Rights of minors in court proceedings

Child-friendly justice refers to justice systems which guarantee the respect and the effective implementation of all children's rights at the highest attainable level

Approximately 19% of the EU population (95 million) is under the age of 18. Minors can become directly or indirectly involved with the justice systems of Member States in a number of ways,for example when they commit offences, when they witness or are victims of a crimes, when they seek asylum, when they are the subject of adoption proceedings or when their parents disagree over custody.

Judicial proceedings can have a considerable impact on the lives of minors and the absence of a child-friendly response can result in restrictions or violations of their rights. Furthermore, when the national judicial systems lack child-friendly procedures and practices, the most vulnerable children (e.g. children with disabilities or migrant children) face particular barriers in the enjoyment of their rights.

The right of access to justice should be guaranteed for all minors. Furthermore, throughout their engagement with the justice system, children should be treated with respect for their age, their special needs, their maturity and level of understanding and with consideration of any communication difficulties they may have.

Clearer information on the people and procedures involved in justice affecting minors, as well as a special overview ensuring the respect of the rights of minors, is needed. In this regard, two categories have been identified: **children as judicial persons** and **specific procedures** in place in EU countries, depending on the branch of law.

The first category would bring together the general elements relating to the child's personal capacity, such as criminal or civil responsibility, access to legal support, relation to school/education, decision taking in terms of healthcare, specialised courts/institutions or financial support when going to court.

The second category aims to gather information how minors are treated in the context of judicial proceedings and the specific nature of criminal, civil and administrative procedures in the Member States.

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Rights of minors in court proceedings - Bulgaria

1. The child's legal capacity

In Bulgaria the minimum age of criminal responsibility is 14. For all matters, the minimum age at which a plaintiff can bring a case to court in their own right is 14.

2. Access to adapted proceedings

There is no specialisation in the area of child justice in general courts of justice. In courts where the staffing is sufficient to guarantee the principle of random allocation of cases judges are allocated to a civil and a criminal divisions and only deal with the respective cases. Divisions can be set up in regional and district courts, and the allocation of judges to them takes place at the discretion of the administrative head of the court.

Bulgarian legislation provides for a legal definition of a "child". A minimum age is also required to bear criminal liability and there are special rules governing imposing of sentences on minors. Within the meaning of the Child Protection Act "a child shall be any natural person who has not reached the age of 18". Minors are divided in two groups – from 14 to 16 years of age and from 16 to 18 years of age. Their criminal liability is mitigated compared to the adults' criminal liability, as the degree of mitigation is lower in the 16-18 age categories.

Minors who have attained 16 years of age can bear administrative liability under the Administrative Offences and Punishments Act and under special acts such as the Decree on Combating Minor Hooliganism.

3. Multidisciplinary aspects

All relevant organisations must coordinate their activities in order to obtain a comprehensive understanding of the children. The Child Protection Act regulates the competencies of the Child Protection Bodies, which are the State Agency for Child Protection, the Social Assistance Directorates at local level, the Minister of Labour and Social Policy, the Minister of the Interior, the Minister of Education and Science, the Minister of Justice, the Minister of Foreign Affairs, the Minister of Culture, the Minister of Health Care and the mayors of the municipalities.

4. Training of professionals

Professionals who are involved in the judicial process have to be qualified and with an extensive experience, especially of working with children. There are no any legal training requirements, but almost all of the specialists took qualification courses and trainings, which give them specific skills.

On the other hand, the social workers and policemen take part in different studies, seminars and meetings hosted by public institutions, NGOs, etc. The Social Assistance Agency, as a main governmental institution, which is responsible for implementing the policies for child protection, on a local level, organises many trainings for improving the qualifications of its officials - the social workers.

5. Best interests of the child

According to the Child Protection Act securing the best interest of the child is one of the main principles of protection. Child's best interest is the main principle for the children involvement in judicial proceedings. National legislation gives the children an opportunity to have a proactive role, expressing an opinion and taking part in making decisions.

6. Access to remedies

The Child Protection Act provides that the child has a right to legal aid and appeal in all proceedings, affecting his or her rights or interests.

Children without legal capacity can address complaints and legal appeals through their parents or legal representatives, who exercise their rights on their behalf. The legislation provides an opportunity for these representatives to make decisions, keeping child's best interest. In case of child victim, who decide not to prosecute, a prosecutor can make this on his/her behalf, starting a pre-trial proceeding.

There are no specific rules on legal aid for children. The common rules of the Law on Legal Aid apply.

7. Future developments

The Ministry of Justice with the participation of broad scope of stakeholders drafted a new *Law on the Diversion from Criminal Proceedings and Imposition of disciplinary measures for minors.* The aim of the draft Law is to encourage the lawful behaviour of minors in conflict with law and to secure support for their integration into society through the imposition of disciplinary measures and for their inclusion in appropriate educational programs. In accordance with

international standards and best practices the draft Law governs the new system of measures to ensure secondary and repeated offences prevention for minors with illegal behaviour.
An essential element of the proposed legislative changes is the envisaged possibility of using mediation. This will allow the introduction of recovery (restorative) justice in diverting juveniles from criminal proceedings in order to achieve the removal of damages caused by the unlawful conduct and to the extent possible to restore the relationship between the offender, the victim and society.

8. Family life

The Bulgarian legislation of the adoption has been revised in consequence of the ratification of the Convention on protection of children and co-operation in respect of intercountry adoption (Hague Convention). The entry of adoptions and adoptive parents in special registers was introduced as a condition for the admission of full adoptions with the amendments. An exception to this rule was anticipated at the adoption of a child of a spouse and the adoption of a grandchild by a grandfather and a grandmother.
According to the Bulgarian legislation the adoption may be either "full" or "simple":
In case of **full adoption**, between the adopted child and his/her descendants – on one part and the adopting parent and his/her relatives– on the other, shall occur rights and obligations such as between relatives by origin, and the rights and obligations between the adopted child and his/her descendants with their relatives by origin shall be interrupted.
In case of **simple adoption**, rights and obligations shall occur as between relatives by origin only between the adopted child and his/her descendents – on one part and the adopting parent – on the other, and the rights and obligations between the adopted child and his/her descendents with their relatives by origin shall be kept. The parental rights and obligations shall pass on the adopting parent.

Child-friendly justice in Bulgaria (324 Kb) en

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Rights of minors in court proceedings - Czechia

1. Legal capacity of children

In private law, Act No 89/2012 (the Civil Code) states that a child's capacity to accomplish a specific legal act is linked to the intellectual and volitional maturity of persons of his or her age. This is a rebuttable presumption, meaning that the contrary may be proven in every case. Full legal capacity is acquired at 18; under certain conditions a court may grant legal capacity to a child aged 16. If a child does not have legal capacity, it must be represented by its legal representative or guardian. Those persons may give their consent to certain legal acts of the child, in which case the child is allowed to act on its own within the scope of the consent, unless this is specifically forbidden by the law.
Under the Czech Criminal Code (Act No 40/2009) children under 15 may not be held criminally responsible. Children over 15, but who were under 18 at the time of the offence, are criminally responsible only if their intellectual and moral maturity at the of the offence enabled them to realise the illegality of their actions and to control those actions.

2. Situation of children in proceedings before civil courts

(a) The role and legal capacity of children in civil proceedings

Children may be involved in court proceedings in various ways. In civil proceedings the role of children is usually that of participants, but they may also be witnesses. The following will deal with the role of children as participants in civil proceedings. The relevant legislation is the Code of Civil Procedure (Act No 99/1963) and the Special Judicial Proceedings Act (Act No 292/2013).
Civil proceedings are divided into adversarial and non-adversarial proceedings. While children may be involved in both types of procedures, most often they are involved in non-adversarial proceedings (for example proceedings concerning custody). The main issues dealt with in proceedings concerning custody are related to the child's name and surname, maintenance, right of access, parental responsibility and specific questions relating to custody. In most cases proceedings may be initiated upon request and by a court of its own motion, except for issues relating to representing the child (in which case proceedings may be initiated solely at a request of the legal representative) or to granting legal capacity (proceedings initiated solely at a request of the child or its legal representative).
Just like in private law, legal capacity of children in civil proceedings is linked to the intellectual and volitional maturity of children at their age. However, if required by the circumstances of the case, a court may decide for a child to be represented by its legal representative or guardian even if it could otherwise act independently in the matter.

(b) Courts and other authorities protecting the interests of children

The legal status of children is decided by courts. Adversarial and non-adversarial cases are examined by general courts. However, judges dealing with non-adversarial cases in those courts usually do not handle adversarial cases. In the first instance proceedings are conducted by district courts, while regional courts are the appeal courts. Appellate review is not permitted in cases concerning custody.
In civil proceedings relating to judicial care of minors the central role is played by the authority for the social and legal protection of children. This competence is exercised primarily by offices of municipalities with extended competence. The authority for the social and legal protection of children may initiate the proceedings listed above and subsequently acts as a guardian ad litem in those proceedings. At the same time, the authority ensures the social and legal protection of the child also outside of the judicial proceedings, whether in the context of preventive or advisory activities or by means of educational measures. The competence and remit of the authority for the social and legal protection of children is governed by the Act on Social and Legal Protection of Children (Act No 359/1999).
In the cases listed above, the public prosecution service may also initiate (or join) proceedings. In the case of judicial care of minors it may do so in cases concerning the imposition of a special measure relating to raising the child, to institutional care, to determining the date of birth, or to suspending, restricting or withdrawing parental responsibility or the exercise thereof. If the public prosecution service initiates proceedings, it acts as any other applicant. If the public prosecution service joins proceedings, it may take all the steps that may be taken by a participant in the proceedings, with the exception of dispositions (such as application withdrawals).

(c) Pursuing the child's best interests

A general principle underlying civil proceedings involving children is the emphasis placed on safeguarding the child's interests in line with the Convention on the Rights of the Child. If the child involved in the proceedings is capable of forming its own views, the court has to ascertain the child's views on the matter. When considering the child's views the court is mindful of the child's age and intellectual maturity.

Civil adversarial proceedings include a range of instruments that improve the child's position. One of them is the obligation to serve documents on children over 15. 'Formal decisions' against children are inadmissible, which is why judgments for recognition, judgments by default or orders for payment against children cannot be issued.
In non-adversarial proceedings and proceedings concerning custody the emphasis is on the expediency of proceedings. In cases concerning arrangement of relations with children it is possible to issue an interim measure to be decided upon by a court within 7 days; in cases of serious threat or violation of the child' s vital interests a court will normally decide on interim measures within 24 hours. Subsequently, ordinary proceedings should be issued within 6 months of the initiation of proceedings. In order to protect the child's interests the authority for the social and legal protection of children is frequently involved in proceedings as a guardian ad litem.

3. Situation of children in criminal proceedings

(a) Children under 15 as perpetrators of criminal offences

In the Czech Republic children under 15 may not be held responsible for criminal offences. If a child under 15 commits an offence otherwise regarded as a criminal offence, this results in extraordinary civil proceedings under the Special Judicial Proceedings Act (Act No 292/2013) rather than in criminal proceedings under the Code of Criminal Procedure (Act No 141/1961). The special rules applicable to cases concerning children under 15 are laid down in the Act on Juvenile Justice (Act No 2018/2003).
Cases concerning children under 15 are heard by juvenile courts (specialised judges at ordinary courts). These specialised judges receive training in order to obtain detailed knowledge of the rules applicable to such proceedings and of the approach to be taken in respect of offenders younger than 15. Public prosecutors and law enforcement officers also need to have received special training on dealing with young people.
Proceedings are initiated on an application of the public prosecution service or by a court of its own motion. In addition to the child, the proceedings involve the authority for the social and legal protection of children, the child's legal representatives or guardians, the persons to whose care or custody the child has been entrusted, as well as other persons whose rights and obligations are to be decided upon in the proceedings. Where the application for initiation of proceedings has been submitted by the public prosecution service (i.e. where the proceedings were not initiated by the court of its own motion) the public prosecution service is also involved in the proceedings. In the proceedings the child has to have a guardian, who is an advocate.
Where a child under 15 commits an offence that would otherwise be criminal, a juvenile court will take the necessary remedial measures. A court may impose on the child an educational obligation (for instance, to compensate - in a way commensurate with the child's means - for the damage caused, to conduct - in its leisure time and free of charge - a socially useful activity), an educational restriction (for instance, to not meet certain persons, to not visit certain places, to not participate in gambling, to not use addictive substances etc.), issue an admonition with warning, place the child in a therapeutic, psychological or other appropriate educational programme at an educational guardianship centre, place the child under the supervision of a probation officer, in protective care or protective medical treatment. order supervision of a probation officer, protective institutional care or protective medical treatment. A court can choose not to impose measures if the experience of the court case itself has been enough to teach the child a lesson and discourage any illegal activity in the future.
Unless decided otherwise by a juvenile court, cases concerning children under 15 are heard in closed sessions. In the proceedings, emphasis is put on the protection of the child's privacy. The outcome of the proceedings may be published in the public media once the decision has become final (without naming the child or the other participants).

