

CHILD FRIENDLY JUSTICE IN EUROPE

CFJ-EN Handbook - 2023 Edition



CFJ-EN

Child Friendly Justice
European Network



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Foreword

This second edition of the Handbook to promote child friendly justice (CFJ) has been prepared by the Operational Team of the CFJ-EN. It is the second in a series of annual handbooks on the effective adaptation of European justice systems (criminal, civil and administrative) to child friendly justice principles.

What does this Handbook include?

This Handbook lists resources and tools developed by the CFJ-EN and its members (manuals, toolkits, position papers, training material, research reports, etc.), legislation and main case law on CFJ at regional level, as well as main events related to CFJ. It is made accessible to all, published in an online format, in English, on the website of the CFJ-EN (www.cfjnetwork.eu/publications).

Why was this Handbook developed?

This Handbook provides a mapping of the legal framework applicable to child friendly justice and initiatives and resources, which will allow practitioners working with children to have an overview of the general context and to better orient their actions. While it does not pretend to be exhaustive, as it contains a selection of resources, it is well meant to be a “toolbox” for professionals where they can easily find a set of legal resources, as well as recent resources that were developed mainly by the members of the CFJ-EN in the framework of regional projects and initiatives. This toolbox aims to assist them in their decision-making processes. The CFJ-EN will regularly update this document, in close collaboration its members.

Who is the Handbook for?

The Handbook has been designed for members of the CFJ-EN, as well as for any legal practitioner, judge, public prosecutor, child protection authority, social worker, probation officer, and organization or institution working with children and/or responsible for the protection of their rights when in contact with justice systems.

About the CFJ-EN

The Child Friendly Justice European Network (CFJ-EN) was launched in 2019 informally by the Europe sections of Defence for Children International. Thanks to the formalisation of a Framework Partnership Agreement with the European Union, the CFJ-EN has been fully operational since April 2022. The CFJ-EN has, as of September 2023, 29 members in 19 countries in Europe. Its members include civil society organisations, research institutes and individual experts.

The purpose of the CFJ-EN is to federate organisations across Europe, influence policies and legislations and disseminate information in relation to CFJ at European regional and national levels. The vision for the future is that children in Europe have access to age appropriate, inclusive and diligent services and practitioners equipped to implement child friendly justice. To implement this vision, it bases its work on the Convention on the Rights of the Child and aims to support the implementation of the Council of Europe Guidelines on child friendly justice, the European Directives on procedural safeguards and on victim's rights, as well as other key European instruments.

The CFJ-EN aims to:



STRENGTHEN
CHILDREN'S AGENCY

by promoting meaningful and inclusive participation of children and young people and making practitioners working with children understand the importance of child participation.

PROMOTE
QUALITY OF PRACTICE



by increasing capacities of legal and non-legal practitioners who work with children and sharing knowledge and expertise across Europe on child friendly justice.

ENSURE
ACCOUNTABILITY



by informing European policy makers and making them aware of inspiring practices and informing national policy makers and making them aware of latest developments in child-friendly justice.



STRENGTHEN
THE NETWORK

by strengthening the capacities of the Network to communicate on and promote child friendly justice and mobilising support to members and fostering collaborations across Europe towards effective access to justice for children.



Make a justice system suited for the needs of children

Response from Children's Focus Group in the Netherlands answering the question "How do you envision child-friendly justice in the future?" – November 2020



Acronyms

The following table lists the various abbreviations and acronyms used throughout the Handbook.

ACRONYM	MEANING
AADH	Alliance des Avocats pour les droits de l'Homme
CFJ	Child Friendly Justice
CFJ-EN	Child Friendly Justice European Network
CDENF	Council of Europe Working Group on responses to violence against children
CoE	Council of Europe
CILSP	Centre of Integrated Legal Services and Practices
CJEU	Court of Justice of the European Union
CRC	Convention on the Rights of the Child
DCI	Defence for Children International
EC	European Commission
ECHR	Convention for the Protection of Human Rights and Fundamental (commonly known as European Convention of Human Rights)
ECtHR	European Court of Human Rights
ENF-VAE	Council of Europe Committee of Experts on the prevention of violence
EU	European Union
FRA	European Union Agency for Fundamental Rights
IJJO	International Juvenile Justice Observatory
LIL	Law Institute of the Lithuanian Centre for Social Sciences
SAPI	Social Activities and Practices Institute
TFEU	Fundamental Treaty of European Union
Tdh	Terre des hommes
UAC	Unaccompanied children
UN	United Nations
UNICEF	United Nations Children's Fund

