...] ‘[Boy’s name] you will be placed in a home’, and I said ‘Why, I stopped making trouble, right?’ ‘If you stop... if you do not stop we will take you’ [...] Uh huh, I was worried... when... they told me that I am not going to court but to some place... they told me ‘We are going to a place ...’ I saw that we are going to court, I got worried... I said, ‘What is going on here?’” (Bulgaria, male, 13 years old, party, institutional placement measure case)*

*“They promised me that... that they’re going to call her [his godmother] and... to take me home [...] at the end, she said to give her the name of my godmother. I gave it to her and she said they’ll sort it out so that I go home and... I no longer did. Since then, only in the centre. I no longer went [home].” (Romania, male, 15 years old, party, placement measure case)*

In Romania, children involved in institutional placement cases also indicated they were not properly informed about proceedings; they were unaware that the child protection institution's proposal to the court, which in theory also has to be discussed with the child, was also subject to judicial review. Therefore, some did not understand why they had to be heard, as they believed that the decision had already been taken. Children felt that hearings were neither necessary nor useful when they lacked awareness of the judges' role, hearings were brief, and judges did not offer them any options.

*Interviewer: “What exactly would you like to find out?”*

*Child: “Anything possible, also connected to the court and... because me, while I was in a family I did not go through court and had not heard about something like this, only when I was in the centre and in the centre I wasn’t informed either. There was nobody to inform me, because it did not get to the point that I would need to be. I didn’t get an explanation beforehand, I got an explanation on the spot, exactly when it is happening to me, so not beforehand. Or, if it were, they would explain about something else, but not about the court.” (Romania, female, 16 years old, party, institutional placement measure case)*

## 2.4. Ensuring informational material is adapted to children’s needs (process)

Few children mentioned receiving informative materials during civil proceedings. In the United Kingdom (England), one child mentioned that the CAFCASS professionals gave him a leaflet. In Germany, too, only one child – who was informed by an legal counsel – spoke about the use of informative material. In Bulgaria, a few children spoke about a booklet called *I’m Going to Court*,<sup>28</sup> used by social workers from SAPI who prepared them for the court hearings. These social workers are the first in Bulgaria to provide the service officially known as ‘preparing the child for a hearing’ service. However, even where adapted material was provided, children did not remember the information properly and one mentioned that it was uninteresting.

*“She [the director] showed me some booklets with pictures of the judge and what the child does once in the courtroom.” (Bulgaria, female, 12 years old, party, institutional placement measure case)*

## CRIMINAL AND CIVIL PROCEEDINGS

### 2.5. Extent to which children’s right to information is met in criminal and civil proceedings

Table 6 provides an overview of process and outcome indicators in criminal and civil law in the Member States surveyed. It is based on an analysis of the children’s interviews. (For detailed tables analysing the population of individual indicators by country, see Annex 2.) As these indicators are populated using results from qualitative research, they should be read as indicative of the situation.

<sup>28</sup> Keller-Hamela, M. (2007). For more information, contact the organisation.



Table 6: Populating outcome indicators on the right to information, by EU Member State

EU Member State	BG	DE	EE	ES	FR	HR	PL	RO	UK
Evidence of children's understanding of their rights and the procedures	Often not implemented	Usually implemented	Partly implemented	Usually implemented	Partly implemented	Usually implemented	Partly implemented	Often not implemented	Partly implemented
Evidence of children's assessment of child-friendly character of information/material provided	Often not implemented	Partly implemented	Partly implemented	Partly implemented	Partly implemented	Usually implemented	Partly implemented	Often not implemented	Partly implemented

■ Usually implemented     
■ Partly implemented     
■ Often not implemented

Note: Where indicators are populated using results from qualitative research, they should be read as indicative of a situation.

Source: FRA, 2014–2016

## 2.6. Children's and professionals' perspectives

Taking both phases of FRA's research together, professionals and children have shared their experiences with children's participation in judicial proceedings. This provides a more holistic picture of how children are treated in criminal and civil proceedings, and makes it possible to outline similarities and differences in the two groups' perspectives. The evidence provided by the

professionals was often confirmed by what the children reported. However, the different details highlighted by the two groups indicate different priorities and levels of importance. Many promising practices described by the professionals are also valued by the children, although their implementation often seems to be much less dependable than it appeared based on professionals' interviews. Children also have difficulties with some practices recommended by professionals. Table 7 provides a comparative analysis of the professionals' and children's interview findings.

Table 7: Right to information from children's and professionals' perspectives

Professionals' view		Children's view
<b>Appropriate information</b>		
Importance of information	●	It is very important for children to be sufficiently informed and understand proceedings. However, they often do not feel sufficiently informed and lack explanations, causing considerable insecurity and anxiety.
Clear rules on who gives information, when, on what, and how are necessary – but not necessarily implemented	●	There seems to be a wide range of practices. Information does not seem to be systematically provided throughout proceedings and often depends on personal initiatives by professionals and parents.
<b>Persons informing children</b>		
Victim support services are important sources of information; professionals provided examples of such services providing practical information and preparing children for hearings	●	In several countries, victim and witness support specialists are not widely available or play too passive a role.
Judges usually give information at beginning of hearings	●	Children generally would like to receive more information from judges.
Parents are main or only source of information	●	Parents have a pivotal informative role, even if they are parties to the conflict or lack understanding of the proceedings themselves.
Hold ambivalent view of parents' role and suggest that professionals provide information	●	Children in general prefer to receive information from their (foster) parents and their role is very important to them. However, they also see that parents may try to influence them while giving information, particularly in civil proceedings. The most preferable option is to receive information from professionals and parents.
Emphasise importance of coordinated provision of information via a continuous support person	●	A child-friendly approach is necessary and building up a continuous relationship possible. There are positive examples of legal counsel, legal guardians and ad hoc administrators, but they do not seem to be systematically appointed as children usually do not mention them.



Professionals' view		Children's view
<b>Type of information</b>		
Information should focus on the phases of proceedings, children's rights, availability of support and outcome	●	Children consider it equally important to receive information about the presence of other persons (particularly parties to proceedings); professionals' functions; the extent of disclosure of the information provided; the availability of procedural safeguards; and behavioural rules during hearings. The presence of others is often ambivalently assessed and not necessarily appreciated during hearings, unless the persons show clearly that they represent the children's interests.
Importance of information about protective measures	●	If information about the reason for/use of protective measures such as video-links and video recordings is not clear, children feel unsafe even though those safeguards may be in place.
Notifications and summonses are usually not child-friendly	●	Children complain about often receiving these documents without explanation, making them feel like defendants. When this type of legal and procedural information is addressed only to parents, children tend not to read it.
Too much information is confusing	●	Children agree that too much information is not necessarily helpful and that it should focus on the proceedings and implications for their future, not too much on the legal background and details of the case.
<b>Measures of providing information</b>		
Recommend using a range of child-friendly measures, such as toys and drawings, to illustrate the situation in court, who will be present and their roles	●	Children stress that friendly behaviour from professionals is as important as specific measures so that they can develop a relationship with them and easily contact them, particularly in civil proceedings.
Informing children through pre-trial visits to court is helpful	●	Children highly appreciate familiarisation with physical settings and people involved but information needs to be accurate and reflect the process on the day of the hearing.
Professionals should try to use child-friendly language when informing children	●	The majority of children report that professionals' lack of interpersonal skills, verbal and non-verbal, frequently made them scared or nervous. Children admit that they often do not understand the information given. They prefer persons of trust to give information so that they feel free to ask questions.
Written information should be provided in combination with counselling and support	●	Written materials are assessed positively if explained by an adult of trust together with a professional.
<b>Child-friendly information material</b>		
There is a lack of use of child-friendly material, particularly in civil proceedings	●	Children rarely reported receiving child-friendly material.
Professionals in some Member States provide examples of existing information material, mostly developed by NGOs	●	Existing leaflets and information packets are not consistently made available.
<b>Timely provision of information</b>		
Not specifically addressed by professionals	●	Children stress the importance of receiving information early enough to be prepared for the different phases of proceedings.
<b>Adaptation of information to different needs of children</b>		
Not specifically addressed by professionals	●	Special needs of children are not always met in the information process.

● Shared perspective

● Partly shared perspective

● Different perspective

Source: FRA, 2016



Children also value several promising practices mentioned by the professionals. Table 8 lists promising practices that are described in more detail in FRA's first

report and with which children specifically had positive experiences – although systematic implementation of some seems to be lacking.

**Table 8: Promising practices on right to information from children's and professionals' perspectives**

Issue	Promising practices from children's and professionals' perspectives
<b>Persons informing children</b>	Young Witness Service in the United Kingdom (England and Wales). Victim support offices in Spain. Systematic presence of CAFCASS, usually guardians or social workers, in the information process throughout the entire family law proceedings in the United Kingdom (England and Wales).
<b>Measures of providing information</b>	Psychosocial assistants in Germany who use diverse informational material, including pictures of a courtroom.
<b>Child-friendly information material</b>	Use of leaflets by the Federal Working Group for Legal Counselling in Germany.

## FRA ACTIVITY

### Providing children with leaflets and videos about their rights

FRA has created a webpage where children can obtain information on their fundamental rights and on the main principles of child-friendly justice as outlined in the Council of Europe's guidelines. It provides answers to questions such as "What are my rights?", "Where do my rights come from?", "What does FRA do for children?" and "Where to go to if you want to know more?".

Children can also download a leaflet that explains key elements of child-friendly justice in nine languages: Bulgarian, Croatian, English, Estonian, French, German, Polish, Romanian and Spanish.

*For more information, see FRA's webpage on children's rights.*

FRA has also produced four short video clips to inform children about their right to be heard, their right to information and their right to protection and legal representation. These video clips can also be used by professionals who work with children. The videos are also available in nine languages.



*For more information, see FRA's webpage on children's rights videos.*



# 3

## Right to protection and privacy



International standards clearly prioritise the protection of children involved in judicial proceedings, while also encouraging their participation. The Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention)<sup>29</sup> and the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse<sup>30</sup> build on the CRC to constitute a new reference framework at the European level. Both define general measures of protection for victims of violence, as well as specific measures targeting child witnesses.<sup>31</sup>

A safe, protective environment is necessary for children to participate fully and effectively and avoid any potential re-traumatisation. Furthermore, support is key to children's participation in judicial proceedings; when support is provided, children feel safer and more protected and thus participate more freely in judicial proceedings.

*"I saw him in court, a few times. Sometimes I stood frozen in place and felt I couldn't take a step forward because I was terrified."* (Poland, female, 18 years old, victim and witness, sexual abuse case)

*"I waited, at the time I was very scared, 'cause then, you know, 'cause we sued those people and yet they were inside. It was terrible!"* (Bulgaria, female, 18 years old, victim and witness, traffic case)

The Victims' Rights Directive incorporates key child protection principles and establishes that, given their vulnerability to secondary victimisation, children shall be presumed to have specific protection needs:

- Article 24 (right to protection of child victims during criminal proceedings).

<sup>29</sup> Council of Europe (2011).

<sup>30</sup> Council of Europe (2007).

<sup>31</sup> For details on EU Member States that are States Parties to these and other conventions, see FRA's [webpage](#).

Key provisions on generic protection of victims are included in:

- Article 22 (individual assessment of victims to identify specific protection needs);
- Recitals 17 and 57 (right to special protection against secondary and repeat victimisation and intimidation, in particular in the context of domestic violence, including violence against the child's mother; individual assessment of victims to identify specific protection needs);
- Article 23 (right to protection of victims with specific needs during criminal proceedings).

Several legal obligations to protect children from harm are closely interlinked with children's right to be heard to enable full and effective participation in judicial proceedings (see Chapter 1). The structural indicator on the right to be heard covers legal representation, the use of video recordings and video links, controlling the presence of professionals, persons of trust accompanying the child, mandatory training and multi-disciplinary cooperation and limiting the number of hearings).

The generic right to privacy and confidentiality is reflected in:

- Article 21 (right to protection of privacy);
- Recital 54 (on the duties of competent authorities, Member States and the media concerning the protection of the privacy of victims and their family members, and non-disclosure of identity, picture or whereabouts of child);
- Article 20 (protection of victims during criminal investigations) of the Directive on combating sexual abuse and sexual exploitation of children and child pornography (2011/93/EU).

Children, as victims and witnesses, have the right to privacy, which Member States have regulated in several forms in civil law. As always, the extent to which these laws apply differs depending on the area of civil law involved and on the child’s role in proceedings. Plaintiffs are granted protection measures more often than witnesses or those who are parties to the proceedings, echoing other aspects of civil proceedings. With the exception of Scotland (United Kingdom), all Member States studied have statutory provisions on the right to privacy of children involved in judicial proceedings in family law. Except for Estonia and Germany, they also have laws prohibiting privacy violations by the media at all stages of proceedings. In Germany, a voluntary self-regulatory body has established media guidelines stating that the child’s identity must not be revealed.<sup>32</sup>

Children spoke about different measures in place to protect them on many different levels throughout proceedings. They concern protection from wrongs such as reprisals, intimidation and repeat victimisation, availability of protective support and guidance before, during and after proceedings, and data protection. Implementing these measures should be considered a key way of ensuring child-friendly justice. However, many children found that the necessary procedural safeguards are not in place. The majority of children conveyed that they felt frightened and unprotected during judicial proceedings. The defendant being present was their main source of fear, followed by professionals’ inappropriate behaviour, intimidating environments, wide information sharing and a general lack of confidentiality.

*Child: “I was afraid that I would see my mother. But I saw her in all of the proceedings.”*

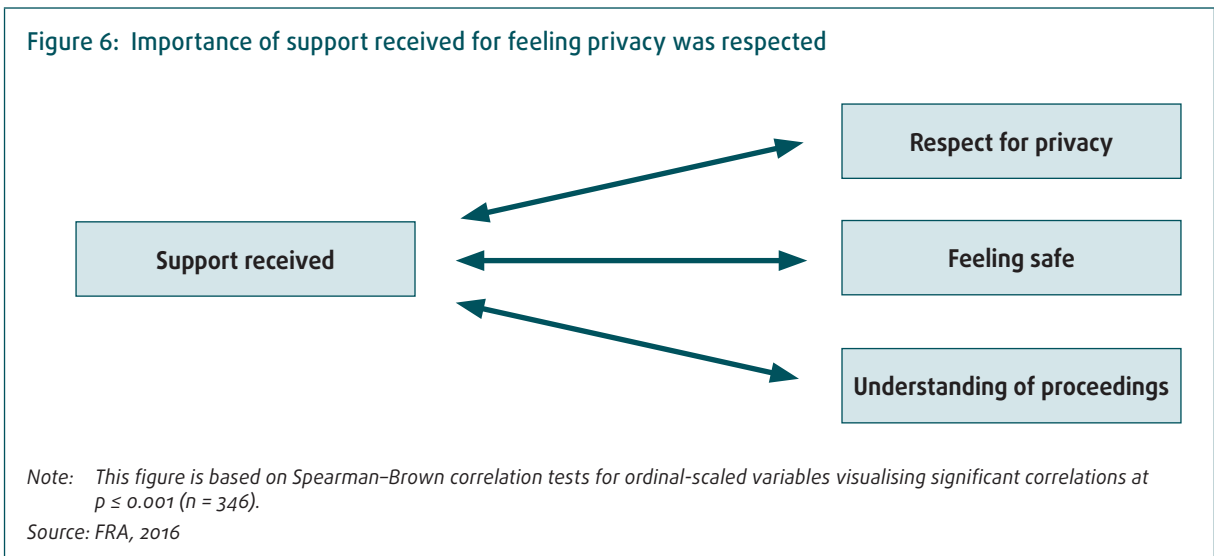
*Interviewer: “Can you say if it was just as frightening the first, the second and the third time?”*

*Child: “I have always been afraid of my mother, so it must have been the same.”* (Bulgaria, female, 14 years old, victim, domestic violence case, party, custody case)

Children indicated that protective support was not available at all stages of proceedings. In some countries, provision of support depended on the child’s place of residence or the availability of adequate resources. In most of the countries, children received more support in criminal proceedings than in civil proceedings; they reported psychological support most frequently.