(b) Children over 15 as perpetrators of criminal offences

Proceedings in cases concerning juveniles are also governed by the Act on Juvenile Justice. A juvenile means a person who has reached the age of 15 by the time they committed a criminal offence (referred to as a 'transgression' [provinění] in the case of juveniles) but is not yet 18. Juveniles are criminally responsible, but only provided that their intellectual and moral maturity at the time of the commission of the act allowed them to recognise the illegal character of their actions and to control them.
Juveniles must have a lawyer from the moment measures under the Juvenile Justice Act or actions under the Criminal Procedure Code (including urgent or unrepeatable actions) are taken against them, unless it is impossible to postpone the implementation of such measures and to inform the lawyer thereof.
Cases concerning juveniles are heard by juvenile courts (specialised judges at ordinary courts). Under the Juvenile Justice Act, a juvenile court may impose measures on juveniles, such as:
educational measures (supervision of a probation officer, probation programme, educational obligations, educational restrictions and admonition with a warning);
protective measures (protective medical treatment, secure preventive detention, seizure of items, seizure of a proportion of property and protective institutional care),
penal measures [community service, financial measures, suspended financial measures, confiscation, prohibition of certain activities, a ban on keeping and breeding animals, expulsion, home detention, an entry ban for sports, cultural and other social events, custodial sentence conditionally suspended for a probation period (conditional sentence), custodial sentence conditionally suspended for a probation period with supervision, unconditional custodial sentence]
Measures must take into account the personality of the juvenile offender, their age and intellectual and moral maturity, health condition, as well as his personal, family and social situation, and they must be proportionate to the character and seriousness of the committed act.
In the case of juveniles proceedings must be conducted so as not to negatively affect their psyche and - in view of their age - endanger their emotional and social development. The authorities involved pursuant to the Juvenile Justice Act cooperate with the competent authority for the social and legal protection of children and with the Probation and Mediation Service. The authorities involved pursuant to the Juvenile Justice Act are always obliged to advise the juvenile of their rights in an age-appropriate way and to provide them with every opportunity to exercise them.
The statutory representative or the guardian of the juvenile is entitled to represent the juvenile, particularly to choose a counsel for them, make proposals on behalf of the juvenile, submit applications and remedial measures on their behalf; the statutory representative is also entitled to take part in such actions in which pursuant to the Act the juvenile can take part. For the benefit of the juvenile the statutory representative or the guardian can perform these rights also against the will of the juvenile. The statutory representative or the guardian of the juvenile also has the right to ask the interviewed persons questions, inspect the files with the exception of the protocol on voting and personal data of secret witnesses, to make excerpts and notes from them and to make copies of files or parts thereof at his or her own expense.
In the proceedings, emphasis is placed on the protection of the juvenile's personal data; in particular, information that may result in the juvenile's identity being made known must not be made public without a statutory ground. All the authorities involved (police authorities, public prosecutors, judges, officials of the Probation and Mediation Service, as well as social workers, need to have received special training on dealing with young people. In principle, proceedings are conducted in camera.

(c) Children as injured parties (crime victims)

The legislation draws a distinction between injured parties and crime victims. The Code of Criminal Procedure defines injured parties as persons who have suffered bodily harm, damages or non-material injury as a result of a criminal offence, or to whose detriment the offender has benefitted by committing the

criminal offence. Injured parties enjoy a range of rights, including the right to submit additional evidence, inspect the files, attend the main hearing, and to comment on the case prior to the conclusion of the proceedings. Both natural and legal persons can be injured parties.
Since 2013 special legislation (Victims of Crime Act No 45/2013) has been applicable in the Czech Republic to the rights of victims of criminal offences which, in addition to the rights of the injured party, emphasises the particularly careful approach to victims of criminal activity and grants them a range of rights to help mitigate the impact of criminal acts on the lives of victims. In this case, victims are understood to be natural persons who have suffered (or would have suffered) bodily harm, damages or non-material injury as a result of a criminal offence, or to whose detriment the offender has benefitted (or would have benefitted) by committing the criminal offence. The special rights of victims include in particular special support, the right to information, protection against imminent danger, protection of privacy, protection against secondary harm and financial assistance. Victims also have the right to be accompanied by a confidential counsellor during the performance of measures in criminal proceedings. Confidential counsellors are persons whom the victims themselves choose with a view to obtaining psychological support.
Under this special legislation persons under the age of 18 are considered particularly vulnerable victims and therefore granted a range of rights in addition to the status of an injured party in criminal proceedings, as well as in addition to the rights of victims. The rights of particularly vulnerable victims include free assistance. In principle, their requests for preventing contact with the offender and for the pre-trial interview to be conducted by a person of the same or of the opposite sex need to be granted. The pre-trial interview of vulnerable victims is conducted by trained persons and in premises designed or adapted for that purpose; where the victim is a child, the pre-trial interview is always led by a person trained to do so, except when the action is urgent and a trained person cannot be found (for the interviewing of children see below).

(d) Children as witnesses of criminal offences

The legislation provides for exceptions in respect of interviewing persons under 18 who were witnesses of criminal offences. Interviewed children must be advised of their right to refuse to testify and of their obligation to speak the truth and not to conceal anything. At the same time, children must be advised about the consequences of false testimony. As they may not be held criminally responsible, children under 15 are not informed of the consequences of false testimony. This information must be given in a way that is appropriate to the age, as well as the intellectual and moral maturity of the child; clearly, interviews must be conducted taking account of the age and of the intellectual level of the child.
Where children are interviewed with regard to circumstances, the recollection of which could have an unfavourable influence on their psychological and moral development on account of their age, it is necessary to conduct the interview with particular care and to treat the content thereof in such a way as to avoid any need to repeat the interview in further proceedings.
The authority for the social and legal protection of children or any other person with experience in youth education and who may contribute to the interview being conducted in a careful manner are invited to attend the questioning. Parents may also be invited to attend if their presence may contribute to the interview being performed in a careful manner.
As a rule, children are interviewed in special interview rooms that are supposed to create a friendly and homely atmosphere, therefore making it easier to establish contact with the child. Interviews are conducted by specially trained police officers. Children under 18 may only be asked questions through a police authority, so that they are protected against inappropriate questions asked by persons lacking special training.
In further proceedings children may be interviewed once again only if necessary. Pursuant to a court decision, in court proceedings it is possible to produce evidence by reading out minutes or by playing video or audio recordings of the interview using videoconferencing equipment.
In respect of persons under 18, the legislation also emphasises protection of personal data and privacy. The Code of Criminal Procedure states that in connection with a criminal offence nobody may by any means make public any information making it possible to ascertain the identity of the injured party (the victim) who is under 18. It is also forbidden to make public images, video or audio records or other information about the course of the trial proceedings or a public hearing that would make it possible to determine the identity of the injured party (the victim). Final judgments must not be made public in the public media stating the name(s), surname and residence address of the injured party. Taking account of the person of the injured party, as well as of the nature and character of the criminal offence committed, the chamber’s president may decide on further restrictions concerning the publication of a final convicting judgment in order to ensure appropriate protection of the injured party’s interests. Violations of these obligations are prosecuted.

4. Adoption

Adoption can be described as accepting someone else’s child as your own, which distinguishes it from other legal concepts establishing parenthood.
Adoption may only take place as a result of a court decision.
The Civil Code (Act 89/2012) lays down the following conditions for adoption:
Adoption is not possible between relatives in a relationship of lineal consanguinity and between siblings (except surrogate motherhood).
There has to be an appropriate age difference (normally of at least 16 years) between the adopter and the adopted child.
The child’s consent (if over 12) or the guardian’s consent in the case of younger children is required.
The adoption rules permit the adoption of minors who have not acquired full legal capacity.
The parents’ consent personally declared to the court. Consent to adoption may be withdrawn up to three months from the day it was given (later withdrawal is possible in certain cases). Parental consent is not required where the parent’s whereabouts are unknown, where conditions are met for restricting their legal capacity, and also where they show no interest in the child or have been deprived of their parental rights and obligations (which include the right to consent to their child’s adoption) by a court.
Child custody prior to adoption. Only custody established pursuant to a court decision is considered relevant, in which case the court may order custody only after 3 months following the day when a parent consented to adoption. The court will decide on handing the child over to the adopter’s custody prior to the adoption only after having carried out an investigation concerning the mutual suitability of the child and the adopter.
Adoption decision by the court. In addition to the above, the court must ascertain that the relationship between the adopter and the adoptee corresponds to that of a parent and a child, or at least that a basis for such a relationship exists. The child’s adoption must be in harmony with its rights.
The consequences of the adoption are the following:
the previously existing relations between the child and its biological family disappear, while new status relations emerge between the adoptee and the adopter and their relatives. Pursuant to the court’s decision on adoption the adopter is entered in the vital records.
The adoptee acquires the status of a child of their adopter or adopters; the adoptee and the adopter(s) have the same rights and obligations as the rights and obligations arising from the natural parent-child relationship.
In the case of a surname change, the adoptee may have a compound surname.

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Rights of minors in court proceedings - Denmark

1. The child's legal capacity

In Denmark the minimum age at which a plaintiff can bring a case to court in their own right is 18.

2. Access to adapted proceedings

In criminal law cases, specialist institutions are not in place to deal with child victims and child witnesses. The normal police, prosecution and court services deal with such children.

In civil law, there are no specialized institutions dealing with children in civil judicial proceedings in Denmark.

As a main rule, the Danish legal system is based on the presumption that judges and bailiffs are "generalists". Thus, no specialized judges or bailiffs are involved in proceedings that concern children.

The courts are under a general obligation to pursue any case with the necessary speed.

In 2013 the Danish Government decided to strengthen the protection of children and young people from abuse. Where it must be assumed that a child or a young person is in need of special support, the municipal council shall ensure that the conditions of the child or the young person are examined.

For criminal justice, specialist institutions are not in place to deal with child victims and child witnesses.

Denmark considers unaccompanied minors as a particularly vulnerable group and guidelines for the processing of these applications have been drawn up.

Child plaintiffs are represented by their parents or guardians during the civil judicial proceedings as they do not have procedural legal capacity to act.

Children being called as witnesses in ordinary civil courts do not have the right to request a lawyer free of charge.

3. Multidisciplinary aspects

In 2013 the Danish Government allocated funding to initiatives strengthening the protection of children and young people from abuse. One of the initiatives was the establishment of 5 special "Children's Houses" covering all municipalities in Denmark.

A cooperation mechanism to enhance cooperation in high conflict cases between the Regional State Administration and the municipalities has been set up.

4. Training of professionals

Deputy Judges participate in a series of obligatory basic training courses. These courses include training in handling custody cases.

With regard to judges this subject in general is incorporated in training courses and seminars where relevant.

There is no mandatory training of attorneys-at-law that represent children in civil cases, criminal cases or cases within the administrative system.

The Director of Public Prosecution offers a seminar as part of the supplementary training of prosecutors who are in contact with children during proceedings.

The Danish Government continuously supports the municipalities in their work to provide the right service for vulnerable children, young persons and their families. Therefore annual funding has been allocated to the further education of municipal social workers.

5. Best interests of the child

Pursuant to the Danish Act on Social Services the municipality is obliged to provide a child with the needed support in accordance with the best interests of the child. Support must hence be adapted to the specific situation and needs of the child, provided at an early stage and on a continuous basis so that any problems as far as possible may be remedied in the home of the child or in the child's immediate environment. Furthermore support must be based on the child's own resources.

6. Monitoring and enforcement of decisions in proceedings involving children

For criminal justice, as regards to the victim, when an alleged offence is reported to the police, the police is under a general obligation to provide guidance and information to the victim regarding, inter alia, the right to legal assistance.

Civil judgments involving children as plaintiffs are enforced according to the normal enforcement rules by the Bailiff's courts. Child plaintiffs do not have procedural legal capacity to act, thus need to be represented by their parents or guardians who exercise the rights of the child plaintiff.

In family law cases, enforcement of judgments on the custody and residence of the child takes place by the Bailiff's courts. Enforcement cannot take place if the child's mental and physical health is exposed to serious danger.

7. Access to remedies

For criminal law, when an alleged offence is reported to the police, the police are under a general obligation to provide guidance and information to the victim regarding, inter alia, the right to legal assistance and information about complaints. Compensation claims can be dealt with during the criminal trial.

A child may have the status of plaintiff, but do to his/her lack of procedural capacity to act, cannot independently bring a case before domestic courts in his /her own name.

A child may have the status of defendant, but all procedural actions must be taken by the child's parents or guardian on his/her behalf.

Everybody, including children, is obliged to testify in a court procedure if he/she is invited by the court to attend as witness. An agreement of a parent /guardian is not necessary for the participation of the child in the proceedings as a witness.

Children can have the status of plaintiffs and defendants in civil law proceedings. Children do not in general have procedural legal capacity to act and therefore their parents or guardians will exercise the rights of child plaintiffs and defendants, including the right to appeal.

8. Family life

Before an approval as Prospective Adoptive Parents is granted, the secretariat of the Joint Council a thorough investigation of the applicants. The outcomes of the investigation are presented to the Joint Council, who, based on the investigation, decides whether or not the applicants can be approved as PAPs.

The Danish Adoption Act of December 2015 only allows full adoption. At present time the Danish AAB only cooperates with states of origin whose legislation allows strong adoptions.

In relation to national adoptions the Danish Adoption Act states that all children over the age of 12 must consent to an adoption.

In case the child is under the age of 12 the State Administration must, where the maturity of the child and nature of the case allows, provide information on the child's attitude towards the adoption.

The Minister for Social Affairs and the Interior is responsible for the legislation concerning adoption.

Child-friendly justice in Denmark (499 Kb) en

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Rights of minors in court proceedings - Estonia

1. The child's legal capacity

According to the General Part of the Civil Code Act all persons have passive legal capacity. Persons under 18 years of age have restricted active legal capacity. A court may extend the restricted active legal capacity of children 15 years of age and above if this is in the interests of the child and the child's level of development permits it. In Estonia, the minimum age at which a plaintiff can bring a case to court in their own right is 15.

2. Access to adapted proceedings

Regarding the on judicial systems please see respective e-Justice portal page.

Children below the minimum age for criminal responsibility (14 years) who have committed offences are dealt with by juvenile committees. Decisions by the committees are first reviewed by the county governor and subsequent appeals in administrative judicial proceedings by administrative courts. It is possible to apply for an appropriate measure where the case has been in court for nine months or more and the court has not yet made a necessary proceeding based on reasonable justification. Also, if the hearing is postponed for longer than three months without the consent of the parties, the parties can appeal the decision. There are specific rules concerning provisional measures, which can be ordered by the court in order to protect the child from harm and secure the action, and the law provides an exemption from hearing children with special needs.

3. Multidisciplinary aspects

Child protection is organised by the Government of the Republic, child protection council, Ministry of Social Affairs, Social Insurance Board, county governors and local governments based on the functions provided for in Child Protection Act.

4. Training of professionals

The training of judges is organised by the Judicial Training Council that operates under the Supreme Court in accordance with the Estonian Court Act. Estonian Bar Association is a member of European Bar Association and communicates with other Member States about training through it.

5. Best interests of the child

Many legal acts refer to the child's interests. The Child Protection Act (section 21) enacts the obligation to set the best interests of a child a primary consideration.

6. Monitoring and enforcement of decisions in proceedings involving children

As children do not have active procedural capacity, they are not personally informed of the judgement and its enforcement by the court. Once the judgement becomes enforceable, the child's legal representative can submit an application for enforcement to the bailiff. Communication of the information regarding the enforcement proceedings to the child is presumed to be the responsibility of the legal representative.

7. Access to remedies

In Estonia children involved in civil judicial proceedings are represented by their legal representatives who are presumed to act in their best interests. Therefore, in principle the child's legal representatives can make submissions and bring appeals to the court on behalf of their children without the child's consent. However, it can be inferred from the law that a child can also submit an application/appeal to court in his/her own right. Generally, his/her legal representative is expected to join immediately. In family matters on petition, a child of 14 years of age and above with sufficient understanding of the proceedings has the right to appeal against court rulings without being represented by his/her legal representative.

