

**GROUP OF SPECIALISTS ON
CHILD-FRIENDLY JUSTICE
(CJ-S-CH)**

**GUIDELINES ON CHILD-FRIENDLY JUSTICE
A SUMMARY**

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Guidelines on Child-Friendly Justice – a Summary

In November 2010, the Council of Europe adopted Guidelines on Child-Friendly Justice. These are new rules that help Governments make sure that children are treated properly by and in the justice system.

I. What the Guidelines are about

The rules apply to everyone under 18 years. They apply whenever children come into contact with the justice system, such as when they break the law, when their parents get divorced and when someone who has hurt a child is being punished. They are supposed to make sure that children's rights are protected whenever these decisions are made.

Child-friendly justice means that decisions are made about children in a way that respects their rights. Decisions should be made quickly, taking the child's age and needs into account, taking the child's views seriously and respecting his or her privacy.

II. Basic principles

The Guidelines are based on a number of important rules.

A. Participation

Governments must make sure that children know about their rights, and know how to get in touch with those that can help them. Children have the right to be heard in decisions that affect them, and adults must take children's views seriously.

B. Best interests of the child

When decisions are being made about children, the most important thing is what is right for them. Officials must also listen to what children have to say. They should make sure that children's rights are respected, and take into account all their needs. Judges usually take decisions about children, but they should be helped by others – like psychologists and social workers - who sometimes know children better.

C. Care and respect

Children must always be treated with care and respect, taking into account that they are all different.

D. Equal treatment

Children must all be treated equally, even though they sometimes come from a different country, group or religion or speak a different language. Children who have disabilities, who are homeless or live away from home, who are Roma or have moved to another country, may need special help.

E. Rule of law

Children have rights in the legal system; they should be treated fairly. If they are in trouble, they should have a lawyer and the court should take into account what the child did and what his or her needs are. Children have the right to complain about their treatment to someone who is independent and sees both sides.

III Before, during and after legal proceedings

1. Information and advice

(1) Children and their parents should be given information about the child's right to be treated fairly and properly. Children and their parents should be told what rules apply and what will happen. They should know what time the event (e.g. the court hearing) will take place, how long it will last and what it will be like. Children should learn how they can be protected and who can help and support them (e.g. a translator or other specialist);

(2) Information and advice should be explained to the child in a way that he or she can understand; it should take the child's background into account;

(3) Children and their parents or lawyer should both receive the information directly;

(4) Legal information should be given to all children in a form that they can understand. Special information services for children, like freephone helplines and websites, should be set up;

(5) Where a child may have broken the law, the child and his/her parents should be told about what the child is said to have done, and what might happen next.

2. Protection of privacy

A child's privacy should be protected. This means that:

- No one is allowed to print a child's name, picture or anything personal about a child or his/her family in the newspaper or on the internet, for example;
- If children are being heard in court or some other official place only important people should be present;
- If a child tells an adult a secret, such adult cannot tell anyone unless they are afraid that the child might be hurt.

3. Safety

Children should be protected from harm and when they have been hurt, especially by a parent or other family member, it is especially important to keep them safe. Everyone working with children should be checked to make sure they will not harm children.

4. Training

People who work with children should receive training on the needs of children of different ages. They should be trained to talk to children in a way that children understand.

5. Approach

Everyone working with children must be careful to work together, to make sure that the right thing is done for each child.

6. Deprivation of liberty

A child should only be locked up (detained) where there is no other option. Children should never be detained because of their immigration status.

If a child is detained he or she should:

- be kept apart from adults, unless it is better for them to be together;
- enjoy all their rights, especially the right to contact their family and friends by having them visit or write to them;
- be able to attend school or take a course, practice their religion and have access to sports and leisure facilities;
- be prepared for their return home.

A. Before court proceedings

- (1) If a child has done something wrong, the child should not be brought to court if he/she is too young to understand what is going on.
- (2) If it is better for the child than going to court, some-one should try to solve the child's problems by talking to everyone involved (this is called "mediation"). This should be explained to the child who should be able to say whether he or she is happy about it.
- (3) The rights of the child should be protected whether they go to court or not.

B. Children and the Police

The police must always respect children's rights, taking into account the child's needs. Children should usually be separated from adults in the police station and they should be kept safe.

If a child is arrested, the reason why must be explained to the child in a way that he or she understands. Children should be able to talk to a lawyer and contact their parents or another adult they trust.

Usually, the parent will be told that the child is in the police station and why. Parents will then be asked to come to the police station. If the police want to ask a child questions, they should normally wait until the child's lawyer and parents are there.

C. During court proceedings

1. Access to court

Children who understand their rights should be able to go to court to have those rights protected.

2. Lawyer

Children should have their own lawyer; this should be free if the child cannot pay. Where children are involved in court proceedings with their parents, an independent person like a guardian ad litem should speak for the child.

Lawyers who work for children should know about children's rights and how to speak to children.

3. Right to be heard and to express views

Judges must make sure that children have a say in all cases that affect them and children's views should be taken seriously. When a child wants to have his or her say, he or she should be helped to do this. Children should not have to speak or to decide what happens to them.

4. Delay

In all cases involving children, decisions should be taken as quickly as possible.

5. Organising proceedings

Before children go to court or meet officials, they should know what it will be like, who will be there and what will happen. Everyone should use words that children can understand. They should all respect children. Children can bring their parents or another suitable person with them. The proceedings should not last too long and there should be regular breaks with rooms that are specially arranged for children.

Where children have been hurt and have to tell the court about it, special steps should be taken to protect the child from being hurt all over again when they talk about what happened. This could be done by using a video camera so that the child does not have to be there in person, or by talking to the judge in private.

6. Evidence by children

Children should feel safe when they are telling officials what happened to them and the officials should know how to talk to children and should take steps to make sure the child is taken seriously. Children should not have to tell their story too many times, to too many people.

D. After court proceedings

Special rules are important after the court has made its decision:

When a judge or other official takes a decision about a child, the child's lawyer should explain it to the child in a way that the child understands. If the child is not happy with the decision, they should be able to complain about the decision. If the child needs help when the case is over, this should be provided quickly and for free. If the child has been in trouble, the most important thing is to provide him/her with education and support to make sure that he/she does not get into trouble again.

IV. Promoting child-friendly actions

The Government must take steps to promote child-friendly justice. Government should:

- Try different ways to make sure that how decisions are made are child-friendly;
- Set up centres to provide information to children (eg a free helpline or a Commissioner for Children);
- Make sure children know who to complain to about their treatment;
- Teach children about their rights in school;
- Write laws and other rules for children in a way that children understand;
- Teach parents and people who work with children about children's rights.

V. Monitoring

Governments should look at how children are treated when decisions are made about them and try to ensure that children are treated properly and in a way that takes their age and needs into account. They should keep trying to improve how children are treated in the justice system.