



## **Children's involvement in criminal, civil and administrative judicial proceedings in the EU – gaps and remaining challenges"**

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Promoting the protection of children is a core commitment of the European Union; it couldn't be stated more prominently than in the objectives of the Union as laid down in Article 3 of the Treaty on European Union. The work of the European Commission is therefore guided by the principle that the rights of the child must enjoy an equal level of judicial protection as the rights of adults. In the area of access to justice this means that the right to an effective remedy for rights violations must not be denied to anyone, and certainly not to the most vulnerable. It is therefore crucial that children, too, enjoy access to justice, and that they are protected from any further hardship when seeking remedies as victims or, more generally, that they enjoy procedural safeguards when involved in judicial proceedings, be it as offender, victim or witness.

The EU has its limitations in enforcing a solid and comprehensive rights based agenda for the protection of children, but where it has competence the Union has taken action and it will continue to do so. As you know the framework for our work was adopted in 2011 with the *EU Agenda for the Rights of the Child*. Of particular relevance to our discussions here today and tomorrow is that the EU Agenda defines a key objective of making the justice system more child-friendly in Europe. In this context I cannot stress enough the importance of the Council of Europe *Guidelines on child-friendly justice*. They serve as guidance and benchmark in the mainstreaming work of the Commission's Coordinator on the Rights of the Child, in particular where legislative initiatives are concerned.

The EU has adopted legislation to strengthen the legal framework for the involvement of children in judicial proceedings, be it for child victims of sexual abuse and exploitation, child victims of trafficking, and child victims of crime in general. But we shouldn't forget about children in conflict with the law. The Commission has therefore recently put forward a proposal for a *Directive on procedural safeguards for children suspected or accused in criminal proceedings*. The proposal is currently being negotiated and enjoys broad support across the EU28. The Directive aims to grant children in conflict with the law optimal protection, including mandatory access to a lawyer at all stages of criminal proceedings, the right to an individual assessment, the right to medical examination in case of deprivation of liberty and, not in the least, it stresses the importance for authorities to apply alternative measures to ensure that deprivation of liberty is truly only a measure of last resort. We are convinced a smooth adoption in the Council will follow.

Despite these crucial steps, gaps and challenges remain both for the EU and Member States to ensure proper access to justice for children. For the past two years the Commission has been conducting a study to collect data on children's involvement in criminal, civil and administrative judicial proceedings in its 28 Member States. Results for the criminal justice phase will be published in May and we will finalize the work on the civil and administrative phase by the end of the year. Results will include country by country reports describing legislation and policy as well as a compilation of all available data. It would take us too far to go into the details of the study, but let me share with you some reflections on the findings in terms of gaps and challenges:

- 1. *Provision of information to children in a form adapted to their age, maturity and needs.*** Much more needs to be done in this area. Access to justice is often more difficult in civil and administrative judicial proceedings, with less provisions in place for children's involvement in justice and a lack of clarity about appeal possibilities and appeal procedures. Clearly structural improvements to the provision of general information to children on their rights are needed and Member States need to improve ways to provide information in a child-friendly manner. This brings me to a second issue.
- 2. *Lack of training and specialisation.*** Professionals representing or assisting children involved in judicial proceedings - be it lawyers, judges, social workers or other practitioners - should receive appropriate and continuous training. There is a clear demand for this, also from the practitioners themselves. Judicial proceedings are often complex and difficult to understand, even for adults. If we take a rights-based approach to children, as we should, we need to accommodate our procedures and methods of communication to the specific needs of children.
- 3. *Lack of data on access to justice for children.*** Solid legislation and policy are evidence-based and this requires policy-makers to be able to rely on objective and comparable data. Unfortunately in the area of rights of the child and in particular in the area of access to justice, data is still largely missing. I would like to stress the importance of the work of the EU Fundamental Rights Agency in the area of data collection. The Commission takes the need for data into account in its legislative proposals, but we encounter resistance when trying to enforce this.
- 4. *Multi-disciplinary approach.*** Judicial proceedings are not an isolated event. They are part of a chain process and therefore, by definition, are interconnected with a multitude of disciplines and expertise. This requires an integrated approach to children involved in judicial proceedings rather than a silo approach and we find that this is often still missing.

This last point brings me to a final topic that I would like to mention and for which I would like to make an appeal to all the participants. An efficient child protection system places the child at the centre and ensures that the relevant actors and systems - education, health, welfare, justice - work in concert to protect the child. The Commission has started work on the development of guidance to support Member States in strengthening their child protection systems. The promotion of an integrated and multi-disciplinary approach as opposed to a silo approach will be the overall perspective of the guidance. Our work will mostly focus on cross-border issues. To assist the Commission in the development of this guidance a public consultation will be launched on the website of DG Justice within the coming weeks. I would kindly invite you all to participate in this public consultation because none of our achievements would be possible without close cooperation with our key stakeholders.