THE RIGHTS OF CHILDREN WHO ARE EXPOSED TO DOMESTIC VIOLENCE CASES

I. INTRODUCTION

Children in domestic violence situations are not just passive witnesses; they are victims in their own right. Exposure to intimate partner violence, even if not directly physically harmed, can cause deep psychological trauma, and many children are also directly abused alongside a parent. Witnessing domestic violence profoundly affects children across all stages of development, disrupting emotional security, brain development, and social functioning. Newborns and infants may cry excessively, display irritability, sleep and feeding difficulties, developmental delays, and heightened sensitivity to loud noises, while also being at risk of physical injury if caught in violent incidents. Toddlers and preschoolers often regress in behavior, showing clinginess, separation anxiety, bed-wetting, thumb-sucking, stuttering, or tantrums, along with signs of post-traumatic stress such as fearfulness, and difficulty concentrating. School-aged children may exhibit aggression, withdrawal, rebelliousness, cruelty to pets, or self-harm, while also struggling with low self-esteem, headaches, stomachaches, poor academic performance, absenteeism, and difficulty trusting adults or peers. Adolescents face even greater risks, including depression, substance misuse, eating disorders, academic failure, delinquency and suicidal thoughts. They may either withdraw, particularly girls, or act out violently, more often boys, sometimes even perpetuating cycles of violence themselves. Across all ages, children may blame themselves for the abuse or resent a non-abusive parent for not offering protection. In the long term, exposure to domestic violence heightens the risk of depression, PTSD, behavioral disorders, substance abuse, and involvement in violent relationships, with lasting impacts on education, health, and future relationships well into adulthood.

II. INTERNATIONAL & EUROPEAN LEGAL FRAMEWORK

UN Convention on the Rights of the Child (1989)

The UNCRC is the most widely ratified human rights treaty in the world, adopted by the UN General Assembly in 1989 and ratified by 196 States (all UN members except the United States). It sets out civil, political, economic, social, and cultural rights of all children, emphasizing their protection, participation, and development. The UNCRC creates binding legal obligations for States to ensure that children grow up free from violence, neglect, and exploitation. General Comments are authoritative interpretations of the UNCRC issued by the Committee on the Rights of the Child. General Comment No. 12 elaborates on Article 12 of the UNCRC, affirming children's right to be heard in all matters affecting them. General Comment No. 13 provides a detailed interpretation of Article 19 of the UNCRC, strengthening States' obligations to prevent and respond to violence against children. A few important UNCRC Articles are as follows:

- **Article 9** - Separation of child from parent according to child's best interest, specifically in cases of abuse and neglect.
- **Article 19** - Protection against all forms of physical or mental violence, specifically while in the care of parents or others
- **Article 39** - Requires the physical and psychological recovery and social reintegration of child victims of any form of neglect, abuse or exploitation

UN Committee on the Rights of the Child - General Comment No. 12 on the right of the child to be heard (2009)

This GC stresses that children have the right to be heard "in any judicial or administrative proceedings that affect them," expressly including high-conflict family and domestic-violence cases, so their views must be taken into account in protection, custody or restraining-order hearings.

UN Committee on the Rights of the Child - General Comment No. 13 on the right of the child to freedom from all forms of violence (2011)

This GC interprets Art. 19 of the UNCRC and explicitly states that a child's "exposure to domestic violence" is itself a form of mental violence. It calls on States to adopt laws, support services and awareness measures to protect and assist child witnesses/victims of domestic abuse.

Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention, 2011)

The Istanbul Convention is the first legally binding European treaty specifically addressing violence against women and domestic violence, including its impact on children. Opened for signature in 2011, it has been ratified by 38 Council of Europe member states and the European Union. The Convention requires Parties to prevent violence, protect victims, prosecute offenders, and adopt integrated policies. It is widely regarded as the gold standard for preventing and combating violence against women and domestic violence. Furthermore, the GREVIO (Group of Experts on Action against Violence against Women and Domestic Violence) is an independent expert body set up under the Istanbul Convention (2011) to monitor how parties that ratified the Convention are implementing it in practice. When a country ratifies the Istanbul Convention, it agrees not only to adopt laws and policies aligned with the treaty, but also to undergo monitoring by GREVIO. A few important Articles of the Istanbul Convention are as follows:

- Art. 18(3)- Specialist services must cater to the vulnerability of children
- Article 26 - Protection and support for child witnesses
- Article 31 - Mandates safety-first approach in custody/visitation decisions
- Article 52 & 53 - Emergency barring and Restriction Orders

EU Victims' Rights Directive 2012/29/EU

- Article 14 - Best interest to be taken as primary consideration while applying this Directive.
- Article 21 - Requires individual assessment and special protective measures for child DV victims/witnesses.
- Art 38 - Specialist services for children.

EU Regulation 2019/1111 (Brussels II, 2022)

- Recital 43 - Mediation may be unsuitable in DV cases
- Art. 27 - Courts must examine protective measures before ordering a child's return where the child may be at grave risk (According to Art 13(1)(b) of Hague Convention)
- Art. 89 - Non-disclosure of a child's whereabouts to protect survivors

PACE Resolution 1714 (2010) on Children who witness domestic violence

This Resolution declares that a child witnessing DV is a form of psychological abuse; urges child-friendly hearing arrangements, restraining orders, custody limits on abusers, and broad support services.

CoE Committee of Ministers Recommendation CM/Rec(2009)10 - Integrated National Strategies for Child Protection For The Protection Of Children From Violence

This recommendation states that children witnessing domestic violence is a form of psychological violence that can be detrimental to a child's psychological development and well-being.

Council of Europe Guidelines on Child-Friendly Justice (2010)

These guidelines emphasize on the child's best interests and safety. It also recommends child-friendly procedures (e.g., video-link testimony, limited interviews) and mandatory training for judges, police and social workers handling domestic-violence cases involving children.

III. CHILDREN'S RIGHTS IN CIVIL AND CRIMINAL PROCEEDINGS

i/ Understanding the Problem

Children who witness domestic violence are often the forgotten victims of abuse. Even if they are not directly assaulted, exposure to violence in the home causes severe trauma, fear, and lasting harm to a child's development. For this reason, the Istanbul Convention explicitly acknowledges that children do not need to be physically harmed to be considered victims - *"witnessing domestic violence is just as traumatising"*.[1] There is usually no individual risk assessment or safety plan addressing the specific dangers they face; interventions tend to focus on the mother or the family as a whole, overlooking the child's distinct needs and experiences. As a result, warning signs can be missed until it is too late. High-profile tragedies across Europe underscore the stakes: an "alarming rate of homicides of both women and child victims" in domestic violence cases is reported regularly.[2].

[1] Council of Europe, Istanbul Convention: Action against Violence against Women and Domestic Violence, "The Convention in Brief"
[2] Council of Europe, Istanbul Convention: Action against Violence against Women and Domestic Violence, 3rd General Report on GREVIO's Activities, Newsroom, June 13, 2022

In one landmark case, an abusive father in Spain was granted unsupervised visitation despite a history of violence; during a visit he murdered his daughter and then himself. The U.N. CEDAW Committee found that by allowing contact without considering the domestic violence background, authorities had failed in their duty to protect, and it urged that any history of domestic violence always be factored into custody and visitation decisions to avoid endangering women or children.[3]

Despite growing awareness, gaps in law and practice persist across European jurisdictions. Many countries' laws still do not explicitly require courts to consider domestic violence in custody or visitation decisions. As a consequence, family judges can treat domestic abuse as unrelated to parenting, even though living with violence fundamentally undermines a child's welfare. In some jurisdictions, domestic violence is not even recognized as harmful to children unless the child is directly targeted[4] and in some countries, the courts did not systematically consider the trauma to children who see violence when deciding on contact with the abusive parent.[5] Even where laws have advanced, implementation lags as courts in often fail to grasp the pattern of abuse by fathers and its impact on children. In short, the problem is not a lack of evidence that these children are at risk but rather the lack of an effective, child-centered response within legal proceedings to safeguard their rights and prioritize their best interest.

