

European Progress in Achieving Child Friendly Justice

Council of Europe Coordinator on Children's Rights

1. The Council of Europe Guidelines on Child friendly Justice

In November 2010, the Council of Europe adopted Guidelines on Child-friendly justice intended **to enhance children's access to and treatment in justice**. Based on existing European and international standards the guidelines are designed to guarantee children's effective access to and adequate treatment in justice systems. Since its adoption, intensive awareness raising work has been conducted at national, European and global level to explain the main principles of the Guidelines and concrete steps which can be taken to achieve a justice system which is more accessible and child-friendly.

These Guidelines apply to all the circumstances in which children are likely, on any ground and in any capacity, to be in contact with the criminal, civil or administrative justice system. They recall and promote the principles of the best interests of the child, care and respect, participation, equal treatment and the rule of law.

During the drafting process, the Council of Europe listened directly to children and young people and took their views into account. The Guidelines benefited of the very concrete input of almost 4000 children from 25 countries that were consulted during its preparation, many of them having been in contact with the justice system. Their comments helped to shape for instance the provisions on the right to be heard and to receive information, to enjoy independent representation, as well as the right to access an independent and effective complaints mechanism when dealing with justice.

Other key issues the young people raised were:

- ✓ the difficulties in having the **family** involved and supporting the child when faced with the justice system,
- ✓ the fact that children **mistrust authority** that they do not understand (this blocks communication in the context of judicial proceedings)
- ✓ the **lack of respect and understanding** of the needs and the suffering of children shown by authorities
- ✓ the **lack of opportunities** for children to be listened to.

Today, the Guidelines are considered as **one of the key references on how the justice system can better respect the child as a rights holder and how to ensure children's access to justice**. They are a very **concrete tool that our governments are constantly encouraged to base their law reform and furthered practice on**. The advantage of the Guidelines is that they are practical and contain examples of good practice which is helpful for countries undertaking law reform and for the professionals that have to apply them.

AIM of the GUIDELINES - to ensure that:

- Children's rights are protected whenever decisions are made concerning them in the justice system.
- Decisions about children are made in a way that respects their rights.
- Decisions are taken quickly, taking into account the child's age and needs.

- Children have equal and genuine access to justice.
- Practical examples are given to everyone working with children based on good practices existing nationally & internationally.

3 MAIN SECTIONS : before, during after court proceedings

BEFORE PROCEEDINGS – children should be:

- Informed about their rights in a way a child can understand.
- Heard in decisions that affect them & have their views taken seriously.
- Dealt with by professionals having received training on children's rights and the needs of children.
- Respected by the police should they break the law.
- Only detained if there is no other option.

The minimum age of criminal responsibility should be established by law & not be too low.

DURING PROCEEDINGS

- Children should know what to expect before going into the courtroom.
- Children who understand their rights should be able to start proceedings before the court on their own.
- Children should have their own lawyer and their own say.
- Decisions should be taken quickly and explained clearly.
- Special rules should apply to those who have been hurt to protect them from further harm.
- Child-friendly environment should be provided throughout the proceedings.

AFTER PROCEEDINGS

- Decisions should be explained in a way a child understands.
- The child should be able to complain about the decision.
- The child should receive any necessary help quickly and for free (eg. legal aid).
- Execution of judgments should be facilitated.
- Constructive & individualised sanctions should aim at reintegration into society.

(http://www.coe.int/t/dghl/standardsetting/childjustice/default_en.asp)

2. Cooperation to achieve the strengthening of child friendly justice systems at international level

A core focus of the Council of Europe Strategy on the Rights of the Child (2012 to 2015) is to continue to strengthen child friendly justice systems together with partners, international, national, and with non governmental organisations. (http://www.coe.int/t/dg3/children/StrategyAdopted_en.asp)

Close cooperation has been developed with the European Union as stated in the EU Agenda for the Rights of the Child. The Commission is currently conducting a study to collect data on children's involvement in criminal, civil and administrative judicial proceedings which will contribute substantially to the collection of data in 28 EU states. In parallel, a complementary qualitative research project on child participation in criminal (as victims or witnesses) and civil justice proceedings is being conducted by Fundamental Rights Agency in ten member states. To support these two studies the Guidelines on Child friendly justice have been translated into all EU languages. In parallel, the Council of Europe is making the Guidelines available in other languages of the Council of Europe member states.