8. Procedure for adoption, including international adoption

A person wishing to adopt files a petition for adoption to a county government. If the county government presumes that the conditions required for adoption are complied with, the person wishing to adopt files a petition for adoption to the court. A petition for adoption is filed with the court of the residence of the adoptive child. If the residence of the adoptive parent or the child is not in Estonia, a court shall not decide on adoption without the consent of the committee for international adoptions formed at the Ministry of Social Affairs of the Republic of Estonia. A child who is at least 10 years of age may be adopted only with his or her consent.

Child-friendly justice in Estonia (469 Kb) en

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Rights of minors in court proceedings - Greece

1. The child's legal capacity

In Greece the minimum age of criminal responsibility is 15. A child that is aged between 12 and 15 and has committed an offence has the right to file a complaint against an administrative decision; once he or she turns 17 this right is enjoyed exclusively by the child.

The minimum age at which a plaintiff can bring a case to court in their own right is 15 for employment, 18 for asylum, migration, administrative sanctions and health, 12 in termination of adoption cases, 16 in non-contentious proceedings and 18 in all other cases, unless the child is recognized as having limited procedural capacity.

2. Access to adapted proceedings

In Greece there exists a Criminal Judge of Minors, an Investigative Judge of Minors and a Public Prosecutor for Minors in every Court of First Instance and every Court of Appeal, who specialise in criminal cases involving minors. The Juvenile Court, composed by Criminal Judges of Minors, hears cases of minors offenders.

Furthermore, minors are protected by "Societies for the Protection of Minors" which are set up in every Court of First Instance and are staffed by Judges, Prosecutors, Sociologists, Teachers etc.

There are specialised Chambers of family law Judges in every Court of First Instance and some Courts of Appeals. These Judges specialise in family law in the sense that, when seating as Civil Law Judges, they only hear family law cases. These duties are assigned for a period between 2 and 4 years.

In administrative justice there are no special provisions or institutions for family law and minors.

3. Multidisciplinary aspects

Social service and family courts are in close cooperation between themselves at any stage. Reports for Judges are prepared and sessions with psychologists are held, so that a case reaches the Judge at a mature stage. If needed, the Judge may always request the child or/and his/her parents to be put under a special examination by a professional so that living conditions and family environment are thoroughly examined.

4. Training of professionals

Basic judicial qualification training does not include family law separately as to other areas of law. However, family law forms part of continuous training organised by bodies such as the National School of Judges, the Ministry of Justice, the Bar Associations, Academics, etc. Judges and Public Prosecutors who specialise in this area are encouraged to take part in these awareness raising activities.

Cross-border training is ensured via the regular channels, ie EJTN, ERA or other bodies or institutions who deal with judicial training at a european level.

5. Best interests of the child

All measures to be taken and all actions adopted by state bodies or entities, as well as courts, have to comply with the principle of serving the best interests of the child. In court, it is up to the Judge to actualise this notion on a case by case basis.

6. Access to remedies

As with adults, children are given all rights and are briefed of all procedures that they can be put into when they are involved in a criminal or civil case. Especially I criminal proceedings, the Public Prosecutor may “freeze” a criminal procedure after hearing the child, if this could avoid causing irreparable damage to his/her personality.

7. Family life

Under Greek law, interested people in adopting a particular child have to apply to the First Instance Court of the residence of the child for the adoption to be legally pronounced. The biological parents have to give their consent for the adoption of their child by the applicants before a Judge in his/her chamber. The child to be adopted who has reached the age of twelve years has also to give his/her consent. A witness has to testify in the court hearing that the applicants are in a capacity to take care and raise the particular child bearing in mind among other things their education and their financial resources. The same applies to international adoptions. This procedure is set out in articles 1542 et seq of the Greek Civil Code and article 800 of the Greek Code of Civil Procedure.

There exists the adoption of minors and the adoption of adults. Adoption of adults is exceptional and concerns only relatives up to the fourth degree (ie cousins) (articles 1579 of the Greek Civil Code). In addition, married adults can only be adopted with the consent of their spouse (article 1583 of the Greek Civil Code).

The Multimember First Instance Court of the place of residence of the child is competent for national and international judicial proceedings of adoption (article 800 of the Code of Civil Procedure). Especially for international adoption, there also exists the Central Authority of Intercountry Adoptions, which falls under the competence of the Greek Ministry of Labour (article 19 of Law 3868/2010).

Child-friendly justice in Greece (326 Kb) en

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Rights of minors in court proceedings - Spain

The Article 12 of the Spanish Constitution has set the age of majority of the Spaniards in 18 years. In Spain minors/children are considered all those who are under the age of 18 years.

1. Child's legal capacity

The minimum age at which plaintiffs can bring a case to court in their own right in Spain is 18.

Only emancipated children can bring a claim in their own. In general emancipation is reached at the age of 18, or at the age of 16 thought judicial authorization, parental authorization or marriage. In some regions emancipation can be obtained at the age of 14.

The minimum age of criminal responsibility, in Spain, is 14 according with the Law regulating the Criminal Responsibility of Minors. Measures applied to children under the minimum age of criminal responsibility (below 14 in Spain) are voluntary or fall under the domain of placement into care.

2. Access to adapted proceedings

Juvenile Courts: specialist courts called “*Juzgados de menores*” hear cases concerning crimes and petty offences committed by persons aged between 14 and less than 18 in accordance to Organic Law 5/2000, of 12 of January, regulating criminal responsibility of minors. Criminal proceedings against child offenders are conducted by specialized magistrates/prosecutors.

The Public Prosecutor’s Office (PPO) is responsible for defending the rights of minors recognized by law. The measures that can be taken against juvenile offenders between 14-18 years are collected in a specific law (Organic Law 5/2000, of 12 of January, regulating criminal responsibility of minors).

When the perpetrator is under fourteen years, the mentioned Organic Law governing criminal responsibility of minors is not applied but the specific articles of Civil Code and the rest of the current regulation.

In cases involving children as victims or witnesses are dealt with by regular courts, specific safeguards are provided by law according to age of children, for example the depositions of the most vulnerable children are made to a specialized psychologist and recorded to avoid having to repeat them in court and in any case it avoids visual confrontation between the child and the alleged perpetrator.

Civil justice: The Ordinary Civil Courts (*Juzgados de Primera Instancia*) deal with children’s claims under the civil procedural laws, in addition there are specialized civil courts dealing exclusively with family matters, called Family Courts (*Juzgados de Familia*).

The Public Prosecutor's Office is entitled to participate in civil judicial proceedings children or persons with disabilities are involved, until a guardian is appointed for them.

Although minors generally lack capacity to initiate civil proceedings themselves, the Act provides that where a measure may affect their interests and have sufficient maturity, they should be heard, and in any case, when they are 12 years or more.

Regarding separation or divorce, during the proceedings the court shall always consider the best interest of the child.

The following are administrative proceeding involving children: child protection, adoptions, Asylum, migration, health, education, administrative sanctions.

3. Legal and policy measures to avoid undue delay in the handling of cases involving children

In general and for all jurisdictions, in order to avoid delays in proceedings involving minors, the Organic Law 1/1996 of 15 January, on Legal Protection of Minors (LOPJM) states that in judicial or administrative proceedings, the appearance or hearings of minors will have priority and be conducted the way appropriated to their situation and evolutionary development, with the assistance, if necessary, of qualified professionals or experts, preserving their privacy and using a language understandable by them, in accessible formats and adapted to their circumstances, informing them both the content of the questions and the consequences of their opinions, with full respect for all procedural safeguards.

Criminal cases; the legal and policy measures in place vary according to the circumstances: child as a victim and child as an offender.

Civil justice: claimants may request to the court the imposition of precautionary measure. As a general rule, children cannot request the court to order precautionary measures in their own right and they need the assistance of their legal representatives.

When children are involved in family proceedings, precautionary measures are generally taken before the judgment, to the best interest of the affected children, such as custody, food, visitation, financial support measures etc.

4. Child specific support mechanisms and procedures and best interest of the child

Spanish legislation contains some important provisions that reinforce measures to facilitate the exercise of the rights of minors and an appropriate legal framework concerning *foreign minors* is established, recognizing, for those who are in Spain and regardless of their administrative status, their rights to education, health care and social services under the same conditions as Spanish minors. Related to *minors protected by Public Entities,* recognition of their insured status in relation to health care assistance is made ex officio.
Public authorities are obliged to ensure that vulnerable groups, such as unaccompanied minors, those presenting international protection needs, children with disabilities and those who are victims of sexual abuse, sexual exploitation, child pornography, human trafficking, are protected and to ensure that the rights provided by law have been observed.
LOPJM states, as guiding principle of administrative action, the protection of children against all forms of violence, including one produced in their family environment, gender violence, human trafficking and female genital mutilation, among others. The protection of child victims of domestic violence is one of the pillars of the new Law on protection of children and adolescence published on 28 July 2015.
The Victims Assistance Offices as units dependent on the Ministry of Justice or on the Autonomous Communities have assumed competencies in the subject. These offices make an individual assessment of victims to identify their special protection needs, and assist the victim in the legal, psychological and social areas, aiming to minimize primary and avoid secondary victimizations. Specific child support services are provided.
Regarding children's involvement in judicial proceedings; the Spanish legislation recognizes to minors the right to be heard in any case, without discrimination on age, disability or any other circumstances, both in the family and in any proceeding administrative, judicial or mediation that is affected and leads to a decision that affects their personal, family or social sphere, with due regard to their views, depending on their age and maturity. Therefore, the child must receive the information that allows the exercise of this right in an understandable language, and in simple formats adapted to their circumstances.
As the principle of "best interest of the child" has been a priority, considering: a substantive right, a general principle of interpretation and as a rule of procedure; Spanish legislation (LOPJM) requires that any measure in the interest of the child shall be adopted, and safeguards especially the protection of privacy of the child.
The general idea is that the best interest of each child has to be evaluated and determined individually for each child, taking into account all the circumstances which concern him/her.
The definition and criteria that determine the child's best interests are regulated and detailed in art 2 of the LOPJM.

5. Monitoring enforcement of decisions in proceedings involving children

Child as an offender: The ultimate aim of criminal regulations for children is their reinsertion in society. This reinsertion must be facilitated by educational measures and specialized personnel. The provision of child-friendly justice after judicial proceedings is to a large extent a competence of the Autonomous Communities which have the prime responsibility about those necessary rehabilitation measures, community service or education.
Child as a victim: Children who are victims of criminal offences are provided with social services adapted to their particular case.

Civil Justice:

Children can be parties in civil judicial proceedings and therefore any judicial decision is communicated to them and they can seek enforcement of a court judgment, all through their legal representatives (as they lack the legal capacity to act), unless they are emancipated.
As defendant: Children may be responsible for the breach of contracts made by them, being liable with their own property.

6. Access to remedies

It is important to note that under Spanish law, both the regime access to resources such as measures to safeguard the rights of the child in case of conflict of interest with their parents, it is the same in all jurisdictions.

Criminal Justice:

Recourse in case of decision not to prosecute: There is a very broad legal framework for the protection of victim under age in Spain, Law 4/15.
All children are entitled to receive information, to complaint, legal appeal or judicial review mechanisms and to claim damages/compensation during or after criminal proceedings in which the child was a victim. Any child who lacks resources will have recognized the right of the free legal assistance.

Civil Justice:

To defend their rights and guarantee, the child can:
Request the protection and guardianship of the competent public entity
To inform the public prosecutor about the situations
Ask complaints to the Ombudsman
Request the available social resources of public administrations
Request legal assistance and the appointment of a judicial defender
To submit individual complaints to the Committee on the Rights of the Child.
In case of conflict of interest law provides for the appointment of a judicial guardian.
At the civil courts can be formulated opposition to administrative decisions regarding the protection of minors.

Child-friendly justice in Spain (606 Kb) en

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Rights of minors in court proceedings - France

1. Legal capacity of minors

Minors under the age of 18 are not legally capable under French law. They must be represented by their legal representatives (usually their parents) when exercising their rights. Minors must be involved in all decisions that affect and are of relevance to them, depending on their age and level of judgment.

2. Access to appropriate procedures

Specialised staff, in particular the specialised judges of the children's court, are responsible for cases involving minors. Youth Legal Protection (*Protection judiciaire de la jeunesse*) and authorised associations may intervene during proceedings involving a minor.
The law provides that a minor can enter into a dispute with their parents. In this case, an independent individual may be appointed as an ad hoc administrator.
In criminal matters, minors have the right to consult a lawyer without the need for parental permission. Legal aid is provided free of charge. Lawyers are considered to be the first point of access to information, and play a supportive and protective role as regards minors. They can ask that a judgment be held in closed session, that a minor be positioned so as not to see the accused, that any additional medical examination is replaced by a review of the file and that certain investigative acts (e.g. *'confrontation'*) do not take place.

— Where a minor is a defendant or a party to the procedure and one of their rights is infringed, the procedure or detention may be annulled. Minors (over the age of 10) may be detained under the supervision of specially trained professionals in premises reserved for minors.
— Where a minor is a witness in a case, the judges and criminal police officers must take into account their vulnerability. Minors under the age of 16 do not have to swear an oath.
— Minors who are victims are accorded special protection. Furthermore, if a minor is a claimant in a civil procedure, they may claim damages for the harm suffered. If the convicted offender is not solvent, the victim may receive compensation from a guarantee fund (depending on the circumstances), the Criminal Injuries Compensation Board (CIVI) and/or the Victims of Crime Recovery Assistance Service (SARVI).
In civil matters, minors must in general be represented by their legal representative. An administrator is appointed if there is a conflict of interest between a minor and their parents. Parents have 15 days in which to appeal the appointment of an administrator.
In certain situations, the law expressly provides that minors may act on their own account (particularly as regards minors at risk in relation to educational assistance, applications for an affidavit for the purposes of establishing parentage, applications for emancipation and applications for establishment of nationality of unaccompanied foreign minors).

3. Laws and measures to reduce time limits in cases involving minors

In criminal matters, the Public Prosecutor may order the immediate appearance of the minor before the children's court, to ensure that the hearing takes place within a period of 10 days to two months. This procedure is only possible if an investigation into the facts is no longer necessary, in relation to specific offences and according to the age of the minor and the penalty incurred. Moreover, an earlier appearance allows the Public Prosecutor to order a hearing before the children's court within one to three months.
In civil cases, there is no specific provision for speeding up proceedings at first instance in cases involving minors, but where an appeal is lodged against a decision of the children's court, the law provides that the case should be heard as a matter of priority.