Whilst current practice in many countries remains inadequate to protect children, there are countries that have taken positive steps as well. For instance, a number of states have made it an aggravating circumstance to commit domestic violence in the presence of a child, recognizing the added harm done. Italy and the Netherlands even classify violence committed before a child as a form of child abuse by law. Andorra and Montenegro go further, legally treating a child witness of domestic abuse as equivalent to a direct victim, entitling these children to the same level of protection and support services as any abused child. In practice, however, children's rights in such cases are not uniformly secured. While police and prosecutors may conduct risk assessments for the adult victim (typically the mother), they rarely assess the specific risk to the child individually. Mandatory reporting rules mean that child protection authorities are often informed when a child has witnessed domestic violence, but specialized follow-up is scant. Many parties to the Istanbul Convention "mostly fail" to provide appropriate and sufficient access to specialized, age-appropriate services for children who have witnessed violence. Support for these children, if available at all, is usually ad hoc or short-term (for example, only during the mother's stay at a shelter). Once the immediate crisis is over, the child's trauma may go unaddressed due to lack of tailored counselling, trauma-informed care, or long-term monitoring of their situation.[6]

[3] Jessica Lenahan (Gonzales)vs the United States
(Case referred to from - "Intimate Partner Violence Against Women Is an Essential Factor in the Determination of Child Custody," Women's Rights at the Crossroads: Strengthening International Cooperation to Close the Gap between Legal Frameworks and Their Implementation, Council of Europe, Strasbourg, May 24, 2019)
[4] Grevio Report - Serbia
[5] Grevio Report - Poland
[6] Council of Europe, Istanbul Convention: Action against Violence against Women and Domestic Violence, 3rd General Report on GREVIO's Activities, Newsroom, June 13, 2022

In civil proceedings (custody and visitation decisions), the response is often characterized by a troubling disconnect between domestic violence and family law. Courts and professionals frequently default to the view that contact with both parents is always in the child's best interest, even when one parent is violent. This leads to "maintaining contact at all costs" with the abusive parent. Family judges may pursue 50/50 shared custody or unsupervised visitation as a starting point, without adequately accounting for the abuse history. In fact, GREVIO observed that in France, Italy, Montenegro, the Netherlands, Portugal, San Marino and others, judges generally do not screen cases for domestic violence at all when deciding custody/visitation. They often fail to inquire about past abuse, do not order risk assessments, and do not seek information from criminal or child protection authorities about any safety plans in place. This means that crucial information about violence may never reach the family court. As a result, decisions are made without grappling with the danger to the child and the non-abusive parent.

Compounding these issues is the controversial use of "parental alienation" theories in custody disputes. Sometimes, when a child resists contact with a violent parent, the situation is sometimes reframed not as a response to abuse but as the result of the other parent "poisoning" the child's mind. This can be used to undermine legitimate abuse claims. In fact, allegations of domestic or sexual violence in custody cases often "disappeared" once the focus was on parental alienation. Mothers who raise abuse concerns may find themselves accused of alienation, sometimes resulting in courts transferring custody to the alleged abuser or coercing the child into contact. GREVIO has highlighted that the misuse of the parental alienation theory effectively "disregards the possible risks for the child" by flipping the focus away from the perpetrator's conduct.

ii/ Recommendations for Good Practices

Good Practices to be adopted in protecting children from domestic violence should always take into consideration the child's rights that are affected.