Furthermore, the results of **EU and FRA studies** will provide further guidance to member states (EU and CoE) on further gaps to address.

Collaboration is on going with other international organisations such as **UNICEF and UNODC**. The collaboration with UNICEF will focus on developing capacity building measures through the development of an on-line training curriculum on child friendly justice in the framework of the **CoE HELP-judicial** training programme (see below). The goal is to develop a master curriculum with various modules and to test the course in member states. Partnership with UNICEF will be also developed in the framework of the CoE Action Plans and National Cooperation Priorities for specific countries where a strong children's rights/child friendly justice component.

3. Council of Europe bodies promoting child friendly justice

The Lanzarote Committee

The "Lanzarote Committee" (i.e. the Committee of the Parties to the Council of Europe Convention for the Protection of Children against Sexual Exploitation and Sexual Abuse) is the body established to monitor whether Parties effectively implement the Lanzarote Convention. The Committee, when adopting its Rules of Procedure, also included in Part II: Monitoring of the implementation of the Convention, in Rule 22.2 on General Principles the requirement to respect internationally legal standards and included specifically the Guidelines on Child friendly Justice. This inclusion in the Rules of Procedure will allow the Lanzarote Committee to evaluate also the application of the Guidelines in state Parties to the Lanzarote Convention.

(http://www.coe.int/t/dghl/standardsetting/children/Source/Rules%20of%20Procedure_EN.pdf)

In parallel to its monitoring work the Lanzarote Committee strives to exchange good practice and to facilitate this ambition it organises study visits for its members to member states. One such visit has been to the Icelandic Children's House (Barnahus) which inspired the Child Friendly Justice Guidelines and where children victims of sexual violence are interviewed by all professionals in a child friendly manner, in a child friendly setting, where their testimony is taken by professionals specially trained.

European Committee for the Prevention of Torture

Following the publication of the report "Children's rights and the CPT", cooperation is on-going with the European Committee for the Prevention of Torture (CPT) which is developing a training for its members on how to interview children that are deprived of liberty during its country visits. The latest report of the CPT on Turkey has already elaborated recommendations to Turkey on the conditions of juveniles in detention. (<http://www.cpt.coe.int/documents/tur/2013-10-10-eng.htm>)

Nongovernmental organisations are also focusing their attention on supporting states in building child friendly justice systems. The Council of Europe has just recently supported DCI Belgium in a project "Children Behind Bars", funded by the European Union, where a handbook will be developed for members of monitoring bodies, national and international on how to interview children deprived of liberty. The Council of Europe Programme "Building a Europe for and with Children" and the CPT will support the project with expertise.

Council for Penological Co-operation (PC-CP)

The Council for Penological Co-operation (PC-CP) drafted Committee of Ministers Recommendation Rec (2008) 11 on the European Rules for juvenile offenders subject to sanctions or measures (adopted by the Committee of Ministers on 5.11.2008). It is periodically inquiring the Council of Europe member states regarding the measures taken to ensure its implementation. PC-CP is responsible also for the collection of the Council of Europe Annual

Penal Statistics SPACE I (on prisons) and SPACE II (on alternatives to custody and on community sanctions and measures). Detailed data on all 47 member states is collected annually regarding the age of criminal responsibility and the age at which a child may be detained, the numbers of juveniles (including foreign nationals) sentenced to detention or to sanctions and measures executed in the community, the types of crimes, the types of institutions in which they are held, etc.

At the annual Conferences of Directors of Prison and Probation Services are regularly discussed issues related to the treatment of juvenile offenders and the Council of Europe standards are promoted in this respect.