Glossary of key terms

Binding and Non-Binding Instruments of the European Union

Binding legal instruments

DIRECTIVE

The directive is a harmonisation instrument, a unilateral act that is binding on the EU Member States, which sets an objective to be achieved but leaves States free to choose how to do so, according to Article 288 TFUE. Thus, the directive calls for a national normative production at the level of the Member States to allow its implementation. In practice, the EU Member States adopt laws or circulars to implement the directive.

The EC proposes a directive to the Parliament and the Council of the European Union, which in turn dispose of and adopt this unilateral act. Furthermore, it is the Court of Justice of the European Union which ensures that the Member States comply with the directives, in particular their effective transposition. Transposition into national law must take place by the deadline set when the directive is adopted (generally within two years). When a country does not transpose a directive, the Commission may initiate [infringement proceedings](#).

REGULATION

The regulation is automatically and uniformly applied to all EU countries' legislation. Contrary to the directive, it is not necessary to transpose it into national law, under Article 288 TFUE. Two types of regulations exist: a. regulations adopted by the Council of the EU (Council of Ministers) alone or with the European Parliament on a proposal from the EC; and b. regulations adopted by the Commission, under its own authority or pursuant to decisions of the Council of the EU.

DECISION

A decision is legally binding act in its entirety. Unless explicitly stated otherwise, a decision is binding for the EU as a whole. Decisions can address specific legal entities, in which case a decision is binding only to them. In its current form the decision was introduced with the Lisbon Treaty that came into force December 2009. It replaces various legal instruments introduced by earlier Treaties.

TREATY

Treaties are legally binding agreements between countries on any given subject. Treaties are subject to international law.

ACT

An act is an instrument in writing to verify a legislative act. In the European Union acts are sometimes used as foundation for treaties that might enter into the legislative process at a later date.

PROTOCOL

A protocol is annexed to a treaty and stipulates detailed measures or actions on a specific part of that treaty. When signatory parties enter into a treaty they are also bound to any protocols governed by the treaty.

DELEGATED ACT

To modify non-essential parts of EU legislative acts (decisions, directives, regulations) the Commission can use delegated acts. It may be useful to define detailed measures. The Commission adopts the act. It will enter into force insofar as the Parliament and Council have no objections.

IMPLEMENTING ACT

The European Commission uses implementing acts (decisions, directives, regulations), which are legally binding acts, to set conditions that ensure that EU laws are applied uniformly by Members States.

Non-binding instruments

RECOMMENDATION

The recommendation allows EU institutions to make their views known and to suggest a line of action in each field.

OPINION

EU institutions can use the opinion to make a statement, to explain a point of view without imposing any legal obligation.

GUIDELINE

Guidelines are non-binding acts that set out a framework for future acts in a policy area. These frameworks tend to be broad in scope and stated in general terms,

and the 'future acts' often take the form of legally binding instruments. The EU issues guidelines in a limited number of policy areas.

COMMUNICATION

The communication used by the European Commission is a soft law act. It has an indicative value for interpreting primary and secondary legislation of the European Union. The political dimension aims to record changes in the position of the authorities on a specific issue.

DECLARATION

By means of a declaration the institutions of the European Union relate their point of view on a specific topic. A declaration is not used to initiate legislative processes, nor is it used to publicise concrete programmes. The EU rarely uses declarations.

EUROPEAN PARLIAMENT RESOLUTION ON THE SITUATION OF FUNDAMENTAL RIGHTS IN THE EU

Following up on the work of the Committee on Civil Liberties, Justice and Home Affairs, Members of Parliament regularly discuss and adopt resolutions in the European Parliament's plenary sessions on the situation of fundamental rights in the EU and on specific issues concerning the protection of these rights in the Member States.