Figure 6 visualises the link between the support children received and their feelings of safety and respect for their privacy. Furthermore, as the figure illustrates, children better understand proceedings when supported, so support is a matter of not only protection but also affects effective participation.

A lack of data protection results in children being frightened and stressed about being publicly recognised as taking part in legal proceedings and having details of hearings’ locations, their cases or their outcomes made public. However, few children reported that the media breached their privacy by publishing information about their cases.



32 European Commission (2014).

The data presented here derive from FRA's fieldwork, and are based on children's reports on, and assessments of, practices and procedures in their countries. (For a fuller description of the data analysis, see Annex 1). FRA's first report on child-friendly justice populated structure and

process indicators (see Table 9) using results from the first phase of the fieldwork only – the interviews with professionals and the European Commission's analysis of national legislation. Both reports should be read as complementary to one another.

**Table 9: Process and outcome indicators on the right to protection and safety**

<b>3. Respecting the child's right to protection and safety</b>	
<b>Process indicators populated through evidence from interviews with professionals and children*</b>	
<b>Measures and procedures</b>	3.3. Ensuring the protection of children's identity and privacy
	3.1. Keeping children safe from such wrongs as reprisals, intimidation and repeat victimisation by implementing special procedural safeguards, preventing contact with alleged offenders and regulating contact with parents as alleged perpetrators (criminal only)*
	3.2. Making protective support and guidance available to children before, during and after proceedings (criminal only)
<b>Outcome indicators populated through evidence from interviews with professionals and children**</b>	
<b>Results</b>	3.1. Assessing the measures in place and their impact
<b>Outcome indicators to be populated through evidence from interviews with children**</b>	
<b>Results</b>	3.1. Evidence of number of children who felt protected and safe during the proceedings
	3.2. Evidence of number of children who were supported by specialists/services during court proceedings
	3.3. Evidence of number of cases where police, other officials, judges and legal practitioners working with children did not breach data protection policies
	3.3. Evidence of number of cases where the media published personal data
	3.4. Evidence of number of cases where children had no contact with alleged offenders/perpetrators

Notes: \*These indicators were partly populated in FRA's first report. This report addresses both children's and professionals' perspectives, which is necessary to give a complete assessment of the outcomes.

\*\*This report is based on interviews with children, and newly populates these outcome indicators based on an analysis of their quantifiable experiences and perspectives.

Source: FRA, 2014–2016

### 3.1. Keeping children safe from wrongs, including reprisals, intimidation and repeat victimisation

Children spoke about procedural safeguards, including video-recorded hearings, child-friendly premises, mandated legal assistance, protection from exposure to defendants and/or the public, and limitations on the number and/or length of hearings. However, whether these are systematically used – in either civil or criminal proceedings – depends on the case and country. In several countries, only a few children reported that protective measures were applied. Furthermore, procedural safeguards were more frequently available in criminal proceedings than in civil proceedings. Child parties in custody cases linked with domestic violence cases complained that the civil proceedings lacked the procedural safeguards in

place in the criminal proceedings. They recommended applying protective measures in both civil and criminal proceedings, as meeting defendants is a source of fear and stress irrespective of the type of proceedings. When procedural measures were not applied, children reported being afraid and unable to participate fully.

#### Practices in numbers

Children tended to feel less safe in criminal proceedings than in civil proceedings (35 % and 28 % felt unsafe, respectively). Children were most likely to feel unsafe (61 %) when heard in a courtroom during criminal proceedings. Their feeling of safety increased when they received sufficient information and were heard in child-friendly rooms. When children were heard in multiple hearing locations, their feeling of safety was generally low (47 %).



## CRIMINAL PROCEEDINGS

### The case of Diana: how criminal proceedings can be improved

Diana\* was born in Bulgaria and lives there. She was taken away from her parents because of neglect and placed in residential care. While still living with her biological parents, she was sexually abused by a neighbour. At the time of her first police interview, Diana was 12 years old.

Over a one-year period, she was asked to speak about her experience of sexual abuse during two interviews at the police station and two hearings in court. Diana considered having to speak about it so many times "torture".

This was compounded by various failures to safeguard Diana, who never felt safe and was frightened. At the second police interview, a male police officer was in charge of questioning. Diana refused to speak until he was replaced by a female officer. The first court hearing was postponed, as Diana refused to talk because the neighbour who had sexually abused her was also in the courtroom. At the second court hearing, Diana managed to explain the sexual abuse while someone stood in front of the perpetrator, creating a physical screen. In both cases, she had to wait in the corridors of the court building together with the perpetrator and his lawyer. She found the courtroom "terrifying".

Diana also felt vulnerable because she received very little information, and none about the perpetrator's presence in the courtroom or the proceedings' outcome. Although she had an attorney, he spoke to her only once. Her only source of support was a psychologist, whom she trusted fully, from the Centre for Social Work. The psychologist prepared her for the hearings, accompanied her during them and spoke on her behalf when she did not feel comfortable answering a question.

Diana has the following suggestions for improvement:

- *"The child should not meet the suspected person";*
- *"The room should look less horrifying – it gives you the feeling of being guilty";*
- *"The child should be asked if they want someone to accompany them inside or not";*
- *"The child should be heard once, by a psychologist. In the worst case by the judge, but not in court."*

\* Fictitious name.

The interviews with the children clearly show that the use of protective measures during hearings helped them feel safe and protected, mainly because most of these allowed them to testify without the defendant being present.

### Children's suggestions

#### Safety and protection

For children to feel safe and protected, they recommend the following:

- They should testify without defendants, their families or the defence lawyers being present
- Defendants should access court through a different door to avoid meeting the victims and witnesses
- Court security arrangements should be in place to safely escort children to and from the premises
- Children's statements should be recorded and the evidence shared among professionals
- Children should testify in pre-recorded hearings or separate rooms via video-link, not in the courtroom
- Children should be informed about available procedural safeguards, the consequences of choosing them and other information relating to their use; this may include explanations about who is behind the one-way mirror, who is present in the courtroom (including the defendant) and who can listen to and see video-recorded evidence
- Hearings should not be public; family and friends should be excluded
- The presence of too many unknown people should be avoided during hearings, including in courtrooms, 'blue rooms' and where medical examinations take place
- Children should not face the jury and should avoid talking through a microphone
- There should be a maximum of two hearings
- Information about the case and decisions should be provided, including, for example, the consequences of their statements for parents and/or defendants
- Information should be provided about the use of statements made during proceedings
- Information should be provided about what protective orders are and what can be done if these are not respected
- Information about potential outcomes should be provided to prepare children and respond to their fears; e.g. children may be scared that parents will be sentenced
- Children should not be summoned to the court; rather, mediation at parents' homes should be organised
- While children should not have to go to court, if summoned, they should be consulted about whether or not they want to participate and, if so, how
- Only older children – above 10 years old – should be heard, as hearings are an emotional burden and so too difficult for younger children
- Children should be able to express their feelings and opinions, e.g. on parents' custody

Children's experiences and suggestions make very clear that many of the generic rights provided for in the Victims' Rights Directive are particularly important for them. These include:

- the right to be protected against confrontation with the offender (Article 23(3)(a));
- the right to be heard via video-link (Article 23(3)(b)).

Using video-recorded evidence in the pre-trial phase and conducting hearings in child-friendly hearing rooms are key procedural safeguards for child victims and witnesses of serious forms of abuse. Nevertheless, children were sometimes scared when heard in front of a camera or when unaware who was behind the reflecting glass, or felt uncomfortable because of the people – including the defendant – present behind the mirror.

*"That, that talking [...], that so many people were there... and then you had to speak to the camera as well."* (Estonia, female, 14 years old, victim, sexual abuse case)

A few children complained about the video-recording process because they were shown the recording just prior to the hearing to refresh their memory, which they found traumatising.

*"I don't quite know what to say about that one because it was awful. As soon as I came out of that... I looked awful in that video and I remember me watching back over it. I was almost in tears watching it because I looked so ill. Watching it and coming out of that video recording, and the time up to the court, I was not me really. I had sleep problems, I was terrified, I had anxiety attacks, I kept collapsing and waking up as completely another person, a younger version of myself with no memory."* (United Kingdom, female, 19 years old, victim, sexual abuse case)

Some children were worried about people seeing them when the recorded evidence was shown at trial. They also indicated that their feeling of safety was jeopardised by procedural mistakes, such as breaches of personal data confidentiality during hearings conducted via video conferences, the repetition of testimony because a party was absent, and recording devices that did not function properly.

Numerous children reported meeting defendants and their relatives before, during and after criminal proceedings – either because procedural measures were lacking or despite their use. They indicated that these unwanted encounters were their main source of fear at proceedings. Children described feeling extremely afraid when they actually met defendants, but also

highlighted fearing the mere possibility of meeting them. They frequently indicated that the lack of information on the defendant's presence in the hearing room undermined their sense of safety and protection.

### Practices in numbers

Thirty-seven per cent of the children interviewed encountered the defendant or other involved parties before, during or after their hearing. This contact negatively affected most children's (79 %) feeling of safety.

Children conveyed that, before proceedings or hearings, the possibility that a defendant was out on bail – or the lack of knowledge about whether this was the case – caused great fear and anxiety.

*Child: "So that whole time he was on bail, it sounds a bit weird but I thought he was going to come and get me or something or do what he did. That scared me. They said he won't because he is on a 'thingy' order that he can't come anywhere near you."*

*Interviewer: "Who explained that to you?"*

*Child: "The police, but that is not exactly going to stop him, is it? So that really stressed me out, and I didn't feel safe at all. I couldn't sleep, I had nightmares and panic attacks constantly."* (United Kingdom, female, 14 years old, victim, sexual abuse case)

Children were also scared of meeting defendants or the defendants' family members in waiting areas and court buildings before hearings. Most children's accounts indicate that encounters with defendants and their relatives took place more often in waiting areas than in courtrooms, usually due to the lack of child-friendly waiting rooms.

*Child: "The corridor was very dark, narrow and there were a lot of people. And... there was no air to breathe."*

*Interviewer: "And when you entered the court building, did you immediately find yourselves in the corridor or did you have to, was it easy for you to get to it?"*

*Child: "Ah, it was much higher up and we had to walk to get to it for quite some time."*

*Interviewer: "And did you know any of these people who were waiting together with you?"*

*Child: [pause] "My brother – he is my stepbrother [defendant] – was there with his attorney, and... I was afraid."* (Bulgaria, male, 16 years old, victim and witness, sexual abuse case)

## Children's suggestions

### Protective waiting areas

Children recommend that:

- Child-friendly waiting areas should be available
- Waiting rooms should be equipped with toys, drawing materials, sweet machines for younger children, entertainment facilities such as computers with internet access, videos and magazines for older children, and comfortable chairs
- Waiting rooms should not be shared with other families

Several children in Bulgaria and Romania reported encountering defendants in the courtroom during hearings. In these cases, the failure to systematically use protective measures, such as video-links or pre-trial recorded evidence, resulted in children being heard in the defendant's presence.

*Interviewer: "How would it have been better, if they were in the room, or not?"*

*Child: "That they not be in the room."*

*Interviewer: "That they not be in the room."*

*Child: "Yes."*

*Interviewer: "Did you tell anyone this?"*

*Child: "No."*

*Interviewer: "No?"*

*Child: [no reply]*

*Interviewer: "Were you afraid?"*

*Child: [sighs] "Afraid I was not, I had no reason to be."*

*Interviewer: "What were you feeling then?"*

*Child: "Nothing, but I felt like bad for [sighs] that one mocked me, my mother and my father [defendants], and now to see them in front of me ..."*

*Interviewer: "When you went to the tribunal there, was there a moment when you would have liked to go out the door?"*

*Child: "Yes, when I saw the others, aside from mother and father, I also saw the others, the others and this is how they were looking at me. And I wanted to go out." (Romania, female, 14 years old, victim, human trafficking, party, institutional placement measure case)*

Children reported being scared even when protective measures were in place. For example, one child who testified via video-link felt afraid because she could hear the defendant shouting in the courtroom. Other children felt scared about defendants hearing them. Children who testified behind a screen also indicated that the defendant's proximity was terrifying. In some

cases, children praised the judge for helping them to not be so frightened.

*"I felt protected in the last proceedings, I do not remember very well about the first one but it was easier because the judge told me he would be with me, that I could always count on him, and that made me feel good, he told me I was a strong girl and I would always be protected and safe, that everything I told him he would listen to." (Spain, female, 13 years old, victim, sexual abuse case)*

Children noted that, even if police or security guards were present when hearings were conducted with the defendant present, they did not feel completely safe. They sometimes criticised the courtroom's seating arrangements, which had the defendant sitting behind them, increasing their fear and feeling of insecurity. Children also reported being scared when judges allowed defendants to address them or ask questions.

*"I seemed to have lost my breath for a moment when he asked me something, and I started talking." (Croatia, male, 15 years old, victim, physical abuse case)*

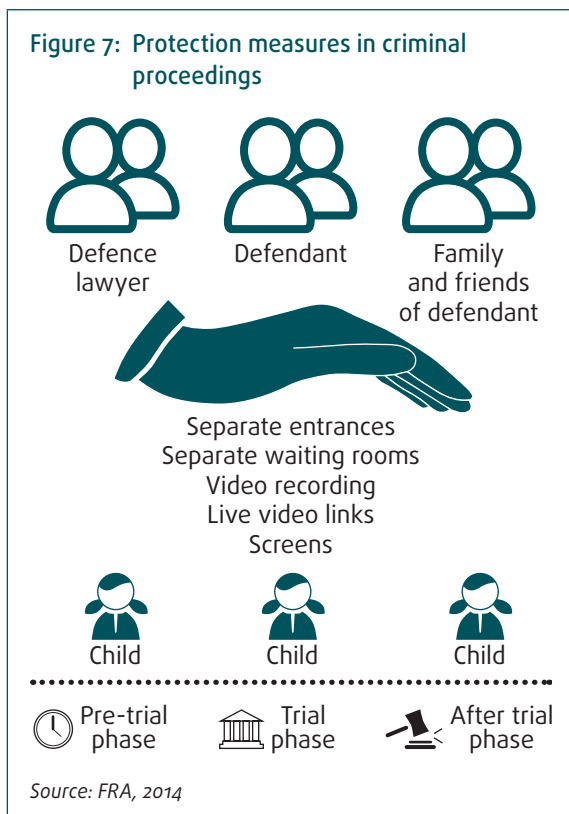
Children also feared meeting the defendant after hearings and proceedings. In countries where separate entrances exist – such as the United Kingdom (England) – children were concerned about practical arrangements for entering and leaving court buildings. They reported that the lack of coordination and escorts, as well as errors by security staff, resulted in them encountering defendants and their relatives outside the court building. For example, one child came across the defendant at the building's entrance while walking towards the separate witness entrance, adjacent to the main public entrance. Another child spoke about being unable to leave the court building because the defendant's family members were still inside and there was no alternative exit. Another indicated that he was verbally harassed by the defendant's parents while waiting in the hallway after the hearing.