The PC-CP is currently studying the issue of violence in detention institutions for juveniles and is collecting good practices aimed at combating this phenomenon. The report is expected to be finalised by the end of 2014.

The Council of Europe HELP-judicial training programme

The HELP judicial training programme is aiming to develop online training programmes for judicial professionals based on the Guidelines on Child Friendly Justice.

The aim of the HELP Programme is to continue to integrate European Convention on Human Rights (ECHR) standards, as interpreted by European Court of Human Rights (ECtHR) case law, fully into the national curricula of training institutions for the professional training of judges and prosecutors in all Council of Europe member states. The HELP website provides free on-line access to materials and tools for education on the ECHR. The website includes a training materials database, a handbook on ECHR training methodology, ECHR glossaries, ECHR handbooks and E-learning courses. (<http://help.ppa.coe.int>)

Council of Europe Commission for the Efficiency of Justice Systems (CEPEJ)

In the present evaluation of the efficiency of justice systems, the Council of Europe Commission for the Efficiency of Justice Systems (CEPEJ) is widening its questionnaire and includes now a question on child friendly justice and the response will be included in its biannual report of the "European judicial system – efficiency and quality of justice" (2014). This is a first step which will hopefully lead to a further development of the evaluation of the CEPEJ focusing on child friendly justice. (http://www.coe.int/T/dghl/cooperation/cepej/default_en.asp)

The **Participation of Children** in the justice system is a clear objective in the Council of Europe **Recommendation on the Participation of Children and Young People under 18**. (http://www.coe.int/t/dg3/children/participation/Newdefault_en.asp)

In 2012, the Council of Europe adopted a second instrument calling for the need to ensure the participation of children, including in the justice system. The Recommendation CM/Rec(2012)2 of the Committee of Ministers on participation of children and young people under the age of 18 calls for the respect of the Guidelines on Child friendly justice and provides for more comprehensive policies on the part of states to achieve this. Furthermore, in 2013 an Assessment tool on child participation was prepared, setting out indicators for measuring progress in promoting the right of children and young people under 18 years to participate in matters of concern to them based on this Recommendation. Ten indicator areas are singled out in the tool for states to use in order to measure progress in implementing the Recommendation, ranging from verifying to what extent child participation is enshrined in law, mapping the national strategies in place, verifying the existence of complaints mechanisms for children, through to, more specifically, providing support for children to monitor the UNCRC and CRC shadow reports as well as related Council of Europe instruments.

The Work ahead in 2014 and beyond

The Programme “**Building a Europe for and with Children**” is launching a number of other initiatives supporting the promotion of Child friendly justice:

- ✓ **Cooperation Project in Ukraine** focusing on children’s rights, the fight against sexual violence and promoting child friendly justice. (http://www.coe.int/t/dg3/children/News/UkrainianLaunch_en.asp)
- ✓ **Cooperation project for Moldova** is being designed to focus on the Lanzarote Convention and will aim to include a pillar on promotion on child friendly justice.
- ✓ The development of a **child friendly version** of the Guidelines on Child friendly Justice during the course of 2014.

The **Council of Europe Strategy on the Rights of the Child** will stand at Mid Term in March 2014. On 27 to 28 March, High Level representatives of member states, non governmental organisations and experts will take stock of Progress in the implementation of the Strategy. The event will also provide an opportunity to look ahead and to make proposals for how Council of Europe work in the area of child friendly justice can be taken further. (http://www.coe.int/t/dg3/children/Dubrovnik/DubrovnikConference2014_en.asp)

The Council of Europe Parliamentary Assembly is in the process of preparing a report on child friendly justice and children in detention. The report is being prepared by the Committee on Social Affairs, Health and Sustainable Development and the Rapporteur is Mr Stefan Schennach of Austria. The report is expected to explore alternative measures to pre-trial detention and post-trial incarceration such as supervision orders, community sanctions, in-home detention and placement in foster care. According to the present timetable for future work the report will be presented to the PACE for debate in June 2014 during the plenary session. It is expected that the Committee of Ministers will be addressed with recommendation for further work in this area.