GREEN PAPER

By means of a green paper the European Commission attempts to initiate a debate about possible future policies in a given area. Eventually, a green paper may serve as a basis for later legislative proposals.

WHITE PAPER

By means of a white paper the European Commission initiates debate on new policies it intends put forward at a later stage. White papers tend to be detailed documents and usually serve as basis for one or more legislative proposals.

REPORT

Reports are issued by the European Commission to report and assess current policies. A report may provide a basis for policy development.

WORKING PAPER

Working papers or working documents by the European Commission cover a wide variety of affairs, but are always geared towards providing information on certain

policies, programmes and legislative proposals or in support of current policies. Working papers issue neither policies nor actions.

Key Institutions at Regional Level

European Union

COUNCIL OF THE EUROPEAN UNION

The Council of the European Union is made up of one minister of each Member State of the EU. It is the executive body of the EU. It can amend, adopt or reject a measure modified by the European Parliament, by qualified majority. Moreover, each State has a particular weight in the vote according to its population.

COURT OF JUSTICE OF THE EUROPEAN UNION

The European Union has a legal personality since the entry into force of the [Treaty of Lisbon](#) on 1 December 2009 and it is the regional judicial institution. It is composed of two courts: the Court of Justice and the General Court. The main task of the CJEU is to ensure that EU law is applied and interpreted uniformly in every country. Administrations and national courts have the obligation to recognise the primacy of EU legislation over national law and to apply it in every sphere of competence in order to protect the rights conferred on citizens by that law. This is called “direct applicability”.

EUROPEAN COMMISSION

The European Commission is composed of one commissioner from each of the 27 Member States (including the chairperson) appointed for five years. Its main function is to initiate legislative initiatives, as holder of the right of initiative, influenced by the other European institutions as the European Council and the European Parliament. In this way, it contributes to the direction of the Union's actions, which are set out in the State of the Union address by the chair. It proposes measures in all areas of EU competence. Finally, it is the guardian of the legality of acts and treaties because it can sanction a Member State that does not respect them.

INSTITUTIONS

The European Council is composed of the heads of states of all European countries, the President of the European Council and the President of the European Commission. The main competence is on the general political direction and priorities of EU. Furthermore, it can ask the EU Commission to make a proposal to address it and pass it on to the Council of the European Union to examine it.

EUROPEAN PARLIAMENT

The European Parliament is elected by direct universal suffrage every five years. It is composed of 705 members from all Member States. It represents European citizens. Its main role is to amend and vote on Commission proposals, jointly with the Council of the European Union, as well as the EU budget. In addition, it has a right of initiative, under Article 225 TFEU, which allows it to ask the Commission to propose legislation.

THE COMMITTEE OF THE REGIONS

The Committee draws its powers from Article 13.4 TEU and Articles 300 and 305 to 307 TFEU. It is a political assembly composed of 329 holders of a regional or local electoral mandate serving the cause of European integration. The Committee of the Regions ensures the implementation of EU policies and actions at local level, such as the European Commission's strategies and it makes them more effective.

THE EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS (FRA)

The FRA collects and analyses law and data on fundamental rights to help policymakers understand how they can do more for their citizens and make the rights of the child, one of the agency's areas of expertise, more effective.

Council of Europe

COUNCIL OF EUROPE

The Council of Europe is an international organisation founded in 1949 since the entry into force of the [Treaty of London](#) with 46 Member States and 6 States with an Observer status. Its objective is to protect democracy and human rights, and to promote European unity by fostering cooperation on legal, cultural, and social issues. The year following its creation, the most important treaty to protect the rights and liberties of the citizens, the European Convention on Human Rights (ECHR), was adopted.

EUROPEAN COURT OF HUMAN RIGHTS (ECtHR)

The European Court of Human Rights was established in 1959. Its main mission is to ensure observance of the ECHR. In particular, the ECtHR hears applications alleging that a contracting state has breached one or more of the human rights provisions concerning civil and political rights set out in the ECHR and its protocols. An application can be lodged by an individual, a group of individuals or one or more of the other contracting states, and, besides judgments, the Court can also issue advisory opinions. Its judgments are binding on the states concerned. It is composed of 47 judges, one from each Member State.