4. Specific mechanisms and procedures for supporting the child and the best interests of the child

The interests of the minor are of central importance in court proceedings involving children. The law frequently reaffirms that judges must justify their decisions on the basis of the essential criteria of safeguarding the interests of children. They must take into account the family, social and economic situation of the child and the opinions expressed. However, there are no protocols or guidelines in which the best interests of the child are defined.
In criminal matters, the judicial authority is alerted by the regional authorities where a minor has been or is presumed to have been the victim of mistreatment. Where the minor has been the victim of sexual abuse, the Public Prosecutor must immediately inform the children's court judge and request assistance with rehabilitation.
The obligations arising from professional privilege do not apply in cases of abuse or deprivation of minors. Various crimes against minors have longer limitation periods, which only start to run when the victim reaches the age of majority. Hearings involving an accused who is a minor must be held in closed session. Publication of the content of hearings is prohibited.
In civil matters, the children's court judge is responsible for rehabilitation assistance where a minor is at risk. Furthermore, the Civil Code confers broad powers on family court judges, who must take «particular care to ensure the protection of the interests of children».

5. Enforcement of decisions concerning minors

In criminal matters, the parents and the lawyer of the minor are directly involved in the implementation of any measures. A number of measures may be ordered by the children's court judge or the investigating judge during the investigation phase (for minors aged between 10 and 18: placement measures, probation, reparations and daytime activities; for minors aged between 13 and 18: pre-trial detention, court supervision and residential surveillance using electronic monitoring).
The children's court may order the surrender of minors aged between 10 and 18 to their family, reparations, suspension with probation, daytime activities, placement measures or court protection. For minors aged between 13 and 18, the court may also issue an admonishment or warning, order reparation activities, a daytime activity (which may, for minors aged between 16 and 18, consist of community service), probation or court protection. A penalty may be imposed on **minors aged between 10 and 18**: a ban on entering certain places, meeting certain persons, placement and, as a last resort for **minors over the age of 13**, imprisonment (in the minors' section of a remand centre or a young offender institution; specialised case workers must be present).
In civil matters, decisions on parental responsibility, maintenance allowance or the protection of minors at risk are immediately enforceable. Depending on the minor's level of judgment, in most cases parents have to enforce the judgment. In the event of a conflict with the parents and in cases in which a court has not already ruled on this issue (e.g. by appointing a guardian), an administrator will be responsible for the enforcement of the measures in the interests of the minor.

6. Adoption

Adoption involves several stages: obtaining approval, the match and connection between the child and the adopter and the legal procedure creating the parent-child relationship. There are two types of adoption in France: simple adoption (retention of the original parent-child relationship) and full adoption (only for children under 15; substitution of original parent-child relationship by relationship with adoptive parents).
The High Court (*Tribunal de Grande Instance*) has jurisdiction in both cases and adoption can only be approved if it is in the interests of the minor. A minor over the age of 13 must consent to their adoption.

Child-friendly justice in France (749 Kb) fr

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Rights of minors in court proceedings - Croatia

Legal capacity of children

Children in Croatia have legal capacity (the capacity to have rights and obligations) and litigation capacity (the capacity to be a plaintiff or a defendant in legal proceedings). Children acquire the capacity to perform legal acts (the capacity to conclude contracts and to produce the legal effects they would normally produce from the age of 18) only if they get married, become parents (from 16 years of age), or enter into employment contracts (from 15 years of age).

Access to special proceedings

The following stakeholders may take part in **criminal proceedings** in which children are involved:
the Ombudsman for Children (*pravobranitelj za djecu*);
specialised police officers in the Ministry of the Interior, who have been trained to work with children who are crime victims or offenders;
youth courts and judges in criminal proceedings involving children;
public prosecutors for youth within the public prosecutor's office;

specialised lawyers for proceedings involving children, appointed by the president of the court, as necessary, from the list of the Croatian Bar Association (*Hrvatska odvjetnička komora*) (usually as defence lawyers);
social workers, who play a major role in criminal proceedings involving children;
special clinics and hospitals for children;
numerous specialised NGOs, non-legal expert assistants (at juvenile courts and the public prosecutor's office), volunteers, etc.
The participation of children and minors (up to the age of 23) in court proceedings in cases when they have committed a criminal offence is regulated by the Juvenile Courts Act (*Zakon o sudovima za mladež*).
Municipal courts (*općinski sudovi*) conduct civil proceedings, including those involving children, because no special courts have been set up to adjudicate exclusively disputes involving children and minors. Municipal courts are competent at first instance for adjudicating cases of maintenance, the existence or non-existence of marriage, annulment of marriage and divorce, establishing or disputing paternity or maternity, as well as child custody and parental care.
Centres for Social Care (*Centri za socijalnu skrb*) are public bodies which operate to protect and support children and which can influence court decisions. In court proceedings Centres for Social Care may have the legal status of a party or participate as interveners. Since they play a significant role in the protection of children in judicial proceedings, these Centres have various opportunities to advocate for the children's best interests.
The Ombudsman for Children is an independent authority accountable solely to Parliament which has the task of protecting, monitoring and promoting the rights and interests of children.
No separate courts or institutions have been set up to deal exclusively with the rights of children and minors in administrative proceedings. The existing administrative courts (*upravni sudovi*) have general competence to settle all administrative disputes, including those involving children/minors.
All competent authorities that take part in criminal proceedings involving children or minors as defendants or victims need to act urgently to complete their work as soon as possible. According to the Juvenile Courts Act (*Zakon o sudovima za mladež*), criminal proceedings against juveniles or young adults or in cases of legal protection of children are urgent and must be launched – and the relevant decisions taken – without undue delay. Court proceedings against juvenile offenders, and investigations and procedures by the police and public prosecutors are urgent.
Delays in enforcement of penalties imposed on juveniles must be kept to a minimum, and it is for the court to commence such proceedings without undue delay after a court decision has become final and where there are no legal impediments to its enforcement.
Proceedings in which the personal rights of a child are to be decided are urgent, and the first hearing should be held within fifteen days from the date of initiation of the proceedings. Decisions in proceedings on interim measures, parental custody and a personal relationship with a child, and decisions on the return of a child, are to be rendered and delivered within thirty days from the date of initiation of the proceedings. A second-instance court is to render and deliver a decision within thirty days from the date of receipt of the appeal.
In accordance with the Code of Criminal Procedure (*Zakon o kaznenom postupku*), when the victim is a child or minor, they have the right to be heard, to testify and to participate in criminal proceedings. Moreover, children or minors are entitled to be informed of the relevant facts, to submit evidence in relation to the criminal offence and the criminal proceedings, and to appeal. They are entitled to put questions to suspects, witnesses and expert witnesses during court sessions and to submit their comments and explanations regarding such testimony.
In practice, the specialists involved in child protection proceedings assess the child's best interests and can propose a child protection measure to the court. The assessment of the child's best interests is based on the principles and working methods of social workers, psychologists, teachers and others.
In order to ensure compliance with the European Convention on the Exercise of Children's Rights, a court may appoint a special representative for a child in cases where the holder of parental responsibility is not authorised to represent the child due to a conflict of interest. Such a representative is usually a lawyer with relevant experience in proceedings involving children. Special representatives may be appointed in certain judicial proceedings concerning the detention of a child or minor, divorce and adoption and in cases that concern the protection of a child's personal rights and interests.
Protecting the best interests of the child is one of the principles enshrined in the Croatian Constitution, which states, among other things, that parents bear responsibility for the upbringing, welfare and education of their children and are responsible for ensuring that their children exercise their right to full and harmonious personal development. Under the relevant legislation, the state must take special care of orphans and minors neglected by their parents, and everyone has a duty to protect children and to inform the competent authorities of any possible harm caused to them. Young people, mothers and disabled persons are entitled to receive special protection at work. Everyone should have access to education on equal conditions. Compulsory education is free, in accordance with the law.

Monitoring of enforcement of decisions in proceedings involving children

Croatia has adopted the Act on the Enforcement of Penalties Imposed on Juveniles Convicted of Crimes and Offences (*Zakon o izvršavanju sankcija izrečenih maloljetnicima za kaznena djela i prekršaje*).
The purpose of that Act is to lay down:
the conditions for enforcing penalties imposed on a child/minor in criminal proceedings for crimes committed, especially correctional measures, detention in a secure centre for young people, and security measures; and
the conditions for enforcing penalties for misdemeanours committed by a child/minor.
Representatives of the competent Centre for Social Care play a significant role in ensuring that children/minors who have committed an offence are treated properly.
The Centre for Social Care is also responsible for summoning children and referring them for any correctional measures and for providing any information and support required. The purpose of correctional measures is to give juvenile offenders protection, care, help, supervision and general and vocational education, thereby influencing their upbringing, the development of their overall personality and improving their sense of responsibility so that they do not reoffend.
The types of correctional measures are: court reprimand, special obligations (such as to apologise to the injured party; to remedy the damage caused by the criminal offence insofar as possible for the child; to attend regular schooling; not to miss work; to attend training for an occupation appropriate to their abilities and preferences; to accept a job and persist in it; to use their income under the supervision and with the advice of the manager of the correctional measure; to become involved in the work of humanitarian organisations or local or environmental protection activities; to refrain from visiting certain places, attending certain events or keeping the company of certain individuals who are a bad influence on them; with the agreement of the minor's legal representative, to follow medical treatment or treatment for drug addiction or other addictions; to participate in individual or group psychosocial therapy at a youth counselling centre; to take part in vocational training courses; not to leave their place of permanent or temporary residence for an extended period of time without the approval of the Centre for Social Care; to be referred to the competent driving test centre for an examination of knowledge of traffic regulations, not to approach or harass the victim), extra care and supervision, extra care and supervision during day-care at a correctional institution, referral to a disciplinary centre, referral to a correctional institution, referral to a detention centre, referral to a special correctional institution.
Custody in a secure centre for young people is a specific kind of deprivation of liberty in terms of the conditions that have to be met for imposing it, its duration and purpose, and the constraints of the penalty. Older child offenders (minors who were at least 16 but not yet 18 years of age when the crime was

committed) may be sentenced to custody in a secure centre for young people if they have committed a crime subject to a statutory sanction of at least three years' imprisonment and, due to the nature and seriousness of the offence and the high level of guilt, a correctional measure cannot be justified.
Children or minors who lack legal capacity are represented by their legal representatives, who provide them with information on court decisions and the enforcement of penalties.
During enforcement proceedings courts have the power to order protective measures to protect children or minors from coming to unnecessary harm after out-of-court proceedings have been conducted. These protective measures are: limitation of inappropriate contact or limited contact with a parent, grandparent, brother or sister (or half-brother or half-sister) of the child, or with the child's spouse.

Access to remedies

a) Criminal proceedings

Everyone has the right to appeal against a judgment of the competent court in accordance with the applicable provisions of the Code of Criminal Procedure.
When children or minors are victims of a crime, they — like the public prosecutor, the defendant and the defence lawyer — are entitled to appeal against the judgment of the court of first instance. The injured party may appeal against the judgment on the grounds of the court's decision regarding the costs of the criminal proceedings or the claim for damages. However, if the public prosecutor has taken over prosecution from the injured party acting as private prosecutor, the latter may appeal on any grounds on which a ruling may be challenged.
All persons who are entitled to appeal against a judgment imposing a sentence on a minor, a decision imposing a correctional measure on a minor or a decision suspending the proceedings may do so within eight days of the receipt of the judgment or decision. A defence lawyer or public prosecutor, the spouse, a relative in the direct line, an adoptive parent, a guardian, a brother, a sister or a foster carer may appeal in favour of the minor even against the will of the minor. The second-instance court may alter the decision of the first-instance court by imposing a harsher penalty on the minor only if that is proposed in the appeal.

b) Civil proceedings

Children and minors involved in judicial proceedings have the right to file a complaint, an appeal or an action under the general rules laid down in the Code of Civil Procedure (*Zakon o parničnom postupku*) and the Civil Obligations Act (*Zakon o obveznim odnosima*).
As, in general, children and minors do not have legal capacity, their parents or guardians undertake specific actions in their name and on their behalf as their legal representatives. The child's legal representative is entitled to undertake all procedural actions in the child's name, including the lodging of an appeal. An appeal may be lodged against judgments issued by courts of first instance, and an appeal stays the execution of the relevant court decision. An appeal may be lodged on account of a material infringement of the provisions on civil proceedings, incorrect or incomplete establishment of the facts and misapplication of substantive law. The time limit for submitting an appeal against the judgment of a court of first instance is usually 15 days from the date of receipt of the judgment.

Adoption

The Family Act (*Obiteljski zakon*) regulates adoption as a special form of family and legal care and protection of children who lack adequate parental care, which creates a lasting relationship between the parents and the child and grants parental authority to the adoptive parents. Adoptive parents must be Croatian citizens (in exceptional cases they may be foreign citizens if this is in the child's particular interests), at least 21 years old, and at least 18 years older than the adopted child. A child may be adopted jointly by married couples or unmarried spouses, by one spouse/unmarried spouse if the other spouse /unmarried spouse is the other parent or adoptive parent, with the consent of the other spouse/unmarried spouse, or by a person who is not married or in a non-marital partnership.
Adoption may be established up to the child's eighteenth birthday, and a child may be adopted if they meet the legal requirements for adoption and if adoption is in the interests of their well-being. A child who has reached the age of 12 years must give their written consent to adoption.
The adoption procedure is carried out by the Centre for Social Care of the place of permanent or temporary residence of the prospective adoptive parents.
If the adoptive parent or the child is a foreigner, adoption may be established only with the prior consent of the ministry responsible for social welfare.

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Rights of minors in court proceedings - Cyprus

1. The child's legal capacity

In Cyprus, the minimum age of criminal responsibility is 14. For all matters, the minimum age at which a plaintiff can bring a case to court in their own right is 18.

2. Access to adapted proceedings

2.1. Criminal justice

In general, a child has no legal capacity to sue and thus can only bring an action through his/her parents/guardian.
As far as the Courts are concerned, criminal cases where the victim is a child are dealt with by the ordinary criminal courts at present. However, specific Laws with specialised child-sensitive provisions for the protection of child victims/witnesses exist.

2.2. Civil justice

There are no specialist institutions dealing with children in civil judicial proceedings.