The possibility of meeting defendants sometime during the long time periods between disclosure, the trial hearing and the verdict was also a source of fear. In addition, children's sense of protection was undermined by a lack of information about the proceedings' developments, as well as by the possibility of retaliation by defendants in case of non-conviction. When defendants were found not guilty, children were anxious about their physical proximity.

*"Understand, than... like, I don't know, after the court, after serving his sentence, whether he would come back to where I was... I don't know how to explain it to you... In essence, whether he would come back, whether he would find me!" (Croatia, male, 15 years old, victim, domestic violence case)*

*"I think it's more the fact now that he hasn't got any bail conditions, and there is nothing stopping him from coming back. That's the bit that makes you feel unsafe, because he knows where we live, he knows everything about our address, so what's to stop him from coming over?"* (United Kingdom, female, 18 years old, victim, sexual abuse case)

In some countries, children talked frequently about the protective measures in place (see Figure 7). Some children felt fear and stress because they lacked information about the protective orders, the orders were not respected or they were not provided to all family members.



Professionals' behaviour was also recurrently mentioned as an element undermining children's sense of protection. Children gave examples of threatening behaviour by the police, hostile attitudes from judges, a passive attitude among psychologists and, in particular, intimidating behaviour by defendants' lawyers.

### Children's suggestions

#### Avoiding cross-examinations

Children recommend that:

- Cross-examinations should be avoided because they are very intimidating
- Defence lawyers are often intimidating because of their role, and should not be allowed to question children directly

*"There were also questions from the lady lawyer, during the second hearing she wanted me so much to admit that... The thing was that my aunt told a lie about me in court and that's why I had to go there again. So because of this lie they summoned me again to a hearing. And that lady lawyer tried to make me admit to it, but I was innocent. But she did everything she could to make me say I did it."* (Poland, female, 13 years old, victim, sexual abuse case)

Children mentioned being scared of being heard in non-child-friendly facilities at police stations, court facilities, and premises where medical examinations were conducted; they found all of these locations intimidating. Some children described being nervous and scared while testifying in front of the jury in the witness box or standing up to use a microphone in public sessions.

*"As we came in, my mum sat down and I needed to stand all the time. When I couldn't bear it any longer, and I started crying, he [the judge] kept yelling at me and that was so awful."* (Poland, female, 15 years old, victim, sexual abuse case)

Hearing rooms that lack privacy were also considered intimidating. For example, children criticised hearings conducted at their homes, where parents could overhear them; or in shared rooms at schools or police stations, where people interrupted and entered and exited the rooms.

Children were also scared about the consequences of their statements – for example, when they testified against their relatives and were afraid of their parents being sentenced. This concern was aggravated when children lacked an accompanying person or adequate support.

A lack of information undermined children's sense of protection in all phases of proceedings. Children repeatedly mentioned feeling fear because they were not forewarned about the schedule of hearings at school and in other environments; the lack of information about practical arrangements for hearings; and the lack of knowledge about the process itself, i.e. the type of questions involved, people's roles in proceedings, the possible outcome and its consequences. Some children also indicated that adults withheld information, making them feel unprotected.

*"I had no clue what would follow. I wasn't informed about it. [...] That's why I was a little bit unprotected. [...] It would have really helped if I had been prepared a little. If they had told me that it would take so long."* (Germany, female, 15 years old, victim, sexual abuse case)

*"I hardly got [any] information about it, because my foster parents hold everything back."* (Germany, female, 15 years old, victim, sexual abuse case)



Children also reported being scared about the lack of confidentiality and data protection, particularly fearing that information about their involvement in judicial proceedings could be made available at school or in their neighbourhoods. They therefore disliked it when uniformed police visited their schools or homes. Some said that they were sometimes subjected to bullying and, as a consequence, forced to change their place of residence. Furthermore, children stressed their fear of disclosing information to too many people, particularly when they were unaware of the limitations on its use. Some children also talked about being afraid when professionals revealed their statements to other people without their permission.

## CIVIL PROCEEDINGS

Children's reports regarding procedural safeguards vary across the countries studied. For example, in Romania, several children spoke negatively about being heard in public court sessions with many people present, even though the national framework includes a procedural safeguard against this. Multiple hearings and interactions with several professionals were also sources of stress in countries such as Estonia and Germany; the majority of children stated that they would feel more protected if hearings were conducted as one-on-one sessions.

As with children involved in criminal proceedings, children who were victims or witnesses of domestic violence or involved in related cases indicated that actual encounters with defendants or the possibility of these were one of their main sources of fear. Meeting parents, foster parents or other relatives in the context of highly contested custody cases also undermined children's sense of security. Children described these meetings as occurring before, during and after hearings in court. Some domestic violence victims reported being threatened by defendants, usually their fathers, in court corridors when custody issues were discussed. Some children conveyed that they felt extremely scared even if the police then escorted defendants out of the courthouse in such situations.

Child victims of domestic violence also reported meeting defendants outside court – for example, when heard or assessed by psychologists and social workers. One child said that his father came into the social worker's office in a Child Protection Centre, shouting and insulting the professionals. Furthermore, children reported being frightened that the court's decisions would force them to meet their parent/defendant against their will.

*"Yes. I did [feel unprotected after] the decision of the judge at first instance when we had to go and live with our father. He actually stormed into our home with police and began to drag us away from our mother. Then I felt terribly bad. I had the feeling that I was losing the ground beneath my feet, my entire world; that I did not know what I would do. The same was for my sister because she... actually I was not that little and I was able to understand what was happening, that maybe there was a way to escape these things. He was actually dragging her, she was screaming, scratching him, he had scratches all over. At that point I felt terribly bad and unprotected."* (Bulgaria, female, 16 years old, party, custody case)

In countries where protective measures to avoid contact with defendants are not available in civil proceedings, children sometimes described positive practices implemented by individual professionals – for example, judges deciding to hear children in separate, child-friendly locations or asking the parents/defendants to wait outside while the children were being heard.

*"The first thing I always asked was who would be the people, what people would be present at the hearing. My biggest concern was that my father would be there because I found this really oppressive, so when I said I did not want him to be present, they took my opinion into consideration and he went outside."* (Bulgaria, female, 16 years old, party, custody case)

Child parties in institutional placement measures or highly contested custody cases also spoke about fearing unwanted encounters with biological parents, former foster parents or relatives, mainly because of the lack of child-friendly waiting rooms.

*"I had to wait outside the hearing room on a bench. During the whole time, you were afraid that someone could exit the courtroom. All of them may leave it any time. That's why I often went to some corner or was walking around... My biological father came with his supporters with all his people and they stood in the hallway, here and there stood some of them. I had to – the judge took me through there, I had to go through the midst of all these people and that was really – Until we reached the hearing room. The judge thought also that this was not OK."* (Germany, female, 14 years old, party, custody case)

As in criminal proceedings, professionals' inappropriate behaviour was a major source of fear. Interviewed children complained about the hostile attitudes of professionals, including lawyers, judges, social workers and security guards.





*Interviewer: "Were you afraid of something?"*

*Child: "Yes, of the last two judges. Of them. And the decisions that they might take as well. They were daunting, they look like they will control you. They were cold, with the air of saying 'it's me who makes the decisions.' It is not always pleasant, I couldn't wait for it to end. They listened to me, but I do not really know if they took into account what I said, and I couldn't wait for it to be over." (France, female, 13 years old, party, custody case)*

Some of the children indicated that some professionals' questioning techniques did not allow them to express themselves and undermined their sense of security. Children also recurrently reported that they were afraid when professionals did not take their wishes and feelings into consideration. Some children complained about their parents' lawyers' behaviour.

*"I got the idea that I wasn't allowed any more to say what I thought. [...] I was afraid that if I had said anything they [judge and legal counsel] would have twisted the meaning of my words." (Germany, female, 14 years old, party, custody case)*

*Interviewer: "Were you scared at any point in the proceedings?"*

*Child: "Yes, during the court session. I had the idea that I wanted to kill my father's lawyer. But behind it, there wasn't she, but actually Dad. It was he who said to her 'Say this and then you get such a sum from me.' And yes, she got money for that." (Germany, female, nine years old, party, custody case)*

Several children reported finding hearing locations intimidating. For instance, children who had interactions with the police stated that they were afraid when hearings were conducted in non-child-friendly facilities. Furthermore, some children involved in domestic violence cases in Bulgaria, where domestic violence is not criminalised, criticised the lack of child-friendly facilities at boarding houses.

*"At first I got scared but then they... I explained to them what had happened and they explained to me that I could have called and that it was no problem and they reacted well actually and I even felt better but at the boarding house I got a bit gloomy because I was alone in a locked room at night with a camera. No, it's for children. It's an ordinary room with two windows which are locked, with security frames and the window itself secured with a lock – it is open only during the day. Ah, three double beds, one camera pointed directly at you and one... There was television in something like a common room." (Bulgaria, male, 13 years, party, institutional placement measure case)*

Children involved in civil proceedings who were heard in court also described a lack of child-friendly waiting areas; this is a particular problem when facing long waiting times. Furthermore, children found police

officers' presence scary when waiting to testify in court. It led some to believe that they were at police premises, rather than at court.

*Child: "The first time I was shaking... I was very scared, suddenly we had to enter the room, instead of entering I ran outside to the waiting room and after I sat on a chair."*

*Interviewer: "But before arriving in the waiting room you were scared because you felt like you were in a police station?"*

*Child: "Yes, as if they wanted to kill me ..."*

*Interviewer: "You felt that they would kill you?"*

*Child: "Yes."*

*Interviewer: "Why?"*

*Child: "Because I saw the police... and pistols in the coat pockets."*

*Interviewer: "You were afraid that they would kill you?"*

*Child: "No, that they would handcuff me!" (France, female, 10 years old, party, child protection case, parental neglect case)*

Children involved in custody cases were usually scared about the consequences of their statements.

Children were also apprehensive about their parents' reactions to their statements and concerned about their parents' feelings on finding out about their children's decisions.

*Interviewer: "Are there times when you were scared?"*

*Child: "Yes, because lawyers would interpret what we said, and I was afraid that my father would reinterpret to his advantage, badly. But since I found out that there is a written, neutral, record of what we said, I was reassured. It was my mother who told me that." (France, female, 15 years old, party, custody case)*

*"Well, you know, I felt pretty safe. I mean, I was a bit, like, I was a little ashamed. But I didn't know what kind of responses to give there, because I was worried I might say something wrong, and then Mum and Dad would be mad at me." (Croatia, female, 13 years old, party, custody case)*

*"I was afraid that my parents would hate me." (Croatia, female, 17 years old, party, custody case)*

Children noted that lacking information about the process always caused fear. They indicated that not knowing how their testimony would affect the outcome, and uncertainty about the outcome of proceedings and the subsequent steps, undermined their sense of protection. Children disliked not knowing the content of professionals' reports and assessments and how these could influence the outcome; some declared that this lack of control over the process made them feel unprotected, as important life decisions were being

made based on professionals' opinions without taking their own feelings and wishes into account. Children therefore recommended being heard by professionals with a child-friendly approach and whom they could trust.

Children also indicated that a lack of data protection and confidentiality caused fear, especially when they had to testify with parents or siblings present or were heard in groups. Children noted that they preferred being able to choose who would be present during hearings and appreciated speaking to judges alone, without their parents.

*"I wanted to open up, I wanted to clarify my family situation. And that is why I liked this man... I was not afraid of being alone with him, because I could say everything, everything! I said everything! When I was alone. I was waiting for my parents to go out of the office. I was alone with him either at the beginning or after [the hearing]."* (France, male, 17 years old, party, educational support measures case)

Some children criticised being unable to access their files or not knowing whether or not their statements were recorded.

*"I was afraid someone might overhear us or watch us. [...] I don't know because I didn't have such a good look but there might have been some cameras."* (Poland, male, 12 years old, party, custody case)

Children also reported that lengthy proceedings, a lack of support and inadequate support – including being supported by an untrusted adult – made them feel afraid and unprotected.

### 3.2. Protective support and guidance for children before, during and after hearings

Children across countries – and regarding both types of proceedings – indicated that receiving support was key to their unconstrained participation in judicial proceedings and helped them feel safer and more protected. However, they reported that support, including legal representation and aid, was neither institutionalised nor available at all stages of proceedings. In the majority of the countries, such as Croatia, Germany, Poland, Romania and Spain, children involved in criminal proceedings reported receiving support more often than those involved in civil proceedings. In both civil and criminal proceedings, when support was received, psychological support was the most common measure reported.

#### Practices in numbers

Eighty per cent of the children interviewed received some form of support. Among those children, 48 % received multiple forms of support from different professional groups. Disaggregation by type of proceedings shows a slightly higher average for children involved in criminal proceedings than in civil proceedings.

The most common support combination children received was social and psychological support, followed by legal and psychological support. Where children received only one type of support, it was mostly psychological (23 %) or social (18 %). Legal support was received much less often (6 %). When children indicated that they were supported, but not by a professional group, they were referring to their foster parents or relatives.

Among those who received support, 68 % described it positively irrespective of who provided it. When asked to assess particular types of support received (psychological, social, legal), replies ranged from positive to negative; the type of support did not appear to matter as much as the fact that children felt that they received some support. If children were supported, they also felt treated fairly and that their best interests were met.

There are some interesting trends regarding the children's age and the support received. These are outlined in the relevant box on "Practices in numbers".

#### Practices in numbers

All children who were heard between the ages of two and seven received some form of support. Interestingly, children aged between eight and 11 were least likely to receive support; for example, only half of those heard at the age of 11 received any form of support, be it psychological, social or legal. The situation then improved the older the children were; nearly all children between 12 and 18 years of age received some form of support.

It may be that there is more awareness of the need to support particularly young children who do not yet go to school or have just started school, and that mechanisms are thus more clearly in place for them than for slightly older children. Awareness of children's need for support seems to decrease for older children, which appears to affect how they receive information; children between eight and 11 also understood the information they were provided to the least extent. It may also be that once children are at least 12 years old, they themselves become more able to influence the process and are more vocal about their needs and asking for support options.



## CRIMINAL PROCEEDINGS

### Practices in numbers

In cases involving serious crimes, the majority of children received support from multiple persons (52 %) or psychological support alone (33 %). In cases involving other crimes, social support was the principal type provided (53 %).

In some countries, a wide range of support is generally available throughout proceedings. However, in others, children reported that support is accessible at only some stages, not provided systematically, or even not available at all.

Children from countries such as Germany and the United Kingdom (England, Wales, Scotland) reported receiving a wide range of support before, during and after hearings. They noted that psychological assistance and witness and victim support services were usually available and assessed these positively.

In Germany, children described receiving support before, during and after proceedings from psychosocial assistants, witness and victim support services, psychologists, counselling services, social workers and lawyers. Children particularly appreciated being prepared before hearings by counselling services before filing a complaint with the police and by psychosocial assistants before trial hearings. However, counselling services were less frequently reported than psychosocial assistants because, at this early stage of the proceedings, they are often still not involved.

Children highly appreciated psychosocial assistants, in part because their support was available throughout proceedings. Children indicated that these professionals prepared them for hearings, accompanied them to court sessions and provided support after hearings, thus increasing their understanding of proceedings and their rights.