01

COMPILATION OF RESOURCES ON CHILD FRIENDLY JUSTICE



The compilation below aims to provide the reader with useful tools and resources, in a unique and accessible format.

You will find below publications produced by our members or to which they contributed to, as well as other key resources from other organisations or institutions. This compilation includes the following:



Websites



Research documents



Online Training, Tools, and Courses



Manuals, Guidelines, and Handbooks



Advocacy & Policy Documents



Toolkits



Other instruments



Websites

TITLE	PROJECT	TOPIC	LEAD / AUTHOR(S)
www.lachild.eu	LA Child (2020-2021) My lawyer, my rights (MLMR) (2016-2018)	Legal assistance - Children Suspects and/or Accused	DCI Belgium
www.cfjnetwork.eu/	Child Friendly Justice – European Network (CFJ-EN)	Mutual learning – research – advocacy - awareness raising - training on child friendly justice	DCI Belgium
focus.justicewithchildren.org	FOCUS: working together for children in criminal proceedings (2020-2021)	Individual assessments – child victims – Children Suspects and/or Accused	Tdh Europe
www.euforumrj.org/en/irestore-2019-2021	I-RESTORE: Protecting child victims through restorative justice (2019-2021)	Restorative justice - child justice – European reviews – Albania – Romania – Greece – child victims	EFRJ, Tdh Europe
www.childrensrightsbehindbars.eu/	Children's rights behind bars (2014-2018)	Monitoring detention – children deprived of liberty – preventive and child right based approach	DCI-Belgium

Research documents

TITLE	PROJECT	KEY THEMES	LEAD / AUTHOR(S)
Access to Justice for Children with Mental Disabilities: Data collection and dissemination report - synthesis of findings (2015)	Access to Justice for Children with Mental Disabilities (2013-2015)	Access to Justice, Children with Disabilities, Data Collection	Validity Foundation (ex-MDAC)
Barriers Children with Mental Disabilities Face in Accessing Justice in Various Countries (2015)	Access to Justice for Children with Mental Disabilities (2013-2015)	Child Participation, Access to Justice, Children with Disabilities	Validity Foundation (ex-MDAC)
Child Migrants and Child-Friendly Administrative Justice Procedures (2020)	Child Friendly Justice – In Action! (2018-2020)	Children in Migration, Administrative Justice	DCI Belgium, Greece, Spain, France, Czechia, The Netherlands, World Service
Children in Contact with the Law in Europe: Trends and Opportunities (2021)	N/A	Children Suspects and/or Accused, European Law, Criminal Proceedings, Child Friendly Justice, Access to Justice, Children's Rights	DLA Piper, Tdh Europe
Children in Conflict with the Law Review of Diversion in the Juvenile Justice Systems of Belgium, Bulgaria, Croatia, Hungary and Romania (2018)	Away Project (2017-2019)	Children Suspects and/or Accused, Diversion	DCI Belgium, Tdh Europe, Brave Phone, PDJS, IJJO, PILnet, Pressley Ridge
Core Competencies for Personnel Working with Children Deprived of Liberty (2021)	N/A	COVID-19, Deprivation of Liberty Capacity Building	Organisation Internationale de la Francophonie