2.3. Administrative justice

The Social Welfare Services of the Ministry of Labour, Welfare and Social Insurance provide services for the protection and support of children throughout the judicial process. All the services provided and policies implemented by the Social Welfare Services have as a primary consideration the best interests of the child.

2.4. Legal and policy measures in place to avoid undue delay in the handling of cases involving children

There are no time limits concerning when civil judicial proceedings must be commenced or terminated, regardless of whether a child or an adult is involved.
In ordinary civil cases, the Courts will try to prioritise cases involving children as far as this is possible, having regard to the huge case load. Any requested interim orders will be dealt with without undue delay.

2.5 Child specific support mechanisms

In the case of civil judicial proceedings, no arrangements are in place to ensure that court premises are suitable for children and no psychological or other support is offered, unless a particular need for such support is diagnosed.

There are no regulations requiring court sessions to be adapted to the child's pace and attention span. If there are images or other material to be presented in court that may be deemed as harmful for the child, the judge may order that the child be removed from the courtroom. The only protective measure for civil proceedings is the conducting of the trial in camera.

3. Multidisciplinary aspects

In cases of violence in the family the Social Welfare Services cooperate with all the other relevant services based on a manual of interdepartmental proceeds, approved by the Council of Ministers in 2002. In cases of sexual abuse against children the Social Welfare Services cooperate with the other relevant services establishing a multidisciplinary approach.

4. Training of professionals

Cyprus Police Academy, which is the educational institution of Cyprus Police, provides lectures on handling juveniles related cases, at all levels of Police training. Such lectures aiming to educate police officers of all ranks, are offered at the basic training Program for recruit Police Officers, at advanced courses as well as at specialized courses.

The Social Services Officers receive initial as well as on going training on issues related to children, i.e. interview with a child, handling cases involving children, etc.

Concerning judges in ordinary civil and criminal courts, there are no training requirements pertaining to the treatment of children during court proceedings. Judges generally attend training seminars and conferences in Cyprus and abroad as and when organised.

5. Best interests of the child

In cases where the court needs to take a decision on the best interests of the child, the court may take into consideration a report prepared by the Social Welfare Services, which contains not only the observations made by the Social Services Officer, but also the views of the child.

6. Monitoring of decisions in proceedings involving children

The Juvenile Offenders Law is expected to be comprehensively revised with the aim to ensure more specifically procedures in favour of children and young persons. This will improve and strengthen the proceedings involving children, for the best interests of the child.

7. Access to remedies

A child may access any complaint, legal appeal or judicial review under normal procedures, through their parent, legal guardian or legal representative.

Concerning claims for damages/compensation during or after criminal proceedings in which the child was a victim, if an ordinary civil claim is made for damages/compensation it will have to be made on behalf of the child by their parent or legal guardian. As for orders for compensation of victims within the actual criminal proceedings, the ordinary criminal courts have limited powers.

In case where there is a conflict of interests between the child and his/her parents/guardians, the Social Welfare Service may take the child under the care of the Director of Social Welfare Services, who is the guardian of the child and is deemed necessary will assign a legal representative for the child.

8. Family life

In the Republic of Cyprus there are different types of adoption:

National adoptions

Intercountry adoptions

Adoption of his/her spouse's child from a previous marriage.

In all cases of an adoption, the child's best interests are taken as the paramount consideration, based on article 21 of the UN Convention on the Rights of the Child.

Child-friendly justice in Cyprus (572 Kb) en

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Rights of minors in court proceedings - Latvia

1. Child's legal capacity

Under Latvian law, persons who have reached the age of majority, i.e. 18 years of age, have legal capacity in civil proceedings, Cases relating to minors are brought before court by their legal representatives. Legal representatives are most often the child's parents or guardian.

In the cases stipulated by law, minors are entitled to exercise their civil procedural rights independently. In such cases legal representatives may be brought in to assist the minor with legal proceedings. It should be noted that children have the right to freely express their views and, to this end, to receive and send any type of information, and also have the right to be heard in any actions or proceedings relating to them. If a child is able to formulate an opinion, account must be taken of it in accordance with the child's age and maturity.

2. Access to modified court proceedings

The work of the courts is organised to ensure that cases involving the protection of a child's rights and interests are heard as a matter of urgency.

In cases which affect a child, e.g. divorce proceedings, the establishment of a child's parentage and the like, the law makes provision for a wide margin of manoeuvre for the disclosure of evidence. In order to clarify a child's views and submit them to court, the competent municipal authority is generally brought in, which means a family court, which is made up of specially trained professionals who clarify the child's views in a familiar environment.

3. Multidisciplinary aspects

The protection of children's rights is implemented in cooperation with the family, central and local government bodies, public organisations and other natural and legal persons.

In accordance with the Law on the protection of children's rights, cooperation between central and local government bodies in matters relating to the protection of children's rights and family rights falling within their remit is coordinated by the Ministry of Welfare.

Latvia has a specific procedure (Cabinet Regulation No 545 of 12 September 2017 on institutional cooperation in the field of the protection of children's rights) governing the organisation of cooperation between central and local government bodies and non-governmental organisations in this field. This is organised with the help of consultative collegiate groups set up in the municipalities and the Council for cooperation on children's affairs. Amongst other things, cooperation groups examine individual cases relating to possible violations of children's rights in cases where there is a need for swift action and cooperation between several institutions, and where the situation cannot be resolved by a single institution or has proved impossible to resolve for an extended period of time.

4. Training of specialists

Legislation makes provision for a wide range of specialists (judges, prosecutors, lawyers, judicial officers and court psychologists) who assess a child's state of mind, along with certified notaries, police personnel who work with children, etc. - who must acquire specialist knowledge in the field of the protection of children's rights. Training for judges in matters relating to children's rights is organised by the Ministry of Justice.

5. Child's interests

Under the Law on the protection of children's rights, a child's rights and interests take priority in all legal dealings relating to a child. In Latvia, all actions involving children exercised by central or local government institutions, public organisations, other natural or legal persons, courts and other law-enforcement institutions must respect a child's rights and interests as a matter of priority.

A child's best interests must be safeguarded by all natural and legal persons in all actions and decisions which directly or indirectly affect, or may affect, that child. When determining the best interests of the child, the aim should be to find a sustainable solution to the child's situation, due account being taken of the specific situation, with due regard for the criteria laid down by law.

6. Monitoring and enforcement of decisions in legal proceedings involving children

As soon as a judgment affecting a child's rights and interests takes effect or should be enforced immediately but is not, the child's legal representative may submit an enforcement document to the judicial officer. The court does not send details of the judgment to the child in person. It is presumed that the child's parents or guardian, in the capacity of the legal representative, acting in the best interests of the child, will explain the court's judgment in accordance with the child's ability to understand it and communicate the requisite information on the progress made in enforcing the decision. Where necessary, for the enforcement of decisions in matters arising from custody and access rights, the judicial officer cooperates with the family court, issuing instructions to the effect that the information needed for enforcement be provided and enforcement proceedings be attended.

7. Access to legal remedies

In civil proceedings, cases involving minors are led by their legal representatives, who are generally the parents or guardian of the child. Where the law allows minors to exercise their civil procedural rights independently, their legal representatives are also brought in.

Provision is made for an additional protection instrument for children with backgrounds of family violence. Where a child is the target of violence or coercive control, an application for protection in the best interests of the child may be made not only by one of the child's parents or guardian, but also by a family court or public prosecutor. This means that if, for whatever reason, the legal representative of the child fails to act to protect the child's rights, a request may be made to the court by one of the aforementioned competent authorities. It should be noted that protection against violence can be requested at any stage of civil proceedings, including prior to the bringing of an action.

8. Adoption procedure, including international adoption

In Latvia, children who are minors may be adopted where this is in their best interests. The legal foundations for adoption are laid down in the Civil Law. The adoption procedure is laid down by Cabinet regulation. An adoption is approved by court. A child may be adopted if, prior to the approval of the adoption, they have been placed under the care and supervision of the adoptive party, and a guardianship and custody institution set up by a local authority - a family court - has established that the child and the adoptive party are mutually compatible, and there are reasonable grounds for believing that the adoption will lead to a genuine child/parent relationship. A child who has reached the age of 12 years must give their personal consent to the adoption.

A person wishing to adopt a child must make the relevant application to the family court. To ascertain suitability for adoption, a family court conducts an investigation into the adoptive family in accordance with the adoption procedure. A child may be placed with an adoptive family by decision of a family court.

In the cases and in accordance with the procedures provided for by law, intercountry adoption is possible in respect of a foreign state which is bound by the Hague Convention of 29 May 1993 on the Protection of Children and Co-operation in Respect of Intercountry Adoption and by the Convention on the Rights of the Child of 20 November 1989 with which Latvia has concluded a bilateral treaty defining the specifics of mutual judicial cooperation in the field of foreign adoption. Intercountry adoption in respect of a foreign state may proceed once an opinion is received from the Foreign Adoption Commission concluding that the process of intercountry adoption is consistent with the principles of the protection of the rights of the child laid down in this Law and is in the best interests of the child.

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Rights of minors in court proceedings - Luxembourg

1. The child's legal capacity

In Luxembourg the minimum age at which a plaintiff can bring a case to court in their own right is 18 for all areas of law. An exception exists for emancipated children, who can file a complaint on their own behalf.

In Luxembourg, a specialised judicial system deals with offences committed by children below the minimum age of criminal responsibility (MACR), which in Luxembourg is 18 years of age. This means a child below the age of 18 does not commit 'crimes' under Luxembourg law; rather they commit 'acts qualified as crime', for which a specialised jurisdiction, the Juvenile Court (*Tribunal de la jeunesse*), is responsible for applying custody, protection and/or education measures.

2. Access to adapted proceedings

Except for certain family and child protection matters, civil law cases are heard before civil courts. There are no special family and youth courts in the administrative justice field. Only asylum and migration decisions are reviewed by administrative courts.

The Juvenile Court is the specialist jurisdiction that deals with child suspects and offenders, as well as ordering protection measures for children in need of assistance and protection. The Juvenile Court adopts education and protection measures. Child suspects/offenders are not considered as offenders but as children in need of protection and help. Consequently, criminal law does not apply as such to children.

The Youth Protection section of the public prosecutor's office is generally responsible for everything that affects children and families. When child victims are involved in judicial proceedings, prosecutors work closely with the Youth Protection section of the judicial police.

In Luxembourg, the Juvenile Court is the specialist jurisdiction that deals with child protection cases. Juvenile Courts operate with specialised judges who are responsible for enforcing the laws on youth protection. Family judges have jurisdiction over matters relating to parental authority. They also control the work of legal representatives or guardians. In this capacity, family judges may seek clarification from a child's legal representatives and guardians, as well as from the child directly.

3. Legal and policy measures in place to expedite the handling of cases involving children

There are no specific provisions to ensure that civil judicial proceedings involving children are duly expedited. In terms of procedural deadlines, the general rules (applicable to adults) apply. These rules differ depending on the court that hears the case.

4. Specific support mechanisms and procedures for children and best interests of the child

Anyone, adults and children alike, can request free legal information from the Legal Reception and Information Service (*Service d'accueil et d'information juridique*)
This service can provide support to the child in accessing legal remedies. The child can also be assisted by a lawyer.
The meaning of the term 'best interests', is not defined in applicable legislation.
The assessment of the child's best interests falls under the competence of judges. Judges may take into account several factors when assessing the child's best interests, including, for example, the child's well-being, social factors, etc. Despite the legal requirement in place, the court may take into account the child's views when determining their best interests. The child can express their views when being heard in civil matters, for example with regard to parental authority.
All courts comply with international legal instruments such as the *European Convention on the Exercise of Children's Rights*, and the case-law of the European Court of Human Rights.

5. Monitoring the enforcement of decisions in proceedings involving children

Children cannot seek the enforcement of a court's judgement in their own right. Their legal representative exercises this right on their behalf.
When a decision has been issued against a child defendant, enforcement of the decision must take place against the child's separate estate. Child defendants who do not fulfil their obligations arising from the court decision cannot be subject to the coercive measure of detention.
In child protection cases, a child represented by a lawyer can seek enforcement of a court's judgement in their own right.

6. Access to remedies

A child who wishes to bring a complaint, legal appeal or judicial review before an ordinary court must be represented by their legal representative. An exception is made for emancipated children, who can file a complaint themselves.
As the child's legal representative represents the child and acts on their behalf, they can make submissions or appeals without the child's consent. The court can appoint an ad hoc administrator if there is a conflict of interest between the parents and the child.
Decisions taken by the Juvenile Court can also be appealed by the child with the support of a lawyer.

7. Agencies in charge of child support:

Office national de l'enfance (ONE)
Welfare service (SCAS) – *Service de la protection de la jeunesse* (SPJ):
Ombudsman fir Kanner a Jugendlecher (OKaju)

8. Adoption

In Luxembourg, adoption is open to all Luxembourg residents, whether or not they are nationals, as well as to non-residents who wish to adopt an individual residing in Luxembourg.
Requirements for adoption are governed by the national law of the adopter(s).
In the case of adoption by two spouses who do not share the same nationality or who are stateless, the law of their common habitual residence at the time of the request applies.
For adoptees, the legislation of their country of origin is applied, unless the planned adoption confers the adopter's nationality on them. If there are conflicting rules of jurisdiction, the law of the country where the adoption is validly concluded applies.
Anyone wishing to adopt a child must first contact the Ministry of National Education, Childhood and Youth (*Ministère de l'éducation nationale, de l'enfance et de la jeunesse* – MENJE) in order to file an adoption application. The 'adoption preparatory course' comes before an assessment of applicants' suitability to adopt.
The Adoption Centre (*Maison de l'adoption*) is an advisory service for people affected by adoption (prospective adopters, adoptees, adoptive families, professionals involved in adoptions).
It provides support both during and after the adoption procedure via personalised consultations.
The adoption procedure in Luxembourg involves various stages.
Link to legislation

Child-friendly justice in Luxembourg (in English and French) (989 Kb) en

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Rights of minors in court proceedings - Malta

There are various definitions of what the law deems as a 'child' (Child's legal capacity) across the Maltese legal framework.

1. Child's legal capacity

In Malta the minimum age of criminal responsibility is 14. For all matters, the minimum age at which a plaintiff can bring a case to court in their own right is 18.