*“They [psychosocial assistants] supported me. They always explained everything to me. They were the only ones. [...] They encouraged me all the time, [and told me] that it wouldn’t be that bad... they translated the judge’s words into children’s language... They were very friendly, and gave me something to drink during the hearing. At the end, they treated me with sweets.”* (Germany, female, 14 years old, victim and witness, domestic violence case)

Likewise, in the United Kingdom (England), children reported being supported by charitable organisations, witness support services, psychological support services, social workers, lawyers, police and court staff. Professionals reported the increased use of registered intermediaries to provide communication support to

vulnerable witnesses. However, none of the children interviewed received such support. Children interviewed in England highly commended the quality and level of support from charities throughout proceedings. They reported that these professionals provided practical advice and information and addressed children’s welfare holistically, in some instances providing support for housing and employment in addition to individual support.

*“They [charitable organisation] were there all the way through the whole thing. They were the ones that kept coming back and forward to see me all the way through the year when I was waiting... Yeah, they were great support.”* (United Kingdom, female, 19 years old, victim, sexual abuse case)

Children also reported having pre-trial court visits, usually with Young Witness Service volunteers, in which they were familiarised with the court building.

*“It was helpful because it gave us an idea of what it was going to be like, it kind of took the fear off. So you are at home, you’re like, ‘oh I have to go to court’. But then you get to a crown date and you are thinking it should be all right... Just made me feel a bit better, so I wasn’t that scared.”* (United Kingdom, female, 17 years old, victim, sexual abuse case)

Children praised how the Young Witness Service supported them on trial days; they commended the service’s staff for being accessible during the waiting period in separate waiting areas as well as accompanying them during the hearing. Children assessed the support provided positively when a good relationship was built between them, their families and the professional.

Children interviewed in the United Kingdom (England) also mentioned highly appreciating their family’s support during legal proceedings. However, they emphasised the need for independent support and some suggested establishing an anonymous and confidential call centre to provide both emotional and practical support.

*“[S]ometimes call centres are just about how you feel and sometimes, like Childline, and sometimes they are just about court and not about how you feel. They should have a call centre that you could ring up and talk to, maybe ask to go and see them, so that you can talk about your feelings and court at the same time... And also you could talk to them if it was the middle of the night.”* (United Kingdom, female, 12 years old, victim, sexual abuse case)

In some other countries, such as Croatia, Estonia, France, Poland and Spain, psychological support was available, although not at all stages of proceedings. In Poland, children reported receiving support from NGOs specialised in supporting victims of sexual abuse and/or domestic abuse by means of psychological therapy. Children usually assessed this support positively and were glad it was available for all family members. However, these services were more available in big cities

than in rural areas, where children reported benefiting from them less often. For example, children who at the time of the hearing were living in an alternative care facility and came back to their biological families' houses in the countryside for a probationary period or holidays complained that they had no possibility of seeing a psychologist or therapist.

Children also reported being accompanied and supported by court-appointed psychologists during hearings, as mandated by law. However, while some children assessed the support positively, others complained about the psychologists' passive role or attitude. Children in alternative care institutions reported having psychological support available there, but assessed this support as neither significant nor sufficient.

*Interviewer: "Did anybody support you during the proceedings?"*

*Child: "Only my mum called me to lift my spirits. And my carer."*

*Interviewer: "And did you feel a need to talk about a psychologist about what happened?"*

*Child: "I did, very much ..."*

*Interviewer: "Wasn't this possible?"*

*Child: "Only with the psychologist at the facility. I saw her from time to time, but I couldn't tell her right away what happened and everything."*

*Interviewer: "Will you have an opportunity to talk about it with anybody else?"*

*Child: "I don't know ..."*

*Interviewer: "And do you feel like doing this?"*

*Child: "Yes... A little ..."* (Poland, female, 18 years old, victim, sexual abuse case)

In Spain, child victims or witnesses of sexual abuse received support from victim support centre psychologists. Children found this support very important and were critical about it being available only after hearings. They also reported that lawyers and the police provided support, although to a lesser extent. Children particularly appreciated being prepared before hearings and accompanied during them by professionals. The presence of adults of trust, usually parents, was also regarded positively.

In France, children stated that they were mainly supported by social workers. They also regarded lawyers, ad hoc administrators and psychologists as important, although unsystematic, sources of support.

*"The ad hoc administrator told the story [during the trial hearing]. That's better, I do not know what I would have done if I was left alone with a judge."* (France, female, 13 years old, victim, domestic violence case)

In Croatia, before hearings, a few children received support from SWC staff, social workers and psychologists. If they were in Zagreb, and depending on how the professionals there assessed them, some children also received support from the Child Protection Centre of Zagreb. However, child sexual abuse victims living outside large urban centres reported having to travel to larger cities, such as Zagreb, to receive support from a psychiatrist or an expert at the Child Protection Centre.

*"I adore talking with her [psychologist]... First, the way she talks is very relaxing and you are relieved when you talk to her... also, she relates to you in a great way. Everything's great!"* (Croatia, male, 15 years old, victim, domestic violence case)

Some children reported receiving support from court assistants during hearings. Some children were also accompanied by social workers from the SWC, Child Protection Centres or other institutions, e.g. safe houses. Children usually assessed these professionals' support positively, although some commented that it would have been better to deal consistently with the same professional at the SWC. Finally, although less often than before or during hearings, some children in Croatia also described being offered some kind of formal support after the hearings.

*"Well, she [the court assistant] was calming me down the whole time, like to relax... To, how to put it, not to be afraid and so on."* (Croatia, male, 15 years old, victim, domestic violence case)

*"Well, it's good to have a social worker like that, female or male, with whom you can talk like with a friend... Basically. That's... That's what I like about her. I don't know, she's, like, really great. You can really talk with her... Tell her everything you think, and stuff... Yeah, she helped me a lot."* (Croatia, female, 17 years old, victim, domestic violence case)

Limited data are available on Estonia, where children reported that support was provided by psychologists and child protection workers. To a lesser extent, psychiatrists, NGO service providers, and witness and victim support services also provided support.

In Bulgaria, half of the children interviewed who had been involved in criminal proceedings reported not receiving any type of support from any professional. Those who did receive support said it came from CPD staff, social workers, psychologists and the police.

*Interviewer: "And was there anyone who supported you during the proceedings, helping you, your family? And if there was such support, who provided it?"*

*Child: "Well, the psychologist who was in the courtroom as well as the prosecutor. They were nice."* (Bulgaria, male, 16 years old, victim and witness, sexual abuse case)





In Romania, children indicated that, before hearings, they were generally accompanied to court by placement centre staff, social workers, educators or psychologists, or foster parents. They tended to assess those accompanying them positively, in part because they did not have any other adult of trust present.

*Interviewer: "Was there anything else that helped you?"*

*Child: "I was... I was glad Mr Director [head of the placement centre] was there by my side, Mrs... Mrs... I forgot her name... and Mr [name of psychologist]."*  
(Romania, female, 14 years old, victim, human trafficking, party, institutional placement measure case)

Children in Romania reported receiving support during hearings from psychologists and legal representatives – in institutional placement cases, usually the heads of the placement centres at which they lived. Some highly appreciated the fact that psychologists offered encouragement or explained things they did not understand. However, a few children were critical of psychologists' passivity. For example, child victims of sexual abuse or trafficking heard by male police officers were critical of psychologists' passivity in not intervening on their behalf or not supporting them during the hearings.

Children interviewed in Romania seemed to lack psychological counselling and systematic support. For instance, one child said that she was called into court when her mother was convicted for murdering the child's abusive father. The child indicated being highly distressed about not receiving support at that moment.

*Child: "Well, we went there inside and the prosecutor started telling mother that she would get many years in jail and it was difficult when I heard, for it was... I believed she would be in there for two, three months, but when I heard seven years ..."*

*Interviewer: "So you and your sister came out, there when you came out was there somebody with you?"*

*Child: "No, we just sat on the bench and waited for the director."*

*Interviewer: "Aha. And did the waiting take long?"*

*Child: "No, about 10 minutes."*

*Interviewer: "Do you remember whether there was anybody to help you calm down, because well, this is not easy and so, when you went out and waited, was there somebody or something to help you calm down?"*

*Child: "Well, my sister told me to calm down and to stop crying and to think that everything will be all right and finally mother will come out of there and we will be together again, all of us."* (Romania, female, 13 years old, party, institutional placement measure case)

## Children's suggestions

### *Consistent and continuous support*

Children recommend that:

- A professional of trust should be available to support and accompany children throughout the process; these persons should make themselves easily available – for instance, by providing children with their contact details
- The professionals should work on developing trusting relationships with the children and, if possible, remain in the same support position throughout the entire proceedings

## CIVIL PROCEEDINGS

### Practices in numbers

In custody conflicts, 50 % of children received support from multiple persons, 20 % received psychological support alone and 14 % received only social support. Where children were in residential care, they mainly received legal or social support (both 26 %).

Unlike in criminal proceedings, children in only a few countries indicated that psychological assistance was available in civil proceedings. Moreover, as with criminal proceedings, children only rarely reported receiving legal support, usually provided by their parents' lawyers rather than their own. However in some countries, such as Estonia, Germany and the United Kingdom (England, Wales, Scotland), children nonetheless reported receiving a wide range of support.

In the United Kingdom (England, Wales), children reported that guardians appointed by CAFCASS provided support before, during and after hearings. If they felt they could trust the guardian, children assessed this support positively. However, children's views of the quality of relationships with guardians varied. Among those who provided positive descriptions, children appreciated professionals visiting them at home, providing them with information and updates on developments in the legal process and accompanying them on visits to the judge. However, some gave negative assessments, indicating they had poor relationships with the professionals.

*"She [the CAFCASS guardian] took me through everything."*  
(United Kingdom, female, 14 years old, party, custody case)

*"I don't really feel supported by my practitioner at all... she was rather clinical in the way she dealt with things, more 'old school' ..."* (United Kingdom, female, 13 years old, party, custody case)



Children also reported receiving psychological support, which they appreciated only when they could speak with the psychologist away from family members. Support provided by children's support networks was highly appreciated.

*"I used to go to a group when I was at school... we would just talk about everything and explain more words that I don't understand and try to build our confidence up, because we had low self-esteem."* (United Kingdom, female, 14 years old, party, custody case)

Children involved in the Scottish Children's Hearings System reported receiving support from social workers and advocates. They positively assessed support from advocates and specialist organisations. Children particularly praised advocates' practice of meeting children prior to hearings and accompanying and acting as their 'spokesperson' during them.

*"[Advocates] help to explain something proper, and then they can help. And then they can speak for me. If I don't want to speak, I tell them the day before and they would go through it with me and make sure they have everything right and then come with me."* (United Kingdom, female, 17 years old (heard regularly in Scottish Children's Hearings System since age two), subject to care supervision order)

In Estonia, children generally received support from psychologists, child protection officers and lawyers. They assessed the support provided by child protection officers and lawyers positively, as long as trusting relationships had developed. They also spoke positively of support from adults of trust, usually parents. However, children assessed psychologists ambivalently. While some children interviewed in Estonia appreciated their sessions, others found them unhelpful and unnecessary. Furthermore, some children believed that receiving this type of support could contribute to social stigmatisation or could be a traumatic experience.

*"It was painful for me to tear out old memories; I wanted to go on with my life."* (Estonia, female, 14 years old, victim, domestic violence case)

In Germany, children generally received support from legal counsels, contact supervisors and, to a lesser extent, Youth Welfare Office staff. They regarded this support neutrally, particularly when they understood its main function as providing the judge with an expert's opinion. Support provided by adults of trust, usually parents, foster parents and grandparents, was considered more positively.

In Bulgaria and Romania, children indicated that support was available, including from social workers, in the form of legal representation and through assistance by staff at host centres when they were placed in foster or residential care.

In France, children involved in child protection cases and proceedings about unaccompanied foreign children generally received support from social workers and, if foster care measures were in place, foster parents. Children only rarely had their own lawyers in these types of cases. The assessment of social workers' and foster carers' support was ambivalent; sometimes they assessed social workers negatively when their support did not meet children's expectations.

*Interviewer: "Do you feel that the social workers help you?"*

*Child: "I do not know. For a start, they did not know much about the questions I asked them about the judge. They would say 'yes, but on that I can't answer you', 'I don't know about that'... And they even are part of the justice system. I feel they cannot really help you. They tell me to stop calling my father, to leave him alone. But I can't. I feel they don't understand me that well. I think that at the same time there are things they don't know, and things they do not want to say to me. [...] It's better to take a step back, be in my corner, rather than being with them and have them saying just anything in their reports... My father told me that the judge cannot decide anything without the point of view of the child if they are over 13 years old. I have not asked the social workers, they will tell me they don't know. In fact I asked one of them, she told me she was not really aware."* (France, female, 13 years old, party, foster measure case and custody case)

Children also assessed support negatively when professionals, such as their parents' lawyers, recommended foster or institutional placement measures against their wishes.

*Child: "When she [the judge] asked the others to come in, she talked about the case: my mother's lawyer was practically on the floor in front of her, there was a file as thick as that! [...] He was paid €1,200 and he did not do his job. Towards the end of the interview the judge began to write something, and the lawyer said 'Yes, a care placement would be good'... My mother did not tell him to say that! What is this crap? If at that price you get a lawyer like that, we aren't having one any more. She had a fucking file as thick as that, with all the social stuff, all the supporting documents, all the school stuff, all the stuff of other stuff, and the guy [the lawyer] says 'No, Your Honour, no' [...]"*

*Interviewer: "Are you thinking of having a lawyer?"*

*Child: "Yes. To oppose this file. I do not know when, I'm not giving myself any illusions."* (France, female, 15 years old, party, child protection- case, parental neglect case)

In Bulgaria, children involved in cases about foster care and institutional placement measures indicated they received support from the host centre staff, social workers and psychologists. Children involved in custody cases received support from the CPD staff, social workers and psychologists and, where appointed, lawyers. However, children described promising



practices as stemming from professionals' personal initiatives, rather than being established.

In Romania, children involved in cases about foster care and institutional placement measures were accompanied to the court by placement centre staff, social workers, psychologists, legal representatives and, to a lesser extent, foster parents. Their expectations generally appeared to be quite low; most noted that they were happy simply because someone accompanied them to court and they were not alone.

*Interviewer: "I see. Did this help you, the fact that somebody accompanied you?"*

*Child: "Yes, it did."*

*Interviewer: "How?"*

*Child: "So that I get there, that ..."* (Romania, male, 13 years old, party, institutional placement measure case)

Some children reported that professionals usually waited outside the hearing room, which found insufficient. They would have preferred to receive information before hearings and be supported during them. Furthermore, some children complained about being accompanied to the court by staff whom they did not trust. However, a few children did report appreciating these professionals' support during hearings.