<p><u>European Research Report on the Application of Restorative Justice in Cases Involving Child Victims (2020)</u></p>	<p>I-RESTORE (2019-2021)</p>	<p>Child Victims, Restorative Justice</p>	<p>Tdh Europe, EFRJ</p>
<p><u>Equitable Access to Justice for Children in the Western Balkans - A Sub-Regional Agenda (2018)</u></p>	<p>N/A</p>	<p>Access to Justice, Child Participation, Best Interests of the Child, Children's Rights</p>	<p>UNICEF</p>
<p><u>Full Research Report Running Away: Drivers, Awareness, and Responses (2021)</u></p>	<p>Radar</p>	<p>Data Collection, Violence Against Children, Runaway</p>	<p>Missing Children Europe</p>
<p><u>Global Status Report on Preventing Violence Against Children 2020</u></p>	<p>N/A</p>	<p>International Principles, Data Collection, Violence Against Children</p>	<p>World Health Organization (WHO)</p>
<p><u>Implementing the Council of Europe Guidelines on Child-Friendly Justice in Procedures Related to Migration (2020)</u></p>	<p>N/A</p>	<p>Children in Migration, Administrative Proceedings, Child Friendly Justice, Migration-Related Proceedings, Justice Proceedings</p>	<p>DCI Belgium, Greece, Italy</p>
<p><u>International Classification of Violence against Children (2023)</u></p>	<p>N/A</p>	<p>Data Collection, Child Victims, Violence Against Children</p>	<p>UNICEF</p>
<p><u>Legal Aid for Children in Conflict with the Law in International and European Instruments (2020)</u></p>	<p>LA Child (2020-2021)</p>	<p>Legal Aid, Children Suspects and/or Accused, European Law, Criminal Proceedings, Children in Conflict with the Law</p>	<p>Law Institute of the Lithuanian Centre for Social Sciences, DCI Belgium, Centre of Integrated Legal Services and Practices (CILSP)</p>

<p>Legal Aid for Children in Criminal Proceedings: Report on Current European National Frameworks (2020)</p>	<p><i>LA Child (2020-2021)</i></p>	<p>Legal Aid, Children Suspects and/or Accused, European Law, Criminal Proceedings</p>	<p>Law Institute of the Lithuanian Centre for Social Sciences, DCI Belgium, DLA Piper, Centre of Integrated Legal Services and Practices (CILSP)</p>
<p>Mapping Child Participation in Barnahus in Europe: Survey Results 2021</p>	<p><i>Promise (2015-2022)</i></p>	<p>Child victims, Barnahus, Child Participation, Right to be Heard, Interagency Collaboration</p>	<p>Child Circle, Hope for Children (HPC), Stifelsen Allmanna Barnhuset, TUSLA, Empowering Children Foundation, SAPI, Finnish Institute for Health and Welfare, Republika Slovenija Ministerstvo za Pravosodje, AvBIT LABSn, BONIGI, Tdh Europe, Barnahus Network: Council of the Baltic States</p>
<p>National Reports on Legal Aid for Children in Conflict with the Law (2020)</p>	<p><i>LA Child (2020-2021)</i></p>	<p>Legal Aid, Children Suspects and/or Accused</p>	<p>Law Institute of the Lithuanian Centre for Social Sciences, DCI Belgium, DLA Piper, Centre of Integrated Legal Services and Practices (CILSP)</p>
<p>Report Summary on Access to Justice for Children with Mental Disabilities (2015)</p>	<p><i>Access to Justice for Children with Mental Disabilities (2013-2015)</i></p>	<p>Access to Justice, Children with Disabilities, Data Collection</p>	<p>Validity Foundation (ex-MDAC)</p>
<p>Research Report on the Application of Restorative Justice in Cases Involving Child Victims in Albania (2020)</p>	<p><i>I-RESTORE (2019-2021)</i></p>	<p>Child Victims, Restorative Justice</p>	<p>Tdh Europe, EFRJ</p>

<p>Research Report on the Application of Restorative Justice in Cases Involving Child Victims in Greece (2020)</p>	<p><i>I-RESTORE (2019-2021)</i></p>	<p>Child Victims, Restorative Justice</p>	<p>Tdh Europe, EFRJ</p>
<p>Research Report on the Application of Restorative Justice in Cases Involving Child Victims in Romania (2020)</p>	<p><i>I-RESTORE (2019-2021)</i></p>	<p>Child Victims, Restorative Justice</p>	<p>Tdh Europe, EFRJ</p>
<p>Technical Note: COVID-19 and Children Deprived of Their Liberty (2021)</p>	<p><i>Global Initiative on Justice with Children</i></p>	<p>Children in Contact with the Law, COVID-19, Access to Justice, Deprivation of Liberty</p>	<p>UNICEF</p>
<p>The Impact of COVID-19 on Children's Access to Justice(2021)</p>	<p><i>Global Initiative on Justice with Children</i></p>	<p>Children in Contact with the Law, COVID-19, Access to Justice, Deprivation of Liberty</p>	<p>UNICEF</p>