Right to Best Interest

The best interests of the child must be the primary consideration in all proceedings where domestic violence intersects with custody, visitation, or protective measures. This principle is not a secondary factor but the guiding thread that must shape every decision. In practice, this means that before granting custody or visitation, authorities must ask: Does this decision protect the child's safety, dignity, and development? The child's right to grow up free from fear and violence should outweigh parental claims to contact. Regional human rights jurisprudence reinforces this: in the case Kurt v. Austria, the European Court of Human Rights emphasized that when assessing a child's situation in a violent family, authorities must act with "special diligence" and not wait for tragedies to occur. Similarly, the CEDAW Committee's decision in Gonzalez v. Spain urged states to err on the side of caution and deny or restrict visitation when a history of domestic violence raises safety concerns, rather than gamble with the child's life. Finally, states should provide accessible, specialized support services for child witnesses of domestic violence. Good practices are emerging: for example, Poland has set up state-funded Children's Aid Centres that offer free psychological and legal support to

children who have experienced or witnessed abuse, and Denmark's Stalking Center provides therapy for children who have seen the effects of violence against a parent.\

Right to Protection

Child victims are presumed to have specific vulnerabilities and thus merit special protection measures (such as testifying via video-link, being accompanied by a support person, etc.). Fully implementing these standards means that a child who has witnessed domestic abuse should immediately be treated as a victim of crime, with all attendant rights, including the right to protection, to psychological support, and to have their best interests take priority in any judicial decision.

Domestic violence must be systematically taken into account in civil proceedings affecting children. Article 31 of the Istanbul Convention mandates that "in the determination of custody and visitation rights of children, incidents of domestic violence are to be taken into account, and that the exercise of any visitation or custody rights does not jeopardize the rights and safety of the victim or children." To fulfill this, countries should establish clear legal rules and protocols ensuring that family courts prioritize safety over parental access when there's a history of abuse. A good practice example comes from Spain where recent reforms to the Civil Code explicitly prohibit courts from awarding joint custody to a parent who is under investigation or has been convicted for domestic violence. This kind of legislative safeguard sends a strong message that a violent parent's rights do not trump a child's right to safety.

Right to an Individual Risk Assessment

Every case that deals with children witnessing domestic violence needs an individual risk assessment for the child. Authorities should not assume that a general assessment of the mother's situation covers the child's risks. On the contrary, the child should be recognized as a victim of trauma in their own right, with a distinct risk profile. Article 51 of the Istanbul Convention obliges states to assess and manage the danger in domestic violence cases, and GREVIO's latest reports stress that this must include dynamic risk assessments in custody and access procedures. Courts and child protection agencies should therefore routinely evaluate: What is the specific risk to the safety and wellbeing of the child (or of using the contact with the child to harm the other parent)? What does the child say about their fear? Have there been escalating threats? This process should be ongoing, recognizing the dynamic nature of the risk- those circumstances can change (for example, perpetrator's violence may spike when he loses control over the family after they are admitted to the shelter). In the Kurt v. Austria judgment (2021), the European Court of Human Rights clarified that States have a duty to conduct a comprehensive, proactive assessment of any lethal or serious risk to family members in a domestic violence situation. This means using evidence-based risk assessment tools and acting quickly on red flags like death threats, prior assaults, or obsessive behavior. In practical terms, police, social services, and courts must share information and cooperate in these case, for e.g. if a child is terrified of a parent due to past violence, that cannot be dismissed or left unexamined.

Right to be Heard

Every child capable of forming their own views has the right to express them freely in all matters affecting their lives, and to have those views given due weight according to their age and maturity (Article 12 UNCRC). The Lundy model of participation provides a framework: children must be given a safe space to express themselves; their voice must be facilitated through age-appropriate methods; there must be an audience of decision-makers who actively listen; and their views must have influence on the outcome. Supervised visitation centers (with trained staff and security protocols) should be available and adequately resourced, so that if risks are identified, the contact happens in a controlled environment. More importantly, courts and professionals also need training and guidelines to properly evaluate domestic violence evidence and to hear the child's voice. The child's stated feelings, for example, "I am afraid to go with dad because he hits mom" should be given serious weight as evidence of risk, not dismissed as childish or coached. Best practice from several countries shows the value of specialized court units or procedures for family cases with abuse, where judges, social workers, and psychologists trained in domestic violence and trauma work together. For instance, some jurisdictions use multi-disciplinary "one family, one judge" models that coordinate protective orders, criminal charges, and custody orders, ensuring no decision is made in isolation. Even simpler, judges handling divorce or custody should be required to check and take into account any history of domestic violence (through criminal records, protection order databases, etc.) as a routine part of the case file.