*Interviewer: "Can you tell me if you remember if you or your family received any support during the hearings?"*

*Child: "No."*

*Interviewer: "For example, from a lawyer or a psychologist."*

*Child: "No. I needed [support] [...] I needed a psychologist and I went to school."*

*Interviewer: "To school."*

*Child: "And I spoke openly with the person."*

*Interviewer: "You did this in relation to the police hearings, right?"*

*Child: "Yes [...]"*

*Interviewer: "And did it help you?"*

*Child: "Yes, it calmed me down. [...]"*

*Interviewer: "After you came back from court, did you talk to the psychologist?"*

*Child: "Yes."*

*Interviewer: "Did you feel like you had to, or did he look for you?"*

*Child: "Yes, I felt the need to ask why this had happened, why they won't let me go home."* (Romania, female, 16 years old, party and witness, institutional placement case and suspicion of sexual exploitation case)

*"I was told that... They asked me if I wanted to stay in the centre. And I told them I did. And that man [judge] now said: 'Well, why do you want to stay in the centre?' And I told them I had got used to the children - this year when I went - that I had got used to the children, I got attached like that too... very much to the ladies [educators] and that I would not like to go home, for my mother is not in the country and that I do not want to stay at my grandmother's. ... And Mr [name] explained to him - Mr [name of psychologist], that's his name - that this... I have a situation more like that at home, that I don't get along at all and cannot go home for my family to kick me out in the streets, that I did not... She [the other judge] asked me what my mother was working abroad and I told her I did not know. And she asked me whether I went there to lie. And Mr [name of psychologist] also told her afterwards that I did not know, that my mother didn't explain these things to me and I couldn't know and that I would not lie ..."* (Romania, female, 14 years old, party, institutional placement measure case)

The majority of children interviewed in Romania were rarely in contact with their parents and were involved in civil proceedings because of their placement in foster or residential care. Parental support was therefore not available to them. Usually children mentioned foster parents' support, although not all foster parents were seen as adults of trust by the children. Despite the difficulties they had faced, they lacked psychological counselling. Some children indicated that psychological support was available only upon request or provided irregularly due to insufficient resources.

*Interviewer: "But who do you talk to when you have a problem here, in the placement centre?"*

*Child: "When I have a problem I either talk to the educators, or, if not, I go to the directorate that we belong to [the General Directorate for Social Assistance and Child Protection, to which the centre is affiliated] because there is a psychologist there."*

*Interviewer: "Aha, and do you talk to ... ?"*

*Child: "Yes, or if not, I have a psychologist at school and then I talk about all the pains that burden me and that ..."*

*Interviewer: "Aha, and during this time why you did not go to talk to any of the people you mentioned?"*

*Child: "Because to the mentioned persons at the directorate I cannot [talk], as one needs an appointment; at school, the psychologist comes once or twice every month and I do not have time. Whom shall I talk to? Some educators listen to the things the children want to say, others do not ..."* (Romania, female, 16 years old, party, institutional placement measure case)

Heads of placement centres usually acted as legal representatives for children living there. Children appreciated these professionals accompanying, encouraging and supporting them during and after hearings. They also mentioned legal counsellors, although they reported a lack of interaction with them during proceedings.

Child: "We had a legal counsellor."

Interviewer: "A legal counsellor, yes? And did she help you?"

Child: "Yes, she did, she told us what time to come at ..."

Interviewer: "And this legal counsellor, how did you meet her, where is she from?"

Child: "We met her in the room... in that place. Because ..."

Interviewer: "In court."

Child: "Yes. We met her when she stood up and she said what the file was about." (Romania, female, 13 years old, party, institutional placement measure case)

As children rarely received support from legal counsellors, they reported turning to social workers and psychologists for information or help. However, children complained that their lack of knowledge about legal proceedings caused stress and anxiety.

Interviewer: "Was there something you did not like about the way you were informed?"

Child: "Yes."

Interviewer: "What is that?"

Child: "That we were not told why."

Interviewer: "Aha."

Child: "And I kept insisting 'Madam, why, why?' I felt she did not notice me then, at that moment."

Interviewer: "The educator?"

Child: "Yes. And I asked several educators why we had to go."

Interviewer: "And what were they telling you?"

Child: "They were all telling me that I have to say whether I wanted to remain in the placement centre or not. That is it. It was as if none of them knew anything else other than this." (Romania, female, 18 years old, party, institutional placement measure case)

In other countries – such as Croatia, Poland and Spain – children also reported that support was not always available, and only a few mentioned receiving professional support. Instead, parents and foster parents were usually the main source of support.

For example, in Croatia, children mainly described receiving support from their parents before assessments. Even though generally they assessed this support positively, they sometimes indicated that parents should be more reassuring and supportive, while avoiding manipulation. At this stage of the proceedings, most children would have appreciated having psychologists' support. Half of the children interviewed in Croatia reported positively on receiving psychological and emotional support from staff from SWCs during assessments. However, this seemed to depend a great deal on the skills of the individual professionals, as the other half of the children interviewed in Croatia complained about the lack of support from these professionals. Finally, most children

reported receiving informal support from family members and friends after the hearing, with a smaller number receiving professional support. Only one child mentioned support from her mother's lawyer.

"They should say that it was not Mum's and Dad's fault, or maybe it was, but they love their children no matter what, and everything will work out for them." (Croatia, female, 14 years old, party, custody case)

"Well, at least once a month to have a psychologist or how to say it, to talk to you, that... that... to throw it all out ..." (Croatia, female, 12 years old, party, custody case)

"I think that talking to social workers helps kids feel better, and it helps them to know that they can confide in someone like you, social workers, and they feel better... and that's good to know, that there are people you could tell everything... without fear, things like that." (Croatia, female, 12 years old, party, custody case)

"But... When Mum called her, she didn't have time because she was doing counselling, I think she said so... And so she [Mum] called a lot of times and she [CSW staff member] never had time." (Croatia, female, 15 years old, party, custody case)

In Poland, only a few children received professional psychological support and children rarely mentioned the Family Diagnostic and Consultation Centres as sources of support. They reported specialised psychological and social support as mainly addressing victims of sexual abuse and domestic violence; none of those living in foster care or placement centres mentioned receiving any support with the proceedings unless they had been victims of sexual abuse or domestic violence. Support from adults of trust, usually parents and foster parents, was available and viewed positively.

In Spain, children reported receiving support from their parents and their parents' privately hired lawyers. Support provided by adults of trust, usually mothers and grandparents, was regarded positively. Again, children involved in civil proceedings conveyed that they received less support from professionals than children involved in criminal proceedings.

## Children's suggestions

### Protective support in custody conflicts

For children to speak freely and express their feelings in family law cases, children suggest that:

- They should be alone with the professional conducting the hearing
- They should be able to decide in all cases whether or not parents and other professionals will accompany them during hearings
- They should be able to decide whether or not to meet their parents before hearings – for example, in waiting rooms

### 3.3. Ensuring protection of children's identity and privacy

#### Data protection

##### Practices in numbers

Fifty-six per cent of the interviewed children felt that their privacy was generally respected. However, there is a split when it comes to hearings in courtrooms, especially in criminal proceedings: 50 % of children believed their privacy was respected in such circumstances, and 50 % did not. Their assessments likely depend on the procedural safeguards implemented in each courtroom; respect for privacy in child-friendly rooms was always positively assessed in criminal proceedings.

In all countries covered by the research, there are examples of children who experienced breaches in confidentiality when hearing locations lacked privacy, when they were publicly recognised as participants in legal proceedings, when details about their cases or their outcomes were made public to friends or school professionals, or when there was a lack of data protection in the information-sharing process. Such breaches of confidentiality and privacy made children feel very insecure and anxious and frequently led to problems with peers and other family members. Sometimes they even made it necessary for children to change schools or move to a different community.

Children described their discomfort when their role in court proceedings was made public before proceedings. This usually happened when police officers in uniform or driving a marked car or social workers wearing a social work badge approached them at home or in school. Children were highly distressed and embarrassed by the unwelcome attention from neighbours and school peers this caused.

During proceedings, children felt uncomfortable when numerous people, often strangers, were present when they discussed private matters, especially in custody cases and domestic violence cases. Children said that they felt ashamed of their home situation or complained that sometimes they had to say with whom they would prefer to live in front of many people, including their parents.

*"Well, usually there were lots of people, then everyone was sitting around me and then I said something. Lots of people, like [...] mother's lawyers, father's. It was like, ee, I could talk a little. [...] like both lawyers, so they both, still, you don't dare say anything bad. [...] Well, I talked, but it was hard. Like all, both lawyers [were there] and then ..."* (Estonia, male, 13 years old, party, custody case)

Furthermore, children criticised professionals for discussing in front of others details of their lives that were irrelevant to the case. For instance, one child noted that a police officer commented in front of numerous people that he had repeated some classes at school and had run away from an orphanage. Numerous children said details of their cases were made public to friends, school professionals and local community members while the children were attending hearings during proceedings. In some cases, this resulted in children feeling extremely bad and becoming victims of bullying. Other children were concerned about the possible use of information from their testimonies during the trial process.

*"This was just really stupid, because I was addressed with this issue every day. They mobbed me quite much at school. And then they all just said that I had fully deserved it. I thought this was quite crappy."* (Germany, female, 12 years old, victim and witness, sexual abuse case)

*"They told us that this is all going to be kept confidential, your name could be anonymous but when we are telling the judge we are going to tell them who you are and everything about the case."* (United Kingdom, female, 14 years old, party, custody case)

Children indicated that hearing locations lacked privacy, particularly in Estonia. For example, children noted that they disliked it when hearings were conducted in offices at school, where others could easily interrupt. They were also concerned about their parents overhearing them when interviewed at home.

Children also reported data protection breaches. For instance, one child stated that when she was testifying via video conference, her personal data – including her name and location – were revealed to those at the trial hearing, including the defendant. Children were also distressed when information about protection measures – such as their being subject to foster or institutional care or being sheltered in a safe house – was made publicly available, and contributed to their social stigmatisation.

*"One thing disturbed me, even if there is Child Protection Law... they said my name and 'we are contacting with the court in [name of the city]'... that is, they said my name and the name of the city I was... it was... I said 'you just violated my rights'. Imagine that guy [the offender] ignores the restraining order and comes here, to [city] on an impulse."* (Spain, female, 14 years old, victim, sexual abuse case)

*"I feel horrible! Trust me, it feels horrible... The fact that they know I'm here. And then they think I'm weird, because it's that type of institution after all. And some think that I went to a correctional facility, and then it all turns into pure horror to me."* (Croatia, female, 16 years old, victim and witness, domestic violence case)



Children indicated that, after hearings, their cases' outcomes were sometimes made public within the local community, making them feel ostracised from the community even though the proceedings had concluded. Similarly, children reported feeling highly distressed when case decisions were made public in the school environment because this resulted in them becoming victims of peer bullying or being forced to change their school and/or where they lived.

*"[R]eally upset, because I felt as though I couldn't even go out. Like I still don't go out now. It feels as though I can't go out without a person gossiping about me. Because that is how it all started. I can't go out without being called names."* (United Kingdom, female, 16 years old, victim, sexual abuse case)

*"And then we moved to [name of the city] where, until then we were in [name of the village]..., because they didn't know us there. I also moved to a different school – in S .... Hmm, a friend of my grandmother's helped us, and he also arranged for me another school [stammers], a new school, uh... He knew the school principal there, ah... [pause] before my brother's friends again also there, uh... my stepbrother, I mean, hmmm, they were in my way at the previous school and [pause] they insulted me, they called me 'roly poly', they insulted me because I was fat and wore glasses [the same rising intonation at the end of each sentence, uncharacteristic of the Bulgarian language], uh ..."* (Bulgaria, male, 16 years old, victim and witness, sexual abuse case)

Other children also reported that copies of their court testimonies were shared with their parents and they were obliged to justify their decisions to them. Children sometimes complained about confidentiality breaches by professionals and the court, who did not respect their requests not to share their views. Children stressed that this negatively affected their relationships with parents and relatives, as well as influencing the proceedings' outcome.

*"My mother and sister read those things I had said about them. That was the worst thing for me, they had said that nobody will read what I said except them [the judge and child protection officer]."* (Estonia, female, 18 years old, party, custody case)

Other children were critical about their information not remaining anonymous or confidential – for example, their home address being available on documentation sent to their parents, with whom they usually did not have contact.

*"I had to get the prison [where the child's father was] to Tippet it out so that he didn't know where I stayed when he gets out because I'm staying here."* (United Kingdom, female, 17 years old (heard regularly in Scottish Children's Hearings System since age two), subject to care supervision order)

## Role of the media

Most of the children did not indicate that their court cases were published in the press or other media. Only in a few countries, such as France and Spain, did children mention their cases being covered by the media. In Spain, one in four cases had received media attention, usually when children were victims of sexual abuse or domestic violence. However, children generally reported that there were no privacy issues involved and that publications about their cases did not disclose personal data.

*Interviewer: "You said your story was published in the newspaper?"*

*Child: "My mother did not want my little sister to see it, because there were words that my father used to say, that were not very nice when he spoke about my sister, for example that she was trouble like her mother. It also said that he hit us, and there had been an attempted suicide with a gun."*

*Interviewer: "And how did you feel?"*

*Child: "Well, that's what happened."* (France, female, 13 years old, victim and witness, domestic violence case)

However, children did describe some privacy violations in Poland, Romania and Spain – usually when their parents participated in TV shows and details of their cases, often related to sexual abuse, were made publicly available without their consent. Children indicated that, as a result, they were stigmatised by the local community and their peers at school.

*Child: "Yes, it was on TV."*

*Interviewer: "I see. And how did this make you feel?"*

*Child: "I did not watch when it was on."*

*Interviewer: "You did not watch, but the fact that you knew something about you had been on TV, how did that make you feel?"*

*Child: "Bad."*

*Interviewer: "Did anyone ask you for permission to be on TV?"*

*Child: "No."*

*Interviewer: "Nobody came to ask you if you wanted to be on TV?"*

*Child: "No."*

*Interviewer: "Nobody came to ask you if you wanted to appear?"*

*Child: "No."* (Romania, female, 16 years old, victim, sexual abuse case)





Some children who were involved in less serious cases also found out that pictures or personal details had been published with their parents’ authorisation, but not their own. This was a source of fear and stress.

On the other hand, children suggested that media attention and public knowledge can also be positive, as it raises awareness in the community.

*“At first I hated it because when I went to school everyone knew what was happening to me and were like ‘ha, ha, you get beaten up’. But it’s not nice other people knowing about your business. I got used to it because people started realising how serious it is and it did actually help... because it led to other people such as the children’s teachers at school wanting to keep us safe.”* (United Kingdom, female, 19 years old (heard regularly in Scottish Children’s Hearings System since age eight), subject to care supervision order)

The children’s experiences and suggestions made very clear that many of the generic rights provided for in the Victims’ Rights Directive are particularly important for them, such as:

- the right to protection against inappropriate publicity and media attention (Article 21).

### 3.4. Extent to which children’s right to protection and privacy is met in criminal and civil proceedings (outcomes)

Table 10 provides an overview of the population of process and outcome indicators in criminal and civil law in the Member States surveyed based on the analysis of the children’s interviews. (For detailed tables analysing the population of individual indicators by country, see Annex 2.) As these indicators are populated using results from qualitative research, they should be read as indicative of a situation.

Table 10: Populating outcome indicators on the right to protection and privacy, by EU Member State

EU Member State	BG	DE	EE	ES	FR	HR	PL	RO	UK
Evidence on extent to which children felt protected and safe during proceedings	Partly implemented	Often not implemented	Usually implemented	Partly implemented	Often not implemented	Often not implemented	Often not implemented	Usually implemented	Often not implemented
Evidence on extent to which children were supported by specialists/ services during court proceedings	Often not implemented	Usually implemented	Usually implemented	Usually implemented	Usually implemented	Usually implemented	Often not implemented	Usually implemented	Usually implemented
Evidence on number of cases in which police, other officials, judges and legal practitioners working with children did not breach data protection policies	Usually implemented	Usually implemented	Usually implemented	Partly implemented	Usually implemented	Usually implemented	Usually implemented	Usually implemented	Often not implemented
Evidence on number of cases in which children had no contact with alleged offenders/perpetrators	Usually implemented	Usually implemented	Usually implemented	Partly implemented	Usually implemented	Usually implemented	Usually implemented	Usually implemented	Often not implemented

Usually implemented
  Partly implemented
  Often not implemented

Note: Where indicators are populated using results from qualitative research, they should be read as indicative of a situation.