Online Training, Tools and Courses



TITLE	PROJECT	TOPIC	LEAD / AUTHOR(S)
Access to Justice for Children with Mental Disabilities: Training Materials	<i>Access to Justice for Children with Mental Disabilities (2013-2015)</i>	Access to Justice, Children with Disabilities	Validity Foundation (ex-MDAC)
Access to Justice for Migrant Children in the EU	<i>FAIR Project (Fostering Access to Justice for Immigrant Children's Rights)</i>	Children in Migration, Access to Justice, Right to Family Life	International Commission of Jurists
A Training Manual for Care Professionals Working With Children in Alternative Care	N/A	International Principles, Alternative Care, Child Protection	SOS Children's Villages
Children's Human Rights - An Interdisciplinary Introduction	N/A	Right to be Heard, Children's Rights, Child Participation, Right to Legal Aid	University of Geneva
Child Protection for Teachers	<i>Project TALE: Training Activities for Legal Experts</i>	Violence Against Children, Child Neglect, Child Abuse, Adverse Childhood Experience	Queensland University of Technology
Children's Rights in Theory and Practice	N/A	Children in Migration, Child Victims, Violence Against Children, Child Exploitation, Child Neglect, Child Trafficking, Child Abuse	Harvard University

<u>Courses and Support Related to the Protection of Child Victims</u>	<i>Promise (2015-2022)</i>	Child Victims, Barnahus, Child Participation, Children with Disabilities, Procedural Safeguards, Violence & Abuse, Child Exploitation, Child Neglect, Medical Examination, Forensic Interviews	Child Circle, Hope for Children (HPC), TUSLA, Empowering Children Foundation, SAPI, Finnish Institute for Health and Welfare, BONIGI, TdH Europe, Barnahus Network: Council of the Baltic Sea States, Stiftelsen, Allmanna Barnhuset, Republika Slovenija, Ministrstvo za Pravosodje, AvBIT, LABSN
<u>E-learning on Protecting Child Victims Through Restorative Justice (2021)</u>	<i>I-RESTORE</i>	Child Victims, Restorative Justice	TdH Europe, EFRJ
<u>Ending Child Detention</u>	<i>N/A</i>	Children in Migration, Deprivation of Liberty, Alternatives, Immigration Detention	International Detention Coalition
<u>HELP Online Courses and Programmes</u>	<i>N/A</i>	Children in Migration, Child Friendly Justice, Access to Justice, Violence Against Children, Children's Rights, Child Exploitation, Domestic Violence	Council of Europe
<u>IDEA Child Rights</u>	<i>IDEA Project (2017-2019)</i>	Children in Contact with the Law, Capacity Building	University College Cork
<u>Improving Legal Practice with Children and Young People</u>	<i>Project TALE</i>	Child Friendly Justice, Justice Proceedings, Right to be Heard, Child Participation	University of Liverpool
<u>Individual assessment - A Gateway to a Child-Centred Justice</u>	<i>Focus (2020-2021)</i>	Child Suspects and/or Accused, Child Victims, Interagency Collaboration, Individual Assessments	Child Circle, SAPI, TdH Europe, DCI Netherlands, Child Rights Centre

<p>MOOC on Children Deprived of Liberty: Learning from the UN Global Study</p>	<p>N/A</p>	<p>Children Suspects and/or Accused, Children in Migration, Child Friendly Justice, Deprivation of Liberty</p>	<p>Global Campus of Human Rights</p>
<p>Protecting Children in Humanitarian Settings</p>	<p>N/A</p>	<p>Violence Against Children, Child Protection, Armed Conflict, Humanitarian Law, Adverse Childhood Experience, Resilience</p>	<p>Columbia University</p>
<p>Resilience in Children Exposed to Trauma, Disaster and War</p>	<p>N/A</p>	<p>Violence Against Children, Armed Conflict, Resilience</p>	<p>University of Minnesota</p>
<p>Training of Lawyers Representing Children in Criminal, Administrative, and Civil Justice</p>	<p>TRACHILD</p>	<p>Child Friendly Justice, Children in Contact with the Law, Capacity Building, Administrative Justice, Criminal Justice, Civil Justice</p>	<p>European Lawyers-Foundation</p>
<p>Various Child Hub Courses on Child Protection</p>	<p>N/A</p>	<p>Restorative Justice, Violence Against Children, Procedural Safeguards, Alternative Care, Protection, Humanitarian Crisis, Alternatives to Detention</p>	<p>Child Hub, Tdh Europe</p>