Right against Parental Alienation Syndrome

Another key recommendation is to reject pseudo-scientific concepts like "parental alienation" in cases involving abuse. Courts should focus on the concrete evidence of violence and its impact, rather than speculative theories that a child's reluctance to see a parent is due to manipulation. To counter this, judicial guidelines should explicitly bar the use of unfounded concepts that undermine abuse allegations. Spain's 2021 law provides a model: it directs that "public institutions will take necessary measures to prevent theoretical notions lacking scientific foundation, such as so-called parental alienation syndrome, from being considered" in custody evaluations.

IV. RELEVANT CASE LAWS

Kurt v. Austria (ECtHR Grand Chamber, 2021)

A mother alleged authorities failed to protect her and her children from her abusive husband, resulting in the murder of their 7-year-old son. The Grand Chamber did not find a violation of Article 2 (right to life), concluding the risk to the child's life was not established as "immediate" in the specific circumstances. However, the Court set important general principles: Authorities have a duty to immediately assess allegations of domestic violence in light of its specific context (the pattern of recurring incidents) and to conduct autonomous, proactive risk assessments. If a real and immediate risk to life is found, they must take preventive measures that are adequate and proportionate to the risk. The Court emphasized using research-based risk assessment tools and considering the "common trajectory of escalation" in domestic violence (meaning small incidents can quickly spiral to lethal violence). Kurt thus reinforced that domestic violence requires a heightened diligence ("special vigilance") from authorities.

Landi v. Italy (ECtHR, 2022)

A mother repeatedly reported her partner's violence and death threats; no effective action was taken. In 2018, the partner murdered their 2-year-old son and gravely injured the mother. The ECtHR found Italy violated Article 2, holding that authorities knew or ought to have known of a real and imminent risk to the lives of the mother and children and failed to take necessary preventive measures. Notably, the judgment criticized the lack of a proper lethality risk assessment in the Landi case: despite clear escalation and even mental health red flags, prosecutors had shown "scant diligence" - e.g., they did not promptly investigate or impose protection, even ignoring police requests to intervene. The Court highlighted that a range of measures (alerting social services, placing the victims in a shelter, etc.) was available under Italian law but was never used. Landi affirms that when red flags are flying, inaction is indefensible; as it cements the principle that domestic violence calls for immediate, coordinated protective action.

Luca v. Moldova (ECtHR, 2023)

A recent case addressing both domestic violence and custody. Ms. Luca endured abuse by her ex-partner; she obtained a protection order, but it was not properly enforced, and her two children went to live with the father. She alleged that authorities failed to protect her from violence and failed to help maintain her contact with her children. The ECtHR found multiple violations. Under Article 3 (inhuman treatment) and Article 8 (family life), it held that police and courts did not adequately investigate her domestic violence complaints and did not take sufficient steps to facilitate contact with her children. Crucially, the Court identified gender bias: it found that the authorities' inaction was partly due to prejudice against the woman's credibility and situation, implicating Article 14 (discrimination). The judgment sends a clear signal that dismissing domestic abuse as a private squabble or failing to act because of sexist assumptions violates a mother's and children's rights. Luca also underscores that children's best interests are harmed if the non-abusive parent-child bond is not supported.

Bîzdîga v. Moldova (ECtHR, 2023)

Decided alongside Luca, this case involved a father (Mr. Bîzdîga) who had lost custody to the mother and complained the process was unfair, as his contact was restricted after allegations of domestic abuse against him surfaced. The Court found a violation of Article 6/8: the father had been denied a fair hearing on his contact rights because the courts refused to reassess the arrangement despite new information, effectively denying him access to court. Importantly, it emerged that the limitation of his visitation was due to prior domestic violence allegations. The takeaway is twofold: (1) even alleged abusers have due process rights in custody decisions and procedures must be fair, but (2) the reason his contact was curtailed (the abuse concerns) was legitimate. The ECtHR did not question that domestic violence is a valid factor to restrict custody; it only faulted the lack of procedure to review changes. Together, Luca and Bîzdîga highlight that courts must thoroughly evaluate children's best interests whenever domestic violence is at play, ensuring neither a protective mother nor a reformed father is treated unjustly. The best interests analysis must be updated as circumstances evolve, but safety remains paramount.