Source: FRA, 2014-2016

### 3.5. Children’s and professionals’ perspectives

Taking both phases of FRA’s research together, professionals and children have shared their experiences regarding children’s participation in judicial proceedings. This gives a more holistic picture of how children are treated in criminal and civil proceedings, allowing similarities and differences in the two groups’ perspectives to be addressed. The evidence provided

by the professionals is often confirmed by what the children reported, but the different details highlighted by the two groups indicate different priorities and levels of importance. Many promising practices described by the professionals are also valued by the children, but their implementation often seems to be much less dependable than it appeared based on professionals’ interviews. Children also have difficulties with some practices recommended by professionals. Table 11 provides a comparative analysis of the professionals’ and children’s interview findings.

**Table 11: Right to protection and safety from children’s and professionals’ perspectives**

Professionals’ view		Children’s view
<b>Keeping children safe</b>		
Preventing contact with defendant before, during and after hearing	●	This is a key element for children to feel safe. None of the children who had met the defendant during the proceedings felt comfortable about it; most were frightened and some even decided not to continue testifying.
Child-friendly waiting rooms	●	Children frequently reported waiting in corridors and hallways of police stations and courts, sharing waiting spaces with parties to other cases as well as their own; this led to unwanted encounters with defendants and other uncomfortable and even threatening situations.
Separate entrances	●	Only a few children reported the use of separate entrances. Children were critical of the lack of coordination or escort outside court buildings, as well as court security measures not functioning properly.
Use of screens in courtroom	●	While this prevents defendants from seeing the children, this approach still leaves children feeling very uncomfortable.
Use of separate rooms or closed hearings	●	Very important for children to feel safe.
<b>Providing protective support</b>		
High importance of support services for children to feel safe	●	Not always systematically available and appointed.
Not to involve too many professionals	●	Children prefer support by one child-friendly professional with whom they can develop a trusting relationship.
Lack of human resources due to lack of time and heavy workloads	●	Children also noticed professionals’ lack of availability and time to meet their needs.
Protective support goes hand in hand with appropriate information throughout proceedings	●	Children more strongly stress the importance of sufficient information and its link to feeling safe. The lack of understanding and of appropriate information led to strong feelings of insecurity and anxiety.
<b>Privacy</b>		
Protection of child’s identity and privacy is mostly ensured	●	Most children found their privacy respected throughout proceedings, particularly in criminal proceedings and considering the role of media. However, when they are not informed about the further use of information they provide or who can see a video recording, they do not feel safe. Also, school visits by professionals involved in proceedings are seen as not respecting their privacy.
Barring family members from hearings in civil proceedings	●	Children feel very uncomfortable testifying in the presence of parents or siblings and are scared and concerned about the consequences in their family environment; they prefer to be able to choose who is present.

● Shared perspective                      ● Partly shared perspective                      ● Different perspective

Source: FRA, 2016



# 4

## Right to non-discrimination



Non-discrimination is a basic principle of international human rights law. The CRC (Article 2) considers non-discrimination a cross-cutting aspect applicable when implementing all articles of the convention. Protection from discrimination covers not only children but also their parents or legal guardians. The Council of Europe's guidelines identify non-discrimination, the best interests of the child, and dignity and the rule of law as fundamental principles of child-friendly justice. The professionals interviewed stated that non-discrimination is particularly important for children with disabilities and those with different national or ethnic backgrounds.

*"I was angry with him [judge] correcting us all the time. He was reading out my testimony from the prosecutor's office, and there were some typos on the computer printout. And he was like, 'in Polish, the nominative case is this or that [...]' There were typos in the transcript, and he was correcting them. If something wasn't right, he tried to be a Polish language purist." (Poland, female, 15 years old, victim and witness, domestic violence case)*

In the field of criminal law, key child protection measures in the area of non-discrimination are incorporated in:

- the generic rights of the Victims' Rights Directive: Article 9 (support from victim support services), Article 7 (right to interpretation and translation) and Article 23.2 (d) (right to protection of victims with specific protection needs during criminal proceedings, more specifically the right for interviews to be conducted with a person of the same sex as the victim in cases of sexual violence, gender-based violence or violence in close relationships);
- the Anti-Trafficking Directive (2011/36/EU), according to which children specifically are entitled to special support, such as translation and interpretation services (Article 11); education programmes (Article 18, Recital 6); psychosocial assistance (Article 14 (1),

Recital 22); and the appointment of a guardian (Article 14 (2), Article 16 (3), Recital 23).

Aside from the general non-discrimination principle present in constitutions and other generic legislation, provisions on non-discrimination against children as victims and witnesses in criminal proceedings on the grounds of age exist in Bulgaria, Croatia, Finland, Germany, Spain and the United Kingdom. Other than Poland and the United Kingdom (Scotland), all countries studied also recognise the importance of the principle of developing capacity, according to which children should be treated in an individualised manner, based not exclusively on their age but on their degree of maturity.

In family law proceedings, the right of children as victims and witnesses to interpretation and translation services is guaranteed by law in all countries studied except for France and the United Kingdom. Despite the lack of statutory provisions, however, court services in England and Wales do provide language interpreters in family proceedings. In some Member States, provisions do not cover children in all roles. For instance, Germany ensures the right to translation and interpretation only for those bringing a case (plaintiffs), not for witnesses and parties. Poland ensures this right only for child witnesses. Romania guarantees it to all children except those who are parties to the proceedings.

In both criminal and civil proceedings, the majority of children interviewed across the sample countries shared positive experiences of being treated fairly, seriously and respectfully during judicial proceedings. Again, professionals played a major role in children's positive assessments. If their behaviour was seen as open, respectful, attentive and warm, children also felt that they were treated fairly. When children were heard only once, the feeling of fair treatment was not affected by the nature of the hearing room. However, when

children had multiple hearings, they were especially likely to feel fairly treated (86 %) if at least one of the rooms used was child-friendly.

Despite the mainly positive view, some children felt discriminated against or treated unfairly because of their age. To a lesser extent, social background, ethnic origin, gender and role within proceedings were also reported as sources of discrimination or unfair treatment.

### Practices in numbers

Among those interviewed, whether involved in civil and/or criminal proceedings, 47 children (16 %) identified as having an ethnic, national or migrant background different from the majority population of the country in question. Children with a different ethnic, national or migrant background received more support (91 %) than those without (80 %). Nevertheless, the majority of them (80 %) regarded the information they received as insufficient – a higher proportion than among children without a different ethnic, national or migrant background (58 %).

Increased support acknowledges the specific additional needs of children with different ethnic, national or migrant backgrounds – for example, language support. Interestingly, children with minority ethnic, national or migrant backgrounds were more likely to be heard more than once than other children, indicating the need for further questions after a first hearing.

### Practices in numbers

Thirty-two of the children interviewed were identified as having some form of mental, intellectual or physical disability. Unlike the increased support received by children with a different ethnic or migrant backgrounds compared with children with a majority population background, the same proportion of children with a disability received support as those without a disability. When it comes to understanding proceedings, the group with the highest proportion unable to understand (35 %) were children with a disability. This compares with 17 % of children without a disability.

Furthermore, more children with a disability and children with minority ethnic and migrant backgrounds reported not receiving sufficient information than others. Children with a disability were more likely to be heard only once.

The data populating process and outcome indicators come from FRA’s interview-based research, which obtained children’s reports and assessments of certain states’ practices and procedures. (For a fuller description of the data analysis, see the methodology section in [Annex 1](#)). The first report on child-friendly justice is to be read in parallel with the present report; it presents data using results from the first phase of the fieldwork alone (i.e. interviews with professionals and the European Commission’s analysis of national legislation), populating structural indicators. (See [Table 12](#)).

**Table 12: Process and outcome indicators on the right to non-discrimination**

4. Respecting the child’s right to non-discrimination	
<b>Process indicators populated through evidence from interviews with professionals and children*</b>	
Measures and procedures	4.1. Ensuring the non-discriminatory treatment of children, including through the provision of guidelines and protocols to address and support non-discriminatory treatment and of specialised services and assistance to particularly vulnerable children
<b>Outcome indicators populated through evidence from interviews with professionals and children*</b>	
Results	Assessing measures in place and their impact
<b>Outcome indicators to be populated through evidence from interviews with children**</b>	
Results	4.2. Evidence of the extent to which children feel they have been treated fairly during proceedings**
	Use of services and assistance*

Notes: \* These indicators were partly populated in FRA’s first report. This report addresses both children’s and professionals’ perspectives, necessary to give a complete assessment of the outcomes.

\*\* This report is based on interviews with children, newly populating those outcome indicators through analysis of the quantifiable experiences and perspectives.

Source: FRA, 2014–2016



## 4.1. Ensuring the non-discriminatory treatment of children (process)

Many of the children found the concept of non-discrimination difficult to understand and were therefore able to discuss it only after researchers explained the topic in a child-friendly manner. The card with a text and drawing provided by FRA was very useful in many countries to help children understand the concept. It states: "No child should be treated unfairly just because he/she is a boy or a girl, he/she is poor or rich, he/she speaks a different language or has a different religion [...]". In general, children perceived the justice system as fair and believed that the professionals did not have discriminatory attitudes towards ethnic minorities, people with different social backgrounds or persons with disabilities, even if legal proceedings did not always facilitate their participation.

*"The court is very clear. Whether you're an aristocrat or less than nothing, it's the same for everyone."* (France, male, 17 years old, party, parental neglect case)

Children who reported unfair treatment gave various grounds for the discrimination, including social background, ethnic origin, gender or their specific role in the proceedings. Age-related discrimination was reported most frequently.

*"In relation to children, discrimination means that our opinions don't count because we're children and our opinions are not treated seriously. Adults think that children at the age of almost 14 don't know what they're talking about."* (Poland, female, 14 years old, victim, domestic violence case)

Children who reported age discrimination were mainly involved in civil proceedings. The different dynamics and forms of discrimination that this group identified were largely dependent on age. Those below 14 generally felt they were not taken seriously. Those over 14 felt they were treated like adults and thus deprived of protective measures. Conversely, some in this group also felt that they were not treated according to their age and maturity.

*Interviewer: "Do you think the people you met during the proceedings pay attention to children?"*

*Child: "The last time that I saw the judge I saw that she wasn't interested in me. She spoke to my [older] sister, or my mother. But not to me. The first time it was the same. I would have liked them to have spoken to me. [...]"*

*Interviewer: "Do you think according to age, or gender, there are differences?"*

*Child: "I don't know. When I saw the judge, she totally didn't care, both times."* (France, male, 12 years old, party, parental neglect case)

*"The [judge of the higher regional court] just didn't do what I want and actually, he didn't even listen to me; he interrupted me and said his things."* (Germany, male, 10 years old, party, custody case)

Children under 14 indicated that their opinions were not taken into account as they would have been if they had been adults, and that they were not listened to or even questioned during hearings, undermining their right to participation.

*"I realised that when growing up my choices were granted a bit more importance, and it's a thing I regretted, a child who is five, 10 or 15 years old, her or his choices are just as important."* (France, female, 17 years old (heard at ages six and 17), party, parental neglect case)

*Child 1: "She speaks more to adults than us. I think she takes us for liars."*

*Interviewer: "She takes you for liars, because you are children?"*

*Child 2: "Yes."*

*Child 1: "Yes."*

*Interviewer: "She does not take you seriously?"*

*Child 2: "No."*

*Child 1: "No, she takes us for big liars."* (France, female, 11 and nine years old, parties, parental neglect case)

Children over 14 involved in civil proceedings indicated that professionals treated them like adults rather than children who need specific protection. They believed that younger children's views were given more weight, partly because some were heard together with younger siblings and perceived a difference in treatment. This group of teenagers also stated that they did not receive as much information as adults and therefore found their conditions even more difficult. A few children also found that adults generally enjoy more rights because they can defend themselves better than children – for example, by filing a complaint against the judge.

*"Well, I think if I was younger that it would be taken into account more, because then I would be small and it would matter where I am and what would be easier for me and all that."* (Croatia, female, 15 years old, party, custody case)

*"Because they know that adults can defend themselves better than children can."* (Germany, male, 10 years old, party, custody case)

Children also criticised communication as tending to be rather condescending in approach and content, rather than tailored to their actual age. They sometimes conveyed feeling as though their maturity had not been taken into account when they were heard in environments that were "too childish".



*"But I think we were at the age where they overlook it, in both ways, they don't need any toys but they won't mind being in a room full of toys." (United Kingdom, female, 19 years old (heard at age 15), party, custody case)*

There were also children who believed that they experienced positive discrimination due to their age, mainly in cases where they were involved in criminal proceedings in which procedures adapted to their age were available. These children felt they were treated better and more gently than adults. Some came to this conclusion by comparing their experience in court with that of adult relatives.

*Interviewer: "Did you feel like you were treated fairly in the courtroom?"*

*Child: "Yeah."*

*Interviewer: "What did they do that made you think that they treated you fairly?"*

*Child: "Just the way they spoke to me, and said questions and stuff. And they weren't nasty, they just said it in a nice way.... I don't actually know how they spoke to my aunty. She said it wasn't very nice, and they were just like making out to her being a liar." (United Kingdom, female, 17 years old, victim, sexual abuse case)*

Only a few children opined that the judicial system was sometimes discriminatory against individuals without sufficient economic resources.

*Interviewer: "Do you feel that there may be discrimination in the way people are treated by justice?"*

*Child: "I don't know, I think so. For example, among the judges, etc., they liked me because I spoke, but I wonder if someone more introverted... or I don't know, for example, if my friends from high school, someone who speaks with an accent from a disadvantaged neighbourhood, wonder if in this case, they might be put into categories. Sometimes I wonder if it would not be considered a bit more normal if it happened to a girl from a disadvantaged neighbourhood. Because the psychoanalyst who helped me, my parents could afford to pay her. The lawyer didn't come into it because she was a duty lawyer, but the psychoanalyst at €50 per session, one session per week ..." (France, female, 22 years old (heard from age 15 to 19), victim, sexual abuse case)*

To a lesser extent, some children described professionals treating them disrespectfully because of their social background or status – for example, if the children were from dysfunctional families. Others complained that the defendants were treated better because they were respected members of the local community or originally from wealthy families. Some children also spoke of being treated differently during proceedings because they were in foster or institutional care.

*Child: "Well, actually I have been thinking that the judge was doing it in spite of me. That all of them are on his side, not mine."*

*Interviewer: "And can he be considered a more trustworthy persons than you are? Say, is he respected, a man with a position?"*

*Child: "Actually he is a respected man. And that was why I thought the judge was on his side, not mine." (Poland, female, 18 years old, victim, sexual abuse case)*

*"[T]hey looked at me and my family as the scum of the earth... they were constantly putting my mum and dad down rather than when they were doing well in life... At school I was getting slagged 24/7, 'she's a kid in care blah, blah, blah'... and the whole community unit and enforcement homes and children's units I would be slagged as well... I feel that young people in care still are discriminated about." (United Kingdom, female, 18 years old (heard regularly in Scottish Children's Hearings System since age nine), subject to care supervision order)*

A few children also described experiencing different treatment due to their ethnic origin – such as children of Roma ethnicity in Bulgaria and Spain, Russian-speaking children in Estonia, and French children of different ethnicity than the majority population.