2. Access to adapted proceedings

With reference to juvenile offenders the specialised court dealing with minors in the Criminal Field is the Juvenile Court. With regards to child victims these are heard through video-links. Civil Proceedings: Minors under the age of eighteen cannot sue or be sued except through a parent, tutor, curator or guardian. However in court cases dealing with personal separation or divorce, during the proceedings the court shall always consider the best interest of the child. The following are administrative judicial proceedings involving children: child protection, adoptions, fostering, unaccompanied asylum seekers and children in asylum proceedings.

3. Legal and policy measures to avoid undue delay in the handling of cases involving children

The legal and policy measures in place to avoid undue delay in the handling of cases involving children vary according to the circumstances: criminal cases: child as a victim and child as an offender, civil cases in family cases the best interest of the child is taken into consideration. With regards to administrative cases concerning minors when care orders are issued these are brought before the Juvenile Court which is a specialised court.

4. Child specific support mechanisms and procedures and best interest of the child

There is no overarching rule in Maltese law which specifies the conditions in which a vulnerable child is to be heard during all the different criminal or administrative proceedings that exist. There are laws found in different status and procedures applied by the judicial or quasi-judicial bodies that make the respective administrative and criminal proceedings in line with Article 12 of the UNCRC. In Malta any child can take the witness stand; it is however essential for the court to be satisfied that the child witness understands that it is wrong to give false testimony.

5. Monitoring enforcement of decisions in proceedings involving children

The monitoring and enforcement of decisions in proceedings involving children depends on the type of case, under Maltese Law one finds the following criminal law: sentencing, care orders, probation orders and parole. With regards to civil proceedings decisions involving children as plaintiffs or defendants are enforced in the same way as decisions involving adults as plaintiffs or defendants. With reference to administrative proceedings under Maltese Law, children cannot sue or be sued, except in the person of the parent exercising parental authority, or, in the absence of such parent, of a tutor or a curator. Child protection cases can be started by the legal department of Agenzija Appogg or by a private lawyer.

6. Access to remedies

Under Maltese Law in criminal proceedings there is no specific right for child victims, this right emanates from the law itself and applies to all victims be it child or adult. With regards to civil proceedings/administrative proceedings a child can access any complaint, legal appeal or judicial review mechanism through a parent, tutor, curator or guardian. During contentious proceedings between the parental right holders before the Family Court a children's advocate may be appointed to represent the child's interest.

7. Adoption

The procedure of adoption in Malta involves various stages.

Child-friendly justice in Malta (366 Kb) en

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Rights of minors in court proceedings - Austria

The Austrian Code of Civil Procedure lays down general principles for hearing minors, i.e. persons under the age of 18, in civil proceedings. The principles serve to meet the particular need for protection of minors when faced with stressful questioning situations. In the case of minors, the hearing may be waived, in whole or in part, upon request or ex officio, if the examination in itself would endanger the well-being of the minor, taking into account the mental maturity, the subject matter of the examination and the close relationship of the minor with the parties to the proceedings and there is no other way to protect them. In the event that a hearing would endanger the well-being of a minor only if held in the presence of the parties or their representatives, a separate hearing, i.e. one in a different place, may be held, if necessary conducted by properly qualified experts. A person who is trusted by the minor may accompany them in the hearing if this is in the minor's interests. If the subject-matter of the civil action has a material connection with criminal proceedings and a victim of those criminal proceedings who is a minor below the age of 14 is to be heard in the civil proceedings, a properly qualified expert must as a matter of course be appointed to conduct the interview. Questioning in a public oral hearing may, if necessary, be conducted with the exclusion of the public.

Juvenile criminal proceedings in Austria

A juvenile crime is an act committed by a person between 14 and 18 years of age (Section 1(1)(2) and (3) of the Juvenile Court Act [*Jugendgerichtsgesetz*, JGG]).

Offences committed by a minor below the age of 14 are excluded from any prosecution. In response to such acts, the guardianship court / family court can only take measures to safeguard and promote the minor's personal development (Section 4(1) JGG).

Furthermore, a juvenile (i.e. a person between 14 and 18 years of age) who commits an offence is not punishable if:

1. they are not, for particular reasons, sufficiently mature to recognise the unlawfulness of the act or to act accordingly, or
2. they commit a criminal offence while under 16 years of age, if they are not guilty of serious misconduct and there are no specific reasons which require the application of juvenile justice to deter them from committing offences.

The guiding principle of juvenile justice, which is primarily enshrined in the JGG, is to prevent the offender from committing further offences, thereby helping them to become a responsible, law-abiding citizen (Section 5(1)). Certain procedural provisions of the JGG and certain limitations on the severity of penalties also apply to persons aged between 18 and 21 who are considered to be 'young adults' (Sections 1(5) and 19 JGG).

As a rule, in proceedings against juvenile offenders and in most cases against young adults, the maximum period of imprisonment and the maximum daily fine are halved. There is no minimum penalty. Fines calculated on the basis of value, benefit or damage, including compensation for value and confiscation, may be imposed only to the extent that they do not endanger the further development of the defendant (Section 5(4), (5) and (6) JGG).

Juvenile and young adult offenders cannot be sentenced to life imprisonment. A criminal offence punishable by life imprisonment and an offence punishable by life imprisonment of 10 to 20 years are punishable by a term of imprisonment of between 1 and 15 years in cases where a juvenile of 16 years or more has committed the offence, and by imprisonment of between 1 and 10 years (Section 5(2) JGG). An offence punishable by a term of imprisonment of between 10 and 20 years is punishable by a term of imprisonment of between 6 months and 10 years (Section 5(3) JGG).

Austrian juvenile criminal proceedings, which could be described as 'procedural decriminalisation', provide for the possibility of refraining from or waiving prosecution. The Public Prosecutor's Office must refrain from prosecuting a juvenile offender if the offence is punishable only by a fine or imprisonment of up to 5 years and additional measures do not appear necessary to deter the young offender from committing further offences. However, the alleged perpetrator must always be prosecuted if the act resulted in the death of a human being (Section 6(1) JGG). Under the same conditions, the court must, after the initiation of preliminary proceedings or an indictment, discontinue the proceedings in respect of a criminal offence by order until the end of the main proceedings (Section 6(3) JGG).

If it appears necessary to formally inform the alleged perpetrator of the unlawful nature of certain acts such as the act reported and of their possible consequences, the guardianship court must do so at the request of the Public Prosecutor's Office (Section 6(2) JGG).

Furthermore, under the general condition that the offence committed by the offender is not to be regarded as serious, the offence did not result in the death of a person and punishment does not appear necessary in order to deter the accused from committing further offences, the Public Prosecutor's Office is required to offer the accused person diversionary measures.

There are four kinds of diversionary measures: payment of a fine (Section 200 of the Code of Criminal Procedure [*Strafprozessordnung*, StPO], community service (Sections 201 and 202 StPO), probationary period with the support of a probation officer and with certain conditions (Section 203 StPO), and victim-offender mediation (Section 204 StPO). Under the same conditions, the court may also dismiss the criminal proceedings and order diversionary measures.

The next possible response is a finding of guilt without a penalty (Section 12 JGG) or subject to a penalty (Section 13 JGG). Direction, probation services and court orders may form part of the conditions.

Under Section 12 JGG, the court should dispense with a conviction if only a light sentence is to be imposed on a juvenile offender and it can be assumed that the conviction is sufficient in itself to deter the offender from committing further offences.

Under Section 13 JGG, no penalty may be imposed for a criminal offence committed by a juvenile during a probation period of between 1 and 3 years if it can be assumed that the conviction and the threat of the penalty, in itself or in conjunction with other measures, are liable to deter the perpetrator from committing further offences.

The possibility of a conditional or unconditional conviction completes the catalogue of judicial responses to juvenile delinquency.
If it appears necessary to formally inform the alleged perpetrator of the unlawful nature of certain acts such as the act reported and of their possible consequences, the guardianship court must do so at the request of the Public Prosecutor's Office (Section 6(2) JGG).
In order to avoid the negative consequences of, in particular, short-term detention, pre-trial detention should be imposed only if it is necessary and no other response is possible. Pre-trial detention cannot be imposed in the case of petty offences.
Prosecutors and judges are obliged to regularly assess whether pre-trial detention is necessary. Therefore, and in order to explore other procedural possibilities, conferences involving the youth offender social network (social network conference) need to be organised so that pre-trial detention can be avoided.
In addition, an individual assessment ('youth background study') must be carried out in almost every case, which should take into account, in particular, the personality and maturity, the economic, social and family background – including the living environment – and the particular vulnerability of the juvenile offender.
Last but not least, Austrian juvenile criminal law ensures that judges and prosecutors dealing with criminal proceedings against young people have particular competences in this area and can access specific training.
In conclusion, the 'instruments' of the Austrian Juvenile Court Act allow prosecutors and judges to make the best possible decisions in criminal proceedings against juvenile offenders and ensure the maximum level of restorative justice measures.
The transposition into national law of the Directive on juvenile criminal proceedings (Directive (EU) 2016/800 of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, OJ L 132, 11.5.2016, p. 1) has also ensured that juveniles are actively represented by a lawyer at the first police hearing (this was in any case provided for in all criminal proceedings for a crime without exception). In addition, interviews by the police and other law enforcement authorities must be recorded audio-visually if this is proportionate (in particular if no legal counsel is present), and the information rights of juvenile suspects have been extended in accordance with the provisions of the Directive on juvenile criminal proceedings. The remaining provisions of the Directive provide for rights already found in the JGG.

Rights of child victims in criminal proceedings:

In Austrian criminal proceedings, in addition to the general rights of victims (Section 66 et seq. StPO), there are a wide range of specific rights and measures for the protection of child victims, such as:
The appointment of a curator for child victims in the cases referred to in Section 66a(3) StPO;
Information on escape and recapture and the first unguarded release from the institution or about an imminent or actual release of the prisoner, including the instructions given to him in order to protect the victim (Section 106(4) and Section 149(5) of the Austrian Prison Act [*Strafvollzugsgesetz*]);
Psychosocial and judicial assistance in criminal proceedings pursuant to Section 66b StPO (see below);
The possibility of separate and effective adversarial examination in the investigation and main proceedings in order to avoid direct contact between witnesses and the accused (Sections 165 and 250 StPO);
If an adversarial hearing has taken place, the witness is released from the obligation to give further evidence and the minutes of the adversarial hearing can be read at the main hearing (Section 252(1)(2a) StPO);
Protection of the identity of the witness (Sections 10(3), 161(1) and 162 StPO);
Protection of the victim's privacy (Section 228(4) StPO; Section 7a(1)(1) of the Media Act [*Mediengesetz*]);
Possibility to be heard as a witness at home or elsewhere (e.g. in the event of illness, frailty, justified circumstances – Sections 160(1) and 247a StPO);
Victims under the age of 18 are always considered to be particularly vulnerable and in criminal proceedings, in addition to the general rights of victims, have the special rights, as listed in Section 66a(2) StPO:
to be heard by a person of the same sex (Section 66a(2)(1));
to have interpretation services (Section 66(3)) provided, where possible, by a person of the same sex during interviews with the victim during the pre-trial and trial (point 1a);
to refuse to answer questions concerning details of the crime if they consider describing these details to be unreasonable, or to answer questions concerning circumstances of a highly personal nature (point 2);
to require to be examined sensitively (Sections 165 and 250(3) StPO) during the investigation and trial, and in any event in the manner described in Section 165(3) StPO, where necessary by an expert (point 3) – particularly as a minor victim whose sexual integrity may have been violated by the criminal offence with which the accused has been charged;
to require the public to be excluded from the trial (Section 229(1) StPO) (point 4);
to be immediately informed *ex officio*, within the meaning of Sections 172(4), 177(5) and 181a StPO (point 5), and
to have a person they trust present during questioning (Section 160(2) StPO) (point 6).
Under Section 70(1) StPO, particularly vulnerable victims are to be informed of their rights under Section 66a StPO at the latest before their first questioning.
Information on the legal rights of victims shall also be provided **in a language and in a manner that they understand, taking into account their specific personal needs**.
Under Section 160(3) StPO, **victims who have not yet reached the age of 14 may be heard only in the presence of a trusted person**. This can be either a legal representative, a judicial assistant or another trusted person. All other victims, in particular those who have reached the age of 14 but are not yet 18 years of age, are also entitled to be heard in the presence of a trusted person of their choice. This right must be indicated in the summons to a witnesses examination.
Since 1997, child-friendly interview rooms have been set up in all courts where criminal proceedings are conducted.

One of the important tools in the area of victim protection is psychosocial and judicial assistance in criminal proceedings. This is granted free of charge to certain categories of persons at their request.

Psychosocial and judicial assistance is available:
for persons who may have been exposed to violence or a dangerous threat as a result of a deliberate criminal act, whose sexual integrity and self-determination may have been violated or whose personal dependence may have been exploited in the commission of such a crime;
if the death of a person may have been caused by a criminal offence and you are a close relative of that person, or if you are a relative of that person and you were a witness to the act;
for victims of terrorist offences;
for victims of a typical 'online hate' offence. These include persistent persecution, continued harassment by means of telecommunications or a computer system (cybermobbing) and incitement. Also included are offences such as defamation, accusation of a judicially punishable criminal act that has already been dismissed, insults and slander, if there are indications that the offence was committed by means of telecommunications or use of a computer system;
for minors who have witnessed violence in their social circle (violence in the family, violence against children).