Manuals, Guidelines and Handbooks

TITLE	PROJECT	TOPIC	LEAD / AUTHOR(S)
Advancing Child Rights-Consistent Strategic Litigation Practice (2022)	<i>Advancing Child Rights Strategic Litigation (ACRISL) Project</i>	Legal Aid, European Law, Child Friendly Justice, Justice Proceedings, Right to be Heard, Children's Rights, Strategic Litigation	Aoife Nolan, Ann Skelton, Karabo Ozah
A Guide for Child Support Workers to Better their Professional Practice & E-module co-created with children (2021)	<i>The Quest</i>	Child Participation, Capacity Building	International Institute for Child Rights and Development, Films for All
Barnahus Quality Standards: Guidance for Multidisciplinary and Interagency Response to Child Victims and Witnesses of Violence (2017)	<i>Promise (2015-2022)</i>	Child Victims, Barnahus, Interagency Collaboration, Medical Examination, Forensic Interviews, Child Abuse, MEDIA, Quality Standards	Child Circle, Hope for Children (HPC), Stiftelsen Allmanna Barnhuset, TUSLA, Empowering Children Foundation, SAPI, Finnish Institute for Health and Welfare, Republika Slovenija Ministrstvo za Pravosodje, AVBIT LABS, BONIGI, Tdh Europe, Barnahus Network: Council of the Baltic Sea States
Child friendly court guidelines for personal status courts in Lebanon (2020)	N/A	Capacity Building, Judicial Proceedings	Tdh Europe
Child-Friendly Justice: Perspectives and Experiences of Children and Professionals (2022)	N/A	Child Friendly Justice, Child Participation, Children's Rights	FRA

<p>Children's right to participation and the juvenile justice system: Theory & Practices for implementation. (2016).</p>	<p>Twelve Project (2014-2016)</p>	<p>Justice Proceedings, Child Participation, Right to be Heard</p>	<p>Spain, Belgium, Pulse Foundation Bulgaria, University of Tartu Estonia, ARSIS Greece, DCI Italy</p>
<p><u>FOCUS Standards - Individual Assessment - A Gateway to a Child-Centered Justice (2021)</u></p>	<p>Focus (2020-2021)</p>	<p>Children Suspects and/or Accused, Criminal Proceedings, Child Victims, Individual Assessments</p>	<p>Child Circle, SAPI, Tdh Europe, DCI Netherlands, Child Rights Centre</p>
<p><u>Give Me a Chance, but a Real One: How to Improve the Reintegration of Children in Conflict with the Law (2020)</u></p>	<p>N/A</p>	<p>Children in Contact with the Law, Reintegration & Rehabilitation</p>	<p>Tdh Europe</p>
<p><u>Guardianship for Unaccompanied Children - A Manual for Trainers of Guardians (2023)</u></p>	<p>N/A</p>	<p>Capacity Building, Best Interests of the Child, Unaccompanied Children, Guardianship</p>	<p>FRA</p>
<p><u>Guide for Children and Young People to the Council of Europe Strategy for the Rights of the Child (2022-2027)</u></p>	<p>N/A</p>	<p>Child Friendly Justice, Child Participation, Access to Justice, Council of Europe, Children's Rights</p>	<p>Council of Europe</p>
<p><u>Guide for Parliamentarians: Visiting Places Where Children Are Deprived of Their Liberty as a Result of Immigration Procedure (2017)</u></p>	<p>Children's Rights Behind Bars 1 & 2 (2014-2018)</p>	<p>Deprivation of Liberty, Administrative Detention of Children, Alternatives to Administrative Detention, Monitoring Detention</p>	<p>DCI Belgium, France, Italy, Netherlands, Helsinki Foundation for Human Rights (Poland), Ludwig Boltzmann Institute of Human Rights (Austria), Institute of Social Studies of the University of Tartu (Estonia), Irish Penal Reform Trust (Ireland), Ombudsman's Office of the Republic (Latvia),</p>