*Child: "There was one who said to me, during a check, 'Where do you come from?' 'Ethiopia.' 'Are there are still people alive down there?'... But there are some who are good, I'm talking about an older one, who is severe, who checks me regularly, but there is respect, not contempt for a minor."*

*Interviewer: "Do you think it has to do with the fact that you're a minor?"*

*Child: "I think there are those who lack power in their lives, and having power over us, they take advantage. As keepers of the peace, they should question themselves, there should be psychological support, for example."*

*Interviewer: "If you had been different, a boy, for example, or not of Ethiopian origin, would it not have happened like this? With the police officers? Do you think they make a racist distinction?"*

*Child: "I do not feel discriminated against because of race. Maybe some comments on age." (France, female, 16 years old party, institutional placement measure case)*

A few children also mentioned gender-based discrimination, mainly those involved in criminal proceedings, including both males and females. For instance, in Romania, a few girls involved in sexual abuse cases felt they were treated differently by professionals because of social prejudices concerning women and cultural beliefs. A few boys also believed that professionals treated them differently from girls or people with disabilities.



*Child: "It is not so bad to talk to the police, but for a girl it is not nice to talk to the police, they think... because afterwards people see her like a criminal, like a ... God knows what afterwards."*

*Interviewer: "You mean that if a boy talked to the police there would be a difference?"*

*Child: "It would be different, because for a boy, a man it would be different from a personality perspective, but it would not be OK for a girl."* (Romania, female, 17 years old, party, institutional placement measure case)

*"[The policemen and the judge] would have been kinder, better behaved"* (Croatia, male, 15 years old, victim, physical abuse case)

A few children also found that their treatment differed depending on their role in proceedings, which can lead to discrimination. For instance, a few children stated that defendants enjoyed more rights than child victims and they felt that defendants' needs were placed before theirs.

*"Yeah, because I felt like they were all on his side, going by his times when he had hospital appointments, not going [by] my times."* (United Kingdom, female, 17 years old, victim, sexual abuse case)

In cases where children were accused of crimes, the child victims repeatedly complained that suspected children enjoyed more rights than they did. They therefore felt treated unfairly during proceedings, as they perceived suspected children to have been better protected than them, against the victims' best interests. One child involved in multiple proceedings felt discriminated against because of a professional's public comments during the hearing about her role as an offender in other proceedings.

*"And in the end he also said to me I should go to school and should do my service hours, I mean, he said it in front of them all. And I said I have finished my service hours and go to school."* (Germany, female, 16 years old, victim, robbery case)

Some children who were involved in criminal and civil proceedings were able to compare their experiences.

They indicated that their statements were taken into consideration in criminal proceedings, whereas in civil proceedings professionals did not take their opinions seriously.

*"The first interrogation in the criminal proceedings, where no, I had the feeling that whether I was a child or an adult, it changed nothing for the police. I was there, that's it. The fact that my social workers... when I wanted to do my statement again, it was the contrary, it was 'you're only a child, you're fostered because it's not going well with your mother, you want to make a complaint against her, we won't let you, it's just revenge'. Whereas no, it wasn't revenge. I knew some things. I needed to be listened to and taken seriously, and no they weren't there."* (France, female, 17 years old, party, parental neglect case)

The sample included a small number of children with disabilities; none of them reported feeling discriminated against or facing physical barriers during hearings. However, data gathered by the researchers show that their specific needs were not always met. The children interviewed were not able to provide information on specialised services and assistance.

## 4.2. Extent to which children's right to non-discrimination is met in criminal and civil proceedings (outcome)

The children did not find it easy to assess whether or not their right to non-discrimination was respected. They tended not to feel discriminated against.

Table 13 provides an overview of the population of process and outcome indicators in criminal and civil law in the Member States surveyed based on the analysis of the children's interviews. (For detailed tables analysing the population of individual indicators by country, see Annex 2). As these indicators are populated using results from qualitative research, they should be read as indicative of a situation.

Table 13: Populating outcome indicators on the right to non-discrimination, by EU Member State

EU Member State	BG	DE	EE	ES	FR	HR	PL	RO	UK
Evidence of extent to which children feel they were treated fairly during proceedings	Usually implemented	Partly implemented	Partly implemented	Partly implemented	Partly implemented	Partly implemented	Often not implemented	Often not implemented	Often not implemented

Usually implemented
  Partly implemented
  Often not implemented

Note: Where indicators are populated using results from qualitative research, they should be read as indicative of a situation.

Source: FRA, 2014-2016

### 4.3. Children’s and professionals’ perspectives

Taking both phases of FRA’s research together, professionals and children have shared their experiences with children’s participation in judicial proceedings. This gives a more holistic picture of how children are treated in criminal and civil proceedings, allowing similarities and differences in the perspectives of the two groups to be addressed. Often the evidence provided by

the professionals is confirmed by what the children reported, but the different details highlighted by the two groups indicate different priorities and levels of importance. Many promising practices described by the professionals are also valued by the children, but their implementation often seems to be much less dependable than it appeared based on professionals’ interviews. Children also have difficulties with some practices recommended by professionals. [Table 14](#) provides a comparative analysis of the professionals’ and children’s interview findings.

**Table 14: Right to non-discrimination from children’s and professionals’ perspectives**

Professionals’ view		Children’s view
<b>Grounds for discrimination</b>		
Professionals refer to potential discrimination related to ethnic or national background or migration status or various, mainly physical, disabilities	●	Children primarily refer to age as a potential ground for discrimination, either being not taken seriously or being treated like adults.
<b>Non-discriminatory treatment</b>		
Professionals give several examples of lack of adequate support for children with disabilities, but also acknowledge that they only rarely work on cases involving children with disabilities	●	While only a few children with disabilities were interviewed, none of them directly reported any discriminatory treatment. However, that some lacked an understanding of proceedings could be related to not receiving adequate support in accordance with their needs.
Professionals from some countries consider Roma children particularly vulnerable	●	There are some examples of Roma children feeling discriminated against. Among those who did not report discrimination, many often failed to understand the judges’ questions or the purposes of their involvement in proceedings; this may be linked to language barriers and a lack of support.
Lack of translation services for ethnic minorities and unaccompanied children	●	Practices vary in the different countries researched. The lack of translation services was confirmed in some countries; in others, ethnic minorities and unaccompanied children reported that such services were usually available.

● Shared perspective                      ● Partly shared perspective                      ● Different perspective

Source: FRA, 2016



# 5

## Principle of the best interests of the child



The Council of Europe guidelines identify the best interests of the child as one of the four fundamental principles of child-friendly justice. The Committee on the Rights of the Child<sup>33</sup> has pointed out “that an adult’s judgment of a child’s best interests cannot override the obligation to respect all the child’s rights under the Convention. It recalls that there is no hierarchy of rights in the Convention; all the rights provided for therein are in the ‘child’s best interests’ and no right could be compromised by a negative interpretation of the child’s best interests.” Children’s participation is strongly linked to their best interests being met, as also expressed in Article 24 of the Charter of Fundamental Rights of the European Union.

*“That’s what I wanted, and that’s what I got. It all turned out OK, all right. That was great.”* (Croatia, male, 17 years old, party, custody case)

In criminal law, provisions stipulating that victims in general and children specifically should be provided assistance, support and protection, taking into account their best interests, are found in:

- the Victims’ Rights Directive, in Article 1 (2) (objectives) and Recital 14 (best interests and child-sensitive approach);
- the Directive on combating sexual abuse and sexual exploitation of children and child pornography (2011/93/EU), in Article 18 (general provisions on assistance, support and protection measures for victims);
- the Anti-Trafficking Directive (2011/36/EU), in Article 13 (general provisions on assistance, support and protection measures for victims of trafficking in human beings).

In civil law, the child’s best interests are addressed in:

- Regulation Brussels IIa (Regulation 2201/2003).

The definition of the best interests principle varies between countries, with EU Member States incorporating it into their national legal frameworks differently. Among the 10 Member States studied, Croatia and Spain include it in their constitutions, while the others include it in relevant specific criminal, civil or child protection legislation. Finland and the United Kingdom have developed legislation in the area of civil law to help judges assess the best interests of the child in proceedings.

Most of the children interviewed did not understand the principle of ‘best interests’. The notion seemed too abstract for them and professionals did not appear to provide information on it. Some children were able to discuss the issue only after researchers provided a child-friendly explanation. The card with a text and drawing provided by FRA to help children understand the concept was very useful in many countries. The text reads as follows: “When adults make decisions about you, they should think if this decision is best for you. For example, when parents are divorcing, the decision where and who the child should live with, should be taken thinking about what is best for the child, not what is best for the mother or the father.” It was not clear to children whether, in reality, professionals applied the best interests principle.

The data populating process and outcome indicators derive from FRA’s interview-based research, which obtained children’s reports and assessment of certain states’ practices and procedures. (For a fuller description of the data analysis, see the methodology section in Annex 1). The first report on child-friendly justice is to be read in parallel with the present report; it presents

<sup>33</sup> UN Committee on the Rights of the Child (2013).

Table 15: Process and outcome indicators on the principle of best interests

5. Respecting the principle of best interests	
<b>Process indicators populated through evidence from interviews with professionals and children*</b>	
Measures and procedures	5.1. Ensuring that the best interests of the child are identified and met
<b>Outcome indicators populated through evidence from interviews with professionals and children*</b>	
Results	5.1. Assessing measures in place and their impact
<b>Outcome indicators to be populated through evidence from interviews with children**</b>	
Results	5.2. Evidence of the proportion of children who feel that their best interest was met

Notes: \* These indicators were partly populated in the first report. This report addresses both children's and professionals' perspectives, necessary to give a complete assessment of the outcomes.

\*\* This report is based on interviews with children, newly populating those outcome indicators through analysis of the quantifiable experiences and perspectives.

Source: FRA, 2014–2016

data using results from the first phase of the fieldwork alone (i.e. interviews with professionals and the European Commission's analysis of national legislation), populating structural indicators. (See Table 15).

## 5.1. Ensuring that the best interests of the child are identified and met (process)

In both criminal and civil proceedings, half of the children indicated that their best interests were met, generally meaning that the outcome benefited them or they perceived judicial proceedings as child-friendly and fair. Some children who initially felt the outcome was not in their best interests acknowledged that, once they received an explanation from professionals, their perception shifted to believing that their best interests were in fact served.

When children cited child-friendly proceedings as proof of their best interests being met, they spoke specifically about child-friendly professionals or feeling safe (e.g. because the defendant was absent or they were protected from violence).

*Interviewer: "Were your best interests taken into account in the whole proceedings? [...]"*

*Child: "I think they were because they provided safety, and I was with my mum and it was peaceful in that centre. This was the child's best interests." (Poland, male, 16 years old, victim, domestic violence case)*

*Child: "For the last hearing I had, yeah, because the lady asked me if I still wanted to stay or not, and I had said yes, because I fear that if I were at home I could not improve my behaviour, and stuff like that, my bad behaviour, I would have continued. And the foster home, it's just a passage as they say, and yes, I know they can still help you, with independence, life, and all that, they can help you. [...]"*

*Interviewer: "Do you think that this fostering decision was taken in your best interests?"*

*Child: "More in terms of safety, yes. Not just my own. They wanted safety I think. For my sisters too, and my mother. But more for safety, yes, I feel, it's safe there." (France, male, 17 years old, party, institutional placement measure case)*

Children also mentioned that professionals – for example, guardians or solicitors – explained why practices were seen to be in their best interests.

*Child: "My solicitor definitely did tell me that it is not possible that I can get you into court, because you have to be protected and you don't want to see your parents in a certain manner in court. But I don't know really."*

*Interviewer: "OK, so there was an explanation, and it sounds as if for you it was something about the age you are and how you feel about what you can cope with, and how the system says something else."*

*Child: "I don't think it is anyone's fault, obviously it is just 'laws are laws'. They have to stick to their job." (United Kingdom, male, 15 years old, party, custody case)*

Children who believed their best interests were not met either cited dissatisfaction with proceedings' outcomes or believed that proceedings had elements contrary to their best interests, often in relation to a lack of procedural safeguards, prioritisation of the rights of others or repetitive hearings. In both criminal and civil proceedings, children usually mentioned outcomes to





convey that their best interests were served when they met expectations. This may also explain why children with ongoing proceedings had difficulty assessing whether or not their best interests were met or considered in proceedings.

Child victims involved in criminal proceedings indicated that their best interests were not met when they perceived sentences as lenient or they were non-custodial, the defendant was found not guilty or the final verdict had considerable repercussions on their future. In civil proceedings, some children involved in foster care or child protection measures cases viewed their best interests as inseparable from their parents'. They also often felt that placement in foster or residential care did not meet their best interests if they were separated from their parents. However, other children involved in such cases were satisfied by such decisions, as this protected them.

*"The decision made was not good, because it has just made things worse than what it would be. Like, being called names for no reason, I can't go out... it's not been in my best interests at all."* (United Kingdom, female, 16 years old, victim, sexual abuse case)

*Interviewer: "What do you think overall of the decisions taken by the judge on each occasion? Do you feel she decides what is best for you or for others?"*

*Child 1: "She decides nothing."*

*Interviewer: "Does she decide what is best for you?"*

*Child 1: "No."*

*Interviewer: "Who do you think she makes the decisions for then?"*

*Child 1: "I do not know but in any case it is not for us."*

*Child 2: "Me, I feel that everything she says is for [the social worker] and so that we still stay in our foster families."*

*Child 1: "She wants us to stay in our foster families till we are 18."*

*Interviewer: "And you, do you feel that is best for you?"*

*Child 1 and Child 2: "No."* (France, female, 11 and nine years old, parties, parental neglect case)

*Interviewer: "Was the court's decision about where you should stay, with whom you should live, taken in your best interests?"*

*Child: "Yes, because it sometimes happens that children want to come back home but they can't because their parents abuse alcohol, beat children. In this case it's better for them to stay at a centre because no one drinks there and beats them."* (Poland, male, 11 years old, party, institutional placement measure case)

*Interviewer: "Happy. OK. Happy, yeah. Did the judge explain the decision to you?"*

*Child: "Yes, he said, he said 'Ms P., or Miss, I am putting you in care for a year.'"*

*Interviewer: "And you were happy. To have your say."*

*Child: "Yes."*

*Interviewer: "Did you feel ..."*

*Child: "Well, I was glad to know he wanted to protect me."*

*Interviewer: "Yeah, that's how you understand his decision?"*

*Child: "Yes. [...]"*

*Interviewer: "Yeah. OK. Do you think that this decision was made in your best interests?"*

*Child: "I do not know. I really do not know."*

*Interviewer: "Or is it more in the interest of adults, or more in your own best interests?"*

*Child: "It is to protect me."*

*Interviewer: "To protect you."*

*Child: "More for my protection."*

*Interviewer: "Right. And do you think that a judge is more... their work, for a children's judge?"*

*Child: "To protect children."*

*Interviewer: "Right. And again you think the judge has heard you, he listened to you?"*

*Child: "Yes. He listened to me, it is mainly that."*

(France, female, 15 years old, party, educational support measure case)

Some children conveyed that they better understood decisions when professionals explained the outcome and their best interests to them. Some children recognised that a verdict contrary to their initial wishes or expectations could ultimately be in their best interests. For example, the majority of children involved in the Scottish Children's Hearings System acknowledged that with age they understood decisions to be appropriate that they had previously found contrary to their best interests.