Victim support is necessary in order to safeguard victims' rights and must be ensured by the victim support institution.
Psychosocial assistance includes preparing the victim for the criminal proceedings and the associated emotional burden, as well as accompanying them in interviews as a witness, providing judicial assistance and legal advice, and legal representation of the victim in criminal proceedings by a lawyer (Section 66b StPO). **Persons whose sexual integrity may have been violated and who have not yet reached the age of 14 are granted psychosocial support as a matter of course.**
The Federal Minister for Justice is authorised to contract **appropriate, well-established institutions** to provide support for the persons referred to in paragraph 1, after verifying the legal requirements (Section 66b(3), first half sentence, StPO). The Federal Ministry of Justice has contracted **a large number of appropriate, well-established institutions** to provide psychosocial and/or judicial assistance, many of which, such as **child protection centres, violence prevention centres and intervention centres, specialise in working with children**.
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Rights of minors in court proceedings - Portugal

1. Legal capacity of minors

Under the Civil Code (*Código Civil*), minors, that is, persons who have not yet reached the age of 18, as a rule, lack legal capacity. The capacity of minors may be effected through parental responsibility and also through guardianship. These are forms of legal representation where someone acts on behalf and in the interest of the minor.
Minors under the age of 18, also as a rule, lack legal capacity. They may be represented in court by their representatives, except in respect of acts which they may perform personally and freely. Minors whose parental responsibilities are shared by both parents shall be represented in court by their parents, and the consent of both parents is required for bringing legal action.
The consequences for children and young people of committing acts deemed a crime under criminal law take into account age brackets, which depend on the application of different legal schemes. Thus, if such acts are committed:
by persons under the age of 12, the scheme under the Law on the Protection of Children and Young People in Danger (*Lei de Proteção de Crianças e Jovens em Perigo*) (Law No 147/99 of 1 September 1999) applies, a law with solely protective purposes;
by persons between the ages of 12 to 16, the Educational Guardianship Law (*Lei Tutelar Educativa*) (Law No 166/99 of 14 September 1999) applies. Under this law, protective and educational measures are implemented for educating minors in the application of the law and their integration into community life in a dignified and responsible manner;
by persons over the age of 16, such persons are criminally liable and may be subject to a penalty, with criminal liability assessed under the Code of Criminal Procedure (*Código do Processo Penal*). Young people between the ages of 16 and 21 are subject to a special criminal scheme provided for in Decree-Law No 401/82 of 23 September 1982.

2. Access to appropriate procedures

The Portuguese judicial structure includes specialised courts for minors that deal with matters such as the regulation of parental responsibilities, maintenance obligations, adoption, the application of protective measures, and other matters. Asylum, immigration and refugee cases involving minors are examined by administrative courts.
Points 3 and 4 are examples of adaptations of court proceedings involving minors. Another example are the amendments to the Code of Criminal Procedure resulting from the transposition of Directive (EU) 2016/800:
in proceedings concerning the trafficking of human beings or offences against sexual freedom and self-determination, procedural acts involving minors, including trial hearings, are generally not open to the public;
the consultation of the court files in which the defendant is a minor, by a person who is not a party to the proceedings is prohibited, regardless of their legitimate interest;
the accused minor has the right to be accompanied during the proceedings by the holders of parental responsibility, their legal representative or a de facto guardian, or, if these persons cannot be contacted, or if special circumstances in the interest of the minor or the needs of the proceedings so require, and only for as long as such circumstances persist, by another suitable person designated by the minor and accepted by the competent judicial authority.

3. Laws and measures to reduce time limits in cases involving minors

In **civil matters**:
the legal processing of the adoption procedure is urgent (Article 32 of Law No 143/2015 of 8 September 2015);
under the Legal Framework on Civil Guardianship Proceedings (*Regime Geral do Processo Tutelar Cível*) (approved by Law No 141/2015 of 8 September 2015) ***i),*** civil guardianship proceedings whose delay may adversely affect the interests of the child shall continue to be conducted during judicial holidays; ***ii)*** orders considered urgent shall be issued within no more than two days; ***iii)*** if a constraint measure or an ancillary sanction prohibiting contact between the parents is imposed, or if the rights and safety of victims of domestic violence and other forms of violence within the family, such as physical or sexual abuse of children, are at serious risk, the Public Prosecutor's Office shall, within 48 hours of becoming aware of the situation, request the regulation or modification of the regulation governing the exercise of parental responsibility of the minor; ***iv)*** the hearing and trial shall be continuous and may be interrupted only for reasons of force majeure or absolute necessity.
In **criminal matters**:
under the Educational Guardianship Law (Law No 166/99 of 14 September 1999), ***i)*** proceedings concerning a minor placed under protective custody in a public or private institution or in a detention centre or interned for the purpose of obtaining an expert opinion on the minor's personality shall continue to be conducted during judicial holidays; ***ii)*** where the delay in the proceedings could adversely affect the minor, the court shall decide, by reasoned order, that the proceedings be considered urgent and conducted during judicial holidays; ***iii)*** where an internment measure is applied, and it is appealed, the proceedings shall be deemed urgent and be conducted during judicial holidays; ***iv)*** orders considered urgent must be issued within two days.

4. Specific mechanisms and procedures for supporting the child and the best interests of the child

In **civil judicial proceedings** and in matters relating to the regulation of the exercise of parental responsibility, the minor must be heard if they are over the age of 12 or if they are younger and have the capacity to understand the matters under discussion, taking into account the child's age and maturity. In addition, the principle of hearing and participation of children is one of the guiding principles of the civil guardianship procedure governed by the Legal Framework on Civil Guardianship Proceedings. Article 5(1) of this framework provides that '*children may be heard and their opinion shall be taken into account by the judicial authorities in determining the best interests of the child*'.

If a child is a **victim of a crime**, the Victim's Statute (*Estatuto da Vítima*) (approved by Law No 130/2015 of 4 September 2015 transposing Directive 2012/29 /EU) establishes, in particular,

i) the child's right to be heard in criminal proceedings, and that their age and maturity must be taken into account;

ii) the mandatory appointment of a lawyer where the interests of the child and those of their parents, legal representative or de facto guardian are conflicting, and when a child with appropriate maturity requests this from the court; and

iii) their statements in the course of criminal investigations are recorded by audio or audiovisual means so that they can be used as evidence at trial. To this end, statements are taken in an informal, private setting to ensure, in particular, spontaneity and sincerity of response.

The right of children to participate and be heard is set out in the Law on the Protection of Children and Young People in Danger in four types of provisions:

a) those considering children of 12 years of age or older;

b) those referring to children younger than 12,

c) those that do not refer to any age, and

d) those that indicate only the maturity criterion.

One of the general principles that characterises the guardianship procedure provided for in the Educational Guardianship Law is that of the hearing of children (Article 47). This law also establishes the right of the minor to participate in any proceedings, even if they are under detention or in custody; this participation shall take place in such a manner that the minor feels free and as much at ease as possible (Article 45).

5. Enforcement of decisions concerning minors

As a rule, decisions handed down in civil proceedings involving minors as plaintiffs or defendants are enforced in the same way as those involving adults as plaintiffs or defendants in the same conditions.

Nevertheless, there are matters and circumstances that justify the existence of a specific legal framework. Thus, with regard to the regulation of the exercise of parental responsibility, in cases where there is a risk of failure to comply with the decision, the judge may order that the implementation of the arrangement established by the technical advisory services be monitored for a set period of time (Legal Framework on Civil Guardianship Proceedings). In the case of maintenance obligations, failure to comply with the obligation to pay maintenance is punishable by law, although a complaint is required to bring criminal proceedings (Article 250 of the Criminal Code (*Código Penal*)).

Under **criminal law**, the three precautionary measures provided for in the Educational Guardianship Law (return of the minor to the parents, the legal representative, the foster family, the de facto guardian or another suitable person, with obligations imposed on the minor; custody of the minor in a public or private institution; and custody of the minor in a detention centre), on the court’s own motion or on request, are replaced if the judge concludes that the measure applied does not achieve the intended purposes. In any case, they are reviewed on the court’s own motion every two months.

In its decision, the court designates the body responsible for monitoring and ensuring the enforcement of the measure applied. Except in cases where the law determines the body responsible for monitoring and ensuring the implementation of the measure, the court may entrust the enforcement of the measure to a public service, a welfare institution, a non-governmental organisation, an association, a sports club or any other public or private entity or person it deems appropriate. The designated body must inform the court, under the conditions and at the intervals stipulated by law or, where the law is silent, at the intervals established by the court, of the enforcement of the measure applied and of the progress of the minor’s educational process, and of any circumstances which may justify a review of the measures.

6. Adoption

Adoption is a form of establishing a relationship of kinship between a child deprived of a family and a person or a couple and must be decided by a judgment. The court's decision on the adoption is only handed down where there are legitimate grounds for adoption; the decision brings real benefits for the child; does not impose unfair sacrifices on the other children of the adopter(s), and there is reasonable expectation that the bond between the adopter(s) and the child or young person will be identical to that of kinship.

With the adoption judgment, the adopted child or young person:

acquires the status of a child of the adopter(s) for all legal purposes, with rights and obligations identical to those arising from a natural kinship relationship, and becomes part of the family of the adopter(s);

family relationships and contact with the birth family cease, except in cases provided for by law, in particular with biological siblings, if the adoptive parents consent and when it is in the best interests of the adopted child to maintain such contact;

loses their original surnames and acquires the surnames of the adopter(s) ;

may, at the request of the adopter(s) and if the court considers it to be in their best interest and to facilitate integration into the family, change their first name.

Under the Civil Code, the following persons may adopt a child:

two persons (even if of the same sex), aged 25 or older, who have been married for more than four years (including the time spent in a non-marital partnership immediately prior to marriage), provided they are not legally separated;

a person aged 30 or older, or over the age of 25 if the adoptee is their spouse’s child.

It should be noted that, as a rule:

the adopter should not be over 60 years of age at the time when the child or young person is formally entrusted to them for adoption;

from the age of 50, the age difference between the adopter and the adoptee must not be more than 50 years, unless there are serious grounds for doing so and the interests of the adoptee so justify (e.g. the adoptee is a sibling of other adoptees and the 50-year age difference only applies to the adoptee).

An adoptee over the age of 12 must consent to the adoption. The adoptee must be heard by the judge in the presence of the public prosecutor, under the conditions and in accordance with the rules laid down for the hearing of children in civil guardianship proceedings.

Under Law No 143/2015 of 8 September 2015, adoptees under the age of 16 may not request access to information about their origins. After turning 16, the adoptee may explicitly request such access; however, until they reach the age of 18 the consent of the adoptive parents or legal representative is always required. If the request for access to the information is made based on serious reasons, in particular if the health of the adopted minor is at stake, the court may, at the request of the parents or the Public Prosecutor's Office, authorise access to information about the adopted minor's personal history.

Law No 143/2015 of 8 September 2015 regulates national and international adoption procedures and the intervention of the competent authorities in these procedures.

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Rights of minors in court proceedings - Romania

1. The child's legal capacity

Legal capacity (*capacitatea de folosinţă*) is the ability of the person to have civil rights and obligations. Legal capacity begins when the person is born and ends when they die.
Capacity to act (*capacitatea de exerciţiu*) is the ability of the person to conclude civil legal acts independently. Full capacity to act begins when the person reaches the age of 18.
Minors also acquire full capacity to act through marriage.
On reasonable grounds, the custody court (*instanţa de tutelă*) may recognise the full capacity to act of minors who have reached the age of 16. For this purpose, the minor's parents or guardians will also be heard, considering, where appropriate, the opinion of the family council as well.
Minors who have reached the age of 14 have restricted capacity to act.
The legal acts of a person with restricted capacity to act are concluded by that person with the consent of their parents or, where applicable, their guardian, and, in the cases provided for by law, also with the opinion of the family council, if any, and the authorisation of the custody court.
Natural persons who do not have the capacity to act (minors under the age of 14, persons subject to special guardianship measures) will be represented by a legal representative.
In criminal matters, minors under the age of 14 are not criminally liable. Minors aged between 14 and 16 are criminally liable only if it is proven that they committed the act with discernment, while minors who have reached the age of 16 are criminally liable in accordance with the law.
A non-custodial educational measure is taken in respect of a minor who was between 14 and 18 years old when the offence was committed. A custodial educational measure may be taken in respect of a minor aged between 14 and 18 in the following cases:
if they committed another offence in respect of which an educational measure was applied and has been executed, or its execution began before the offence for which they are being tried was committed;
when the punishment prescribed by law for the offence committed is imprisonment of 7 years or more or life imprisonment.

2. Access to appropriate procedures; Child-specific support mechanisms and procedures

The Brașov Minors and Family Court (*Tribunalul pentru Minori şi Familie Braşov*) is the only specialised court of this kind in Romania.
The specialised court has jurisdiction to hear both criminal cases (in which at least one of the defendants or one of the injured parties/civil parties are minors) and civil cases (placement and adoption disputes).
In terms of territorial jurisdiction, the Brașov Minors and Family Court has jurisdiction in Brașov County, with other cases involving minors being heard by the ordinary courts.
In the case of child victims, assessment and provision of support and protection services is the responsibility of the specialised departments within the Directorates-General for Social Assistance and Child Protection (Direcțiile Generale de Asistență Socială și Protecție a Copilului) responsible for intervention in cases of abuse, neglect, trafficking, migration and repatriation under Law No 272/2004 on the protection and promotion of the rights of the child and Government Decision No 49/2011 approving the Framework Methodology on prevention and intervention in multidisciplinary teams and networks in cases of child and domestic violence and the Methodology on multidisciplinary and interinstitutional intervention in cases involving exploited children and children at risk of labour exploitation, child victims of human trafficking, and Romanian migrant children who are victims of other forms of violence in other states.
A working group dedicated to issues concerning victims was set up in 2020 within the Ministry of Justice (*Ministerul Justiției*). Among the most important objectives pursued by the working group are the following: establishing special hearing rooms for minors, specialised training of professionals in dealing with different types of crime and victims, creating an informal network of professionals responsible for dealing with victims of sexual crime, and improving forensic services for victims of crime.
Save the Children Romania (Salvaţi Copiii România), in partnership with the Directorate-General for Social Assistance and Child Protection Sector 6 (Direcţia Generală de Asistenţă Socială şi Protecţia Copilului Sector 6) in Bucharest, opened the first Barnahus pilot centre for child victims of sexual abuse and extreme domestic violence. The Centre is based on the Barnahus integrated model of complex services, psychological and medical assessment, hearing and protection of child victims of sexual abuse and extreme domestic violence.
The Prosecutor's Office attached to the High Court of Cassation and Justice (*Înalta Curte de Casație și Justiție*), in partnership with the European Union Agency for Fundamental Rights (FRA), the Ministry of Justice and the Directorates-General for Social Assistance and Child Protection started in early 2022 to implement a project with the general objective of ensuring an efficient, accessible and qualitative criminal justice system for children who are victims of crime and victims of hate crimes. The work of the project involves renovating, arranging and equipping 35 hearing rooms for minors, developing two thematic analyses on the situation with regard to hate crime and the situation with regard to children as victims of crime, developing guides (identifying and prosecuting hate crimes/hearing minor victims and prosecuting crimes against them), and providing specialised training for prosecutors and other professional categories to improve knowledge and awareness of the needs of victims of hate crimes and child victims of crime, including those belonging to the Roma minority.
In the context of the implementation of the predefined professional judicial training and capacity building project, the Superior Council of Magistracy (*Consiliul Superior al Magistraturii*) currently provides 47 hearing rooms for minors in courts nationwide, in line with international standards for hearing minors.
At the same time, the Code of Criminal Procedure (*Codul de procedură penală*) provides that, in order to protect the privacy or dignity of the injured party, or where the release or escape of the perpetrator may endanger the privacy or dignity of the injured party or cause them harm, regardless of its nature and extent, the criminal prosecution body may order the protection measures provided for by law against the injured party. Children, victims who are dependent on the perpetrator, victims of terrorism, organised crime, human trafficking, violence which occurred within a close relationship, sexual violence and exploitation, victims of hate crimes, discrimination and prejudice which may relate in particular to their personal characteristics, persons with disabilities and victims who have suffered considerable harm due to the seriousness of the offence, are presumed vulnerable.
The Code of Criminal Procedure also contains provisions on the hearing of minors.
Thus, the Code of Criminal Procedure provides that the hearing of injured parties and witnesses who are minors under 14 years old takes place in the presence of one of their parents, a guardian or the person or representative of the institution entrusted with the child's upbringing and education, and in the presence of a psychologist selected by the judicial body. The psychologist will provide expert advice to the minor throughout the legal proceedings.
In the case of injured parties for whom specific protection needs have been established under the law, the judicial body orders one or more of the following measures without prejudice to the proper conduct of the proceedings or to the rights and interests of the parties:
hearing them in premises designed or adapted for this purpose;
hearing them through or in the presence of a psychologist or other specialist in victim counselling;
their hearing and any possible re-hearing being carried out by the same person, if possible and if the judiciary body considers that this does not affect the proper conduct of the proceedings or the rights and interests of the parties.
hearing them by videoconference or other technical means of communication at the place where they benefit from the temporary accommodation protection measure.