National Association of Educative and Social Communities (Luxembourg), Research Centre CICOP, West University in Timisoara (Romania), Proiecto Solidario (Spain)

<p>Guidelines for Child-Friendly Legal Aid for Children in Conflict with the Law: Recommendations and Inspiring Practices Aimed at Legal Aid Providers and Policymakers (2021)</p>	<p><i>LA Child (2020-2021)</i></p>	<p>Legal Aid, Children Suspects and/or Accused, Criminal Proceedings, Child Friendly Justice</p>	<p>Law Institute of the Lithuanian Centre for Social Sciences, DCI Belgium, Centre of Integrated, Legal Services and Practices (CILSP)</p>
<p>Guidelines on Children in Contact with the Justice System (2017)</p>	<p>N/A</p>	<p>Child Friendly Justice, Justice Proceedings, Children in Contact with the Law</p>	<p>IAYFJM</p>
<p>Guidelines to Enhance Child Participation and Work with Youth on Child Advisory Boards (2019)</p>	<p><i>AWAY Project (2017- 2019)</i></p>	<p>Right to be Heard, Children in Contact with the Law, Participation</p>	<p>DCI Belgium, Tdh Europe, Brave Phone, PDJS, IUJO, PILnet, Pressley Ridge</p>
<p>Handbook on the Protection of Children Against Sexual Exploitation and Sexual Abuse in Crisis and Emergency Situations (2022)</p>	<p>N/A</p>	<p>Child Victims, Child Abuse, Sexual Exploitation, Lanzarote Convention, Crisis, Emergency Situations, Sexual Abuse</p>	<p>Council of Europe</p>

<p><u>Handbook: Reintegration and Rights from a Participatory Perspective - Innovative Practice Examples in EU countries (2018)</u></p>	<p><i>Children's Rights Behind Bars 1 & 2 (2014-2018)</i></p>	<p>Right to be Heard, Deprivation of Liberty, European Union, Child Participation, Reintegration & Rehabilitation</p>	<p>DCI Belgium, France, Italy, Netherlands, Helsinki Foundation for Human Rights (Poland), Ludwig Boltzmann Institute of Human Rights (Austria), Institute of Social Studies of the University of Tartu (Estonia), Irish Penal Reform Trust (Ireland), Ombudsman's Office of the Republic (Latvia), National Association of Educative and Social Communities (Luxembourg), Research Centre CICOP West University in Timisoara (Romania), Proyecto Solidario (Spain)</p>
<p><u>Hard Law & Soft Law: International and Regional Standards Regarding Juvenile Justice</u></p>	<p>N/A</p>	<p>Legal Aid, Children Suspects and/or Accused, Criminal Proceedings, Right to Legal Assistance, International Standards & Principles</p>	<p>DCI Belgium, Italy, Netherlands, Child Circle (Belgium); Bulgarian Helsinki Committee (Bulgaria), Child Law Clinic of the University College Cork (Ireland), Helsinki Foundation for Human Rights (Poland)</p>
<p><u>How to use UN Human Rights Resolutions to Advance Children's Rights (2023)</u></p>	<p>N/A</p>	<p>Children's Rights, Human Rights Resolutions</p>	<p>Save the Children</p>
<p><u>International Practical Guide: Lawyers Defending Children in Conflict with the Law (2018)</u></p>	<p>N/A</p>	<p>Legal Aid, Children Suspects and/or Accused, Criminal Proceedings, Right to be Heard, Right to Legal Assistance</p>	<p>DCI Belgium, Italy, Netherlands, Child Circle (Belgium); Bulgarian Helsinki Committee (Bulgaria), Child Law Clinic University College Cork (Ireland), Helsinki Foundation for Human Rights (Poland)