*Interviewer: "The decisions that were made about you, like I said, didn't always necessarily go the way you wanted."*

*Child: "There was one. I once got to stay on the same site, because I always get moved to different homes. And I once, me and my wee bro settled into [name of home]." (United Kingdom, male, 19 years old, party, care supervision order case)*

For others, the outcome was not decisive in appraising whether or not their best interests had been met; these children rather based their opinions on the judicial proceedings themselves. They mentioned specific elements of proceedings that did not serve their best interests, including meeting defendants; the prioritisation of the rights of others, such as defendants or their parents, over their own; a lack of information; non-child-friendly professionals; discrimination; being heard in non-child-friendly locations; and lengthy, non-child-friendly proceedings.

In criminal proceedings, children felt that meeting the defendant at any stage of the hearing ran against their best interests. Moreover, they indicated that fulfilment of their best interests was restricted by the greater weight given to adult defendants' rights or the protection of child suspects in juvenile court law proceedings. This was linked with the perception of unfair treatment.

Some children felt that the process itself was not in their best interests, as they lacked control over it and did not find it child-friendly overall. Other children mentioned that they would have liked further explanation of their best interests from professionals.

*"I didn't think she [police officer] was going to tell, because I had made her promise that she wouldn't, but she did... I was really angry the whole time, I didn't want to say anything, but I had to... I felt like an awful person, because I thought I could have just put someone in jail, I hated it. But everyone was like, 'it's not your fault, he's put himself in jail'. But if I hadn't said... No I wouldn't, even though I think it's good to tell, I wouldn't want anyone to have to go through the whole process. I didn't even have to go to court and I felt it was horrible."* (United Kingdom, female, 14 years old, victim, sexual abuse case)

*"Yes... I think they took it [the child's best interests] into account but the thing is that I thought some things were not fair, and even if I thought it was not fair they did it anyway; they need to understand that they have to explain to me more or less what is best for me."* (Spain, female, 14 years old, victim, sexual abuse case)

Other children considered the long time period from the trial to the verdict to be contrary to their best interests, as it affected their education and confidence levels and sometimes gave the defendant the opportunity to threaten them or their families.

*"I had all my exams and everything and that put me off my exams. I failed half of them because I couldn't concentrate in them. I was missing all my studying time... I felt like giving up because they had been messing me about for so long."* (United Kingdom, female, 17 years old, victim, sexual abuse case)

In civil proceedings, children also indicated that lengthy proceedings and multiple hearings were contrary to their best interests. In custody cases, children mentioned that parents' rights, such as visitation rights, restricted fulfilment of their best interests. Some children reported efforts by parents to manipulate them, deeming these contrary to their best interests. In child protection cases, some children said that their best interests were not met because they felt their feelings and wishes were not taken into consideration.

In conclusion, children who perceived the outcome as positive, or legal proceedings and their elements as child-friendly, assessed their best interests as having been served.

## 5.2. Extent to which children's best interests are met in criminal and civil proceedings (outcome)

Table 16 provides an overview of the population of process and outcome indicators in criminal and civil law in the Member States surveyed based on an analysis of the children's interviews. (For detailed tables analysing the population of individual indicators by country, see Annex 2). As these indicators are populated using results from qualitative research, they should be read as indicative of a situation.

Table 16: Populating outcome indicators on the principle of the best interest of the child, by EU Member State

EU Member State	BG	DE	EE	ES	FR	HR	PL	RO	UK
Evidence of number of children who feel that their best interest was met	Partly implemented	Usually implemented	Often not implemented	Usually implemented	Often not implemented	Usually implemented	Usually implemented	Often not implemented	Often not implemented

Usually implemented
  Partly implemented
  Often not implemented

Note: Where indicators are populated using results from qualitative research, they should be read as indicative of a situation.  
Source: FRA, 2014–2016

### 5.3. Children's and professionals' perspectives

Taking both phases of FRA's research together, professionals and children have shared their experiences with children's participation in judicial proceedings. This gives a more holistic picture of how children are treated in criminal and civil proceedings, allowing similarities and differences in the perspectives of the two groups to be addressed. Often the evidence provided by

the professionals is confirmed by what the children reported, but the different details highlighted by the two groups indicate different priorities and levels of importance. Many promising practices described by the professionals are also valued by the children, although their implementation often seems to be much less dependable than it appeared based on professionals' interviews. Children also have difficulties with some practices recommended by professionals. Table 17 provides a comparative analysis of the professional's and children's interview findings.

**Table 17: The principle of best interests from children's and professionals' perspectives**

Professionals' view		Children's view
<b>Ensuring the best interests of the child</b>		
Just sentences and decisions	●	In criminal proceedings: best interests are met when defendants are punished; not met when sentences are lenient or defendants not imprisoned. In civil proceedings: parental rights are often seen as being prioritised. In foster care cases, children often did not see how their best interests were met if they were separated from their parents.
Child-friendly proceedings, discrepancies between rights of the child and those of parents	●	Re-traumatisation during proceedings can be avoided particularly by reducing their length and repetitive hearings.
Explanations of the best interests principle	●	Explanations help children better understand decisions and whether or not professionals considered their best interests, even if the outcome is not in line with their wishes.
A systematic process to identify and assess the best interests of the child and report in consequence is needed	●	Process does not seem to be systematically in place, as children do not report on it.

● Shared perspective

● Partly shared perspective

● Different perspective

Source: FRA, 2016



## In conclusion

FRA's research provided children and professionals a platform to share their experiences and perspectives on how children involved in judicial proceedings are treated. Their responses show that children very much appreciate the opportunity to participate and be heard, but that certain requirements must be met for them to feel safe and comfortable. These requirements are strongly in line with the Council of Europe's *Guidelines on child-friendly justice*.

Professionals and their behaviour is a key factor determining whether justice is deemed "child-friendly". The research makes clear that children heard by trained professionals are less frightened and intimidated. They are also more appropriately informed, meaning that they can make better use of their rights and be less influenced by others in their statements. This underlines the importance of training for all professionals in contact with children, as well as of clear, consistent standards and guidelines on how to inform, hear and support children throughout proceedings.

The interviewed children provided many examples of procedures that hindered them from expressing

their views and participating freely and effectively. They also indicated what is important to them, giving many concrete suggestions for improving procedures. Similarly, professionals articulated specific steps that are necessary to make judicial proceedings child-friendly.

In line with the identified need to develop guidelines and protocols, FRA has produced two checklists that capitalise on the insights provided during the interviews. The checklists can help ensure that practices and procedures are standardised across regions and professional groups. [Checklist 1](#) identifies key conditions that are necessary for ensuring that proceedings are child-friendly. In the event that these are not in place, [Checklist 2](#) proposes corrective actions. In addition, promising practices that should help in implementing the recommendations are identified.

While the research underscores that much remains to be done to make justice truly child-friendly, following up on the issues identified in this report would bring important progress in ensuring that children can participate more fully in judicial proceedings.





# Checklist 1

## Actions to be taken for children to feel that proceedings are child-friendly

When these conditions are met, a child can feel safe and comfortable and thus express his or her views freely and participate effectively.

## Will the child be able to exercise his or her right to be heard?

- ✓ Professionals should clearly acknowledge this right

## Is the child receiving professional and personal support?

- ✓ Professional support might include social workers and psychologists
- ✓ A person of trust is somebody chosen by the child

## How can the child be informed about the proceedings and his or her rights?

- ✓ Through oral and written information
- ✓ Information adapted to the child's age, maturity, level of understanding and any communication difficulties
- ✓ Using child-friendly, visual material

## What helps prepare the child for the hearing?

- ✓ Preparation should be shortly before the hearing
- ✓ Preparatory, child-friendly meetings and visits
- ✓ Identification of specific needs

## What should the child be asked about before the hearing?

- ✓ Location and timing
- ✓ Accompanying person of trust
- ✓ Presence of people
- ✓ Protective measures
- ✓ Person conducting the child's hearing (gender/profession)

## What measures help make a hearing child-friendly?

### *Before the hearing*

- ✓ Behavioural guidelines
- ✓ Short waiting time
- ✓ Child-friendly waiting area

### *During the hearing*

- ✓ Child-friendly hearing room outside court
- ✓ Child-friendly behaviour by everybody
- ✓ Low number of people present
- ✓ Absence of defendant or other parties
- ✓ One person hearing the child
- ✓ Language adapted to age and maturity
- ✓ Appropriate questioning techniques
- ✓ Not of excessive length, maximum one hour

### *After the hearing*

- ✓ Feedback and information about the next steps

## What measures help to prevent several hearings?

- ✓ Video recording (criminal cases)
- ✓ Cooperation and exchange of information among all professional groups involved

## What follow up is needed?

- ✓ Further support for the child and family available
- ✓ Information about/explanation of the decision and further potential support
- ✓ Short timeframe between the hearing and the decision
- ✓ Decision accompanied by an explanation



## Checklist 2

### **Actions to be taken if proceedings are not yet child-friendly**

If conditions outlined in Checklist 1 are not met, proceedings are not child-friendly and revisions to procedures are required.

### **If the child is not informed about the proceedings and his or her rights then:**

- √ Relevant authorities have to check that the:
  - o child receives support;
  - o child is informed.

### **If the child is not prepared for the hearing then:**

- √ The support person has to check that the:
  - o child is appropriately informed;
  - o child is prepared for the hearing.

### **If the child does not have a choice about how to be heard then:**

- √ The support person and person hearing the child have to check that the:
  - o child gets a choice in how the hearing is done;
  - o child gets a chance to liaise with the person hearing him or her.

### **If child-friendly preparation for the hearing and child-friendly settings are not secured then:**

#### *Before the hearing*

- √ The person hearing the child has to check if the:
  - o child understands his or her rights;
  - o child understands the proceedings.

#### *Throughout the hearing*

- √ The support person and/or accompanying person of trust have to check if child-friendly conditions are applied and intervene if necessary:
  - o before the hearing;
  - o during the hearing;
  - o after the hearing.

#### *After the hearing*

- √ All professionals involved should agree on the follow-up.

### **If one hearing is not sufficient then**

- √ The person hearing the child and/or support person have to check if next steps are clear and what steps are required.
- √ If a second hearing is needed then:
  - o questions should not be repetitive;
  - o the hearing should be conducted by the same professional;
  - o information should be shared among professionals.

### **If there is no follow-up then:**

- √ Proceedings can be concluded only if follow-up is secured and reported.





# References

- Council of Europe (2007), *Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse*, CETS 201, 25 October 2007.
- Council of Europe, Committee of Ministers (2010), *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice*, Strasbourg, Council of Europe Publishing.
- Council of Europe (2011), *Convention on preventing and combating violence against women and domestic violence*, 11 May 2011.
- European Commission (2011), *An EU agenda for the rights of the child*, COM(2011) 60 final, Brussels.
- European Commission (2015a), *Summary of contextual overviews on children's involvement in criminal judicial proceedings in the 28 Member States of the European Union*, Luxembourg, Publications Office of the European Union (Publications Office).
- European Commission (2015b), *Summary of contextual overviews on children's involvement in civil and administrative judicial proceedings in the 28 Member States of the European Union*, Luxembourg, Publications Office of the European Union (Publications Office).
- European Commission (2015c), *Children's involvement in criminal, civil and administrative judicial proceedings in the 28 Member States of the EU*, Policy brief.
- European Commission (2015d), Online Database, *Data on children in judicial proceedings in EU28*.
- FRA (European Union Agency for Fundamental Rights) (2009), *Child trafficking in the EU – Challenges, perspectives and good practices*, Luxembourg, Publications Office.
- FRA (2010a), *Developing indicators for the protection, respect and promotion of the rights of the child in the European Union*, Vienna, FRA.
- FRA (2010b), *Separated, asylum-seeking children in European Union Member States*, Luxembourg, Publications Office.
- FRA (2012), *Child rights indicators in the field of family justice*, Background paper, Vienna.
- FRA (2014a), *Guardianship for children deprived of parental care – A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking*, Luxembourg, Publications Office.
- FRA (2014b), *Violence against women: an EU-wide survey. Main results report*, Luxembourg, Publications Office.
- FRA (2014c), *Victims of crime in the EU: the extent and nature of support for victims*, Luxembourg, Publications Office.
- FRA (2015a), *Child-friendly justice – Perspectives and experiences of professionals on children's participation in civil and criminal judicial proceedings in 10 EU Member States*, Luxembourg, Publications Office.
- FRA (2015b), *Violence against children with disabilities: legislation, policies and programmes in the EU*, Luxembourg, Publications Office.
- FRA (2016a), *Handbook on European law relating to access to justice*, Luxembourg, Publications Office.
- FRA (2016b), *Monthly data collection: Children*, March 2016.
- FRA (2016c), *Monthly data collection: Family tracing and family reunification*, September 2016.
- FRA (2016d), *Current migration situation in the EU-separated children*, December 2016.
- Keller-Hamela, M. (2007), *I'm going to court* (Idę do sądu).
- Lamb, M. E., Orbach, Y., Hershkowitz, I., Esplin, P. W. and Horowitz, D. (2007), 'Structured forensic interview protocols improve the quality and informativeness of investigative interviews with children: A review of research using the NICHD Investigative Interview Protocol', *Child Abuse and Neglect*, Vol. 31, No. 11–12, pp. 1201–1231.
- Livingstone, S. M. and Bovill, M. (eds) (2001), *Children and their changing media environment: A European comparative study*, Mahwah, NJ, Lawrence Erlbaum Associates, pp. 31–50.
- Livingstone, S. M. and Lemish, D. (2001), *Doing comparative research with children and young people*, London, LSE Research Online.
- OHCHR (2012), *Human Rights Indicators – A guide to measurement and implementation*, HR/PUB/12/5. Szillat, A. (2011), *Justine und die Kinderrechte*, Neureichenau, Edition Zweihorn.
- United Kingdom, Crown Prosecution Service (2013), *Code of Practice for Victims of Crime*.
- United Nations Convention on the Rights of the Child* (CRC), 20 November 1989.
- United Nations (UN), Committee on the Rights of the Child (2013), *General comment No. 14 on the right of the child to have his or her best interests taken as a primary consideration*, CRC/C/GC/14.
- United Nations (UN), Committee on the Rights of the Child (2009), *General comment No. 12 on the right of the child to be heard*, CRC/C/GC/12.







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## HELPING TO MAKE FUNDAMENTAL RIGHTS A REALITY FOR EVERYONE IN THE EUROPEAN UNION

Around 2.5 million children participate in judicial proceedings across the European Union (EU) every year, affected by parental divorce or as victims of, or witnesses to, crime. Although their effective participation in such proceedings is vital for improving the operation of justice, the treatment of children in justice systems remains a concern. The European Union Agency for Fundamental Rights (FRA) investigated to what extent children's rights to be heard, to be informed, to be protected, and to non-discrimination are fulfilled in practice. This included extensive interviews with both professionals and children involved in judicial proceedings. The first report presented professionals' views. The current report focuses on the perspectives of children, outlining their views on factors that impede their full participation and on efforts that can help overcome such barriers. Like the first report, it underscores that much remains to be done to make justice across the EU truly child-friendly.