Hearing and, where appropriate, rehearing by criminal investigation bodies of injured parties who have been victims of offences of ill-treatment of minors, domestic violence, offences concerning trafficking and exploitation of vulnerable persons, offences against sexual freedom and integrity, etc., as well as in other cases where, due to the circumstances of the offence, this is deemed necessary, are only performed by a person of the same sex as the injured person. If this is not possible, without prejudice to the proper conduct of the proceedings or to the rights and interests of the parties, the hearing of such injured parties and, where appropriate, their rehearing may be carried out by a person who is not of the same sex as the injured party, with the consent of the lawyer and of a psychologist or other specialist in advising victims.
According to the Code of Criminal Procedure, cases involving injured parties who are minors, victims of offences of ill-treatment of minors, domestic violence, offences concerning trafficking and exploitation of vulnerable persons, offences against sexual freedom and integrity, etc., are dealt with as a matter of urgency and as a priority. When the injured party is a minor under the age of 16, who is a victim of offences of ill-treatment of minors, domestic violence, offences concerning trafficking and exploitation of vulnerable persons, offences against sexual freedom and integrity, etc., if the court considers that the handling of certain evidence may have a negative effect on them, it will order the minor to be removed from the hearing.
At the same time, the Code of Criminal Procedure provides that arrest and pre-trial detention may be ordered against a minor, by way of exception, only if the effects that the deprivation of liberty would have on their personality and development are not disproportionate to the aim pursued by the measure.
The duration of the pre-trial detention measure is determined taking into account the age of the accused person as of the day the measure is ordered to be taken, extended, or maintained.
The Civil Code (*Codul civil*) provides that during administrative or judiciary procedures which concern a child, it is compulsory to hear a child who has reached the age of 10 years. However, a child who is under 10 years old can also be heard, if the competent authority considers it necessary for adjudicating on the case. The right to be heard entails the possibility for the child to request and receive any information, according to their age, to express their opinion and to be informed about the consequences that this may have, if it is respected, and about the consequences of any decision that concerns them. The opinions of the child being heard will be taken into account in relation to their age and maturity.

3. Training of professionals

The Superior Council of Magistracy, as the project promoter, in partnership with the National Institute of Magistracy (*Institutul Național al Magistraturi*), the National School of Clerks and the Norwegian Courts Administration, implements the predefined project ‘Judicial Training and Capacity Building’, financed by the ‘Justice’ Programme, the Norwegian Financial Mechanism (NFM) 2014-2021.
As part of this project, the Superior Council of Magistracy and the National Institute of Magistracy announced the launch of the procedure to select an expert with a view to developing a long-term training curriculum in the field of *Techniques for hearing minors (child-friendly justice) - civil aspects*. The expert will be selected from among the experts selected as training staff for training activities dedicated to the field of *Techniques for hearing minors*, which are organised within the project, with a particular focus on the specificities of the Roma population.
The deliverable will be a useful tool for the National Institute of Magistracy for the long-term continuous training of judges and prosecutors in techniques for hearing minors, both in civil and criminal judicial procedures, and will lay the foundation for a consistent approach from the perspective of national and European practice.
The long-term training programme (curriculum) for techniques for hearing minors (child-friendly justice) will be developed in order to provide practical support to the training staff of the National Institute of Magistracy, namely to ensure a consistent approach to the hearing of minors, in order to promote child-friendly justice as an overriding concern of the Romanian judicial system, by assimilating techniques for interviewing children.

4. Access to remedies

There are no special provisions applicable to minors.
In civil matters, parties to the proceedings who justify an interest, as well as in cases provided for by law, other bodies or persons dissatisfied with the judgment, may appeal against it. The prosecutor may seek redress against court judgments, whenever necessary, to defend the rights, freedoms and legitimate interests of minors, persons receiving legal advice or subject to special guardianship measures, and of missing persons, as well as in other cases expressly provided for by law.
In criminal proceedings, legal aid is mandatory when the suspect or accused person is a minor. Legal aid for the injured party is mandatory when they have no capacity to act or restricted capacity to act, as well as when the injured party is the victim of offences of ill-treatment of minors, domestic violence, offences concerning trafficking and exploitation of vulnerable persons, offences against sexual freedom and integrity, etc.

5. Adoption

Adoption is the legal operation creating a parent-child relationship between the adopter and adoptee, as well as family ties between the adoptee and the relatives of the adopter.
Adoption is subject to all of the following principles: the best interests of the child, the need to ensure the upbringing and education of the child in a family environment, the continuity of the child’s upbringing and education, taking into account their ethnic, linguistic, religious and cultural origin, and expediency in the performance of any acts relating to the adoption procedure.
The adoption procedure is governed by the Civil Code (Articles 451 to 482).

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Rights of minors in court proceedings - Finland

1. The child’s legal capacity

In Finland the minimum age of criminal responsibility is 15.
In other issues, the minimum age at which a case can be brought to court varies between 12 (health issues, placement in care), 15 (employment, asylum, migration issues, education issues, administrative sanctions) and 18 (family issues).

2. Access to adapted proceedings

Investigations targeting children are as far as possible assigned to police officers with training or experience in this task. Larger police departments have units or police officers specializing in investigating crimes against children. As a rule, investigation of crimes against children is in all police departments channeled to investigators who have professional skill and particular competence in investigating this type of crimes.
The Prosecution Service has a system of special prosecutors to ensure expertise in an area of specialization and to maintain and develop the professional skills of prosecutors. There is a group of special prosecutors who are specialized in violence against children and women. They train other prosecutors in their field of expertise.
Investigations targeting children are as far as possible assigned to officers with training or experience in this task.

The Ombudsman for Children promotes the interest of children and implementation of children's rights on a general level but does not handle individual cases.

3. Child-specific support mechanisms and procedures

Since the beginning of 2016, also a video-recording of a 15-17 year old victim can be used as evidence in court in cases where the victim is in need of special protection.

According to the Criminal Investigations Act, the criminal investigation authority shall, when necessary, consult with a physician or other expert on whether investigation measures may be directed at a person under the age of 18 years.

As a rule, interviews with child victims and witnesses are conducted by police officers with training or experience in this task. The interview may also be conducted by a health care professional.

In connection with the University Hospitals of major cities, there are dedicated centers of expertise that specialize in hearing minor victims of a crime. The police work in a close-knit cooperation with these centers.

4. Training of professionals

The Ministry of Justice regularly organizes advanced training for judges, court staff and legal aid officers in child psychology, legal psychology, rights of victims, human rights and special needs of victims who have been sexually abused. Also prosecutors may take part in the training.

The Office of the Prosecutor General organizes training for prosecutors that deal with cases of sexual and physical abuse of children. The topics include child development, child psychology and how to conduct an interview with a child.

Training of police officers includes training on child psychology, communication skills and how to conduct an interview with a child. A special qualification as an expert is given to those professionals who have conducted special training carried out by the National Police Board.

5. Access to remedies

A complaint about the prosecutor's decision not to prosecute can be submitted to the Prosecutor General, who has the right to initiate a new consideration of charges.

6. Family life

The first stage in the adoption process is adoption counselling provided by municipal social welfare organs and Save the Children Finland. Adoption counselling is free of charge for customers. For the purpose of submission of an application for adoption permission and petition for the granting of an adoption, the provider of adoption counselling shall provide a written report on the provision of adoption counselling. The report shall provide the necessary information about those concerned and their circumstances.

Based on the report the Adoption Board makes the decision on granting permission for adoption. The adoption of a minor child requires a permission granted by the Adoption Board in domestic as well as in intercountry adoptions. Permission is valid for two years. The applicants may apply extending the validity of the permission.

There is only one type of adoption. Once an adoption has been granted, the adoptee shall be deemed the child of the adoptive parents and not of the former parents.

The adoption permission is not needed if the adoptee is the child of the prospective adopter's spouse or a child who has otherwise already been cared for and brought up by the prospective adopter in an established manner.

As a rule, those adopting from abroad must, in addition to receiving adoption counselling, always apply for intercountry adoption services. Such services are provided by the City of Helsinki Social Services Department, Save the Children Finland and Interpedia.

At the end of the process the adoption shall be granted by judicial decision.

Child-friendly justice in Finland (534 Kb) en

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Rights of minors in court proceedings - Sweden

1. Minimum age at which a plaintiff can bring a case to court in their own right

In Sweden the minimum age of criminal responsibility is 15. A case can be brought to court by persons who are at least 18 for family, employment, migration and asylum matters as wells as administrative sanctions. For education matters the age is 16 and for health matters (only if this concerns compulsory psychiatric detention/treatment) and placement into care, 15 (although children will usually be defendants and not plaintiffs).

2. Specialised institutions and competent authorities

Sweden does not have special courts for young offenders. Children under the age of 15 cannot be prosecuted and instead fall under the care of Social Services, while those who are between 15 and 18 years of age are tried in general courts. Sweden has general courts and administrative courts. They work in parallel. The administrative court system deals with challenges to administrative decisions.

Civil law cases and cases regarding custody, residence and contact are handled by general courts. There are no specialist institutions dealing with children in civil judicial proceedings in Sweden. Most family law disputes fall under the jurisdiction of the general courts.

3. Legal and policy measures in place to avoid undue delay in the handling of cases involving children

When a child is suspected of a crime, the parents or another person responsible for the care of the child should as soon as possible be notified about the crime and the interview with the child. The parents should be present during the interview. If the crime is serious, the social services should also be notified as soon as possible about the crime and be present during the interview. The investigation and court proceedings are adapted to young suspects. Legal proceedings should be completed within reasonable time. There is also a general rule stating that relevant decisions and the commencement of proceedings shall take place without undue delay when children are involved in cases concerning custody, residence and contact.

4. Child-specific support mechanisms and procedures and ways of ensuring the voice of the child is heard

Children and adults alike may be parties in judicial proceedings. Thus, children who are victims of crime have the same right to be heard and to participate in the proceedings as adults. In cases where the child's account of the events is of particular importance (which is the case when the child is a victim) an expert in child psychology or interrogation psychology should be present during the interview or should comment on the value of the child's account. There is no right to be heard with regard to witnesses, regardless of whether the witness is a child or an adult. Witnesses are not parties in the trial and have no part in criminal proceedings other than providing their account of what happened if needed.

5. Multidisciplinary approach

Different actors, such as the police, the prosecution, health services, and social services are required to cooperate. When a child is a victim of violence, the principal responsibility for cooperation falls on social services. Most municipalities have so-called consultation groups with representatives from social

services, the prosecution, the police, child healthcare services, and child and youth psychiatry services, deciding on the coordination of efforts and planning and decide in which order the different actors should act once a report on a crime against a child has been made. If a child is victim of a crime or is suspected of having committed a crime, police and prosecutors always need to cooperate. Cooperation is also initiated with social services and other relevant actors.

6. Measures in place to ensure that the child's best interests are a primary or paramount consideration

Swedish law stipulates that the best interests of the child shall be of primary consideration of general courts, which means that the court is required to consider the best interests of each child. In cases concerning custody, residence and contact, the court decides on the best interest of the child. However, there is no general principle under Swedish administrative law that authorities or administrative courts must have regard to the best interests of the child, or that particular weight must be given to the child's best interests. Administrative law therefore differs in this respect from civil law. However, sector-specific legislation has introduced the principle that regard must be had, to varying degrees, to the child's best interests, into some specific administrative areas.

7. Monitoring and enforcement of decisions in proceedings involving children

Children under 15 years of age cannot be held criminally liable for crimes they committed. The fundamental principle is that young offenders should first be subjected to measures under the Social Services rather than be transferred to the Prison and Probation Service. There are special sanctions which only apply to young offenders aged between 15 and 21. Child offenders aged between 18 and 21 are often be sentenced to the same sanctions as adults. If the offender committed the crime before the age of 21, his or her youth should be given special consideration when determining the punishment. The provisions on the enforcement of civil courts judgments are the same for children and adults. If a counter party does not fulfill his or her obligations according to a judgement or decision, the party may request for the enforcement of the judgement or decision, by the Swedish Enforcement Agency. The Children and Parents Code contains provisions on the enforcement of judgement or decisions on custody, residence and contact, as well as other decisions under the Code. The best interests of the child should be of primary consideration when enforcing such judgments or decisions.

8. Access to remedies

There is a general right, i.e. not exclusive for child victims, to request a review of a decision not to prosecute. However, only concerned parties can make such a request. Child victims, as well as adult victims, can seek compensation from the offender (damages). When it comes to civil law, as children in general do not have procedural capacity, they can only access complaint, legal appeal or judicial review mechanisms through their legal representative.

9. General rules on adoption (of a child or an adult)

Decisions on adoption are made by the court. Application is made by the person/persons who wish to adopt. The court shall examine whether the adoption may suitably take place. Permission for adoption of a child must not be given unless the adoption is found to be to the benefit of the child.

Child-friendly justice in Sweden (255 Kb) en

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