I.M. and Others v. Italy

In 2014 the mother fled the family home with her children after persistent abuse by their father, a consumer of drugs and alcohol, and filed a criminal complaint. Prosecutors immediately suspended his parental responsibility and ordered that any contact occur only in a "strictly protected" setting. However, during these visits with the father, the children repeatedly witnessed their father's aggression and heard derogatory remarks about their mother; social services and the guardian ad litem warned the Youth Court that the sessions were psychologically damaging. When the mother objected to exposing the children to further risk, the Youth Court labelled her "hostile" and suspended her parental responsibility. However, it was later held that compelling the children to meet their violent father in unsecured environments "upset their psychological and emotional balance," disregarding their best interests; the domestic courts also failed to give "relevant and sufficient reasons" for punishing the mother. Both failures breached Article 8.

V. USEFUL RESOURCES

European Union

- Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA
- Council Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast)

Council of Europe

- Council of Europe Convention on preventing and combating violence against women and domestic violence Istanbul, 11.V.2011
- 2010 Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice
- CM/Rec(2009)10 - Recommendation of the Committee of Ministers to member states on integrated national strategies for the protection of children from violence (Adopted by the Committee of Ministers on 18 November 2009 at the 1070bis meeting of the Ministers' Deputies)
- GREVIO Country Monitoring Work
- GREVIO Mid-term Horizontal Review of GREVIO Baseline Evaluation Reports

United Nations

- 1989 United Nations Convention on the Rights of the Child
- General comment No. 12 (2009): The right of the child to be heard
- General comment No. 13 (2011): The right of the child to freedom from all forms of violence
- Parliamentary Recommendation 1905 (2010) on Children who witness domestic violence

Hague Conference on Private International Law

- Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (HCCH 1980 Child Abduction Convention)
- Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (HCCH 1996 Child Protection Convention)

VI. ABOUT US

Child-Friendly Justice European Network (CFJ-EN)

CFJ-EN brings together organisations, academics and justice professionals who believe children's rights begin with a justice system designed for them. Launched informally in 2019 by Defence for Children International, Belgium and formally established as an independent network in 2022 with support from the European Commission, CFJ-EN now links national sections of DCI and like-minded partners across the continent. Guided by the UN Convention on the Rights of the Child and the Council of Europe's Guidelines on Child-Friendly Justice, CFJ-EN works to adapt laws, courts and procedures to children's specific needs and vulnerabilities. Through coordinated advocacy, research and training, CFJ-EN harmonise good practice so that every child in Europe can access justice that is safe, respectful and empowering.

European Network for the Work with Perpetrators of Domestic Violence (WWP EN)

Founded in 2014, WWP EN is a Europe-wide community of perpetrator programmes, victim-support services and research institutes dedicated to ending domestic violence at its source. WWP EN promote perpetrator work that is accountable, evidence-based, victim-centered and gender-informed, striving for lasting safety and wellbeing for women and children. By sharing expertise, setting quality standards and shaping policy, WWP EN supports practitioners and decision-makers in building interventions that not only stop violence but also contribute to broader cultural change.

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APPENDIX – GLOSSARY OF TERMS

Child: International law defines a child as any human being below 18 years of age, unless majority is attained earlier under applicable law. This definition, from Article 1 of the UN Convention on the Rights of the Child (UNCRC), entitles all persons under 18 to the special protection and rights guaranteed by child-rights instruments.[7]

Child Abuse/Violence: Child abuse is an encompassing term for all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation (including sexual abuse) of a child including when subjected by a parent or caregiver.[8] This includes direct abuse of a child (such as beating, shaking, sexual assault, or emotional cruelty) as well as serious neglect of a child's basic needs. In the context of domestic violence, exposure to violence against a parent is itself a form of psychological abuse of the child.[9]

Child Victim/Witness: A child who has experienced harm, abuse or trauma due to domestic violence. This includes children directly abused, as well as those who witness violence against a parent or caregiver. Under the Istanbul Convention, states must treat such children as "child witnesses" with specific rights to protection and support.[10]

Domestic Violence (DV): All acts of physical, sexual, psychological or economic violence occurring within the family or domestic unit or between intimate partners, regardless of formal relationship status. Domestic violence disproportionately affects women as victims, but children are often directly or indirectly victimized.[11]

Criminal Proceedings: These are the legal proceedings that enable the adjudication of substantive criminal law. They include the moment when a formal complaint is made and situations in which authorities initiate criminal proceedings ex officio. They end once a final decision on a suspect's criminal liability has been rendered.[12]

Right to be heard: The UNCRC requires that every child capable of forming his or her own views is given the right to express those views freely in all matters affecting them, with due weight given to age and maturity.[13] This applies to administrative, judicial and family contexts alike.[14] In practice, this means children have a right to be consulted in judicial or administrative proceedings that impact them, such as custody disputes, protective order hearings, or criminal trials where they are victims or witnesses.

Best Interests of the Child: The UNCRC makes the child's best interests a primary consideration in all actions concerning children.[15] Prioritizing the child's best interest is a substantive right, an interpretative principle and a procedural rule guiding decision- makers.[16] In domestic violence situations, this has concrete implications:

[7] Art 1 of UNCRC
[8] Art 19 of UNCRC
[9] Art 21 of General Comment 13 of UNCRC
[10] IC Preamble : "Recognising that children are victims of domestic violence, including as witnesses of violence in the family;"
Article 26 of IC - Protection and support for child witnesses
[11] Art 3(b) of IC
[12] Art 1(7) of Recommendation CM/Rec(2023)2 of the Committee of Ministers to member States on rights, services and support for victims of crime
[13] Art 12 of UNCRC
[14] GC 12 of UNCRC
[15] Art. 3 of UNCRC
[16] GC 14 OF UNCRC

for instance, when deciding on custody or visitation, the child's right to safety and to grow up in a non-violent environment should outweigh, say, a violent parent's desire for contact.[17]

Visitation Rights
Visitation Rights, also known as the right of access, refers to when a parent is allowed to take a child for a limited period of time to a place other than the child's habitual residence.[18]

Custody
Custody refers to the bundle of rights a parent can exercise concerning a child's care and upbringing, as well as the authority to decide where the child will live. It also embraces related "rights of access," allowing a person to take the child away from the habitual residence for limited periods, ensuring meaningful contact while safeguarding the child's welfare and stability.[19]

Parental Alienation Syndrome: (PA) A contested theory claiming one parent has brainwashed a child to unjustifiably reject the other parent. It lacks scientific recognition and is not an accepted medical or legal syndrome. In the DV context, abusers sometimes invoke PA to dismiss children's fear of the violent parent as the result of manipulation by the protective parent. The uncritical use of PA notions can mask abuse and lead to secondary victimization of women and children.

Risk Assessments: A Risk Assessment is a structured process by authorities (police, courts, child protection services) to determine the lethality and seriousness of risk in domestic violence cases and to manage that risk. This includes taking into account patterns of violence and is essential to prevent the escalation of a dv situation.[20]

Individual Needs Assessments: An Individual Needs Assessment is a process used to identify the specific support and communication needs of a victim to ensure they can fully understand and participate in criminal proceedings. It takes into account factors such as the victim's age, language skills, mental or physical impairments, and any emotional or intellectual challenges, in order to provide information and support in a way that is clear, accessible, and appropriate to the victim's personal situation.[21]

[17] Art 31 of IC states that visitation/custody rights should not jeopardise the rights and safety of children.
[18] Art 5 (b) of Convention On The Civil Aspects Of International Child Abduction
[19] Art 3(b) 1996 Child Protection Convention (HCCH)
[20] Art 51 of IC
[21] Art 21 of Victim's Rights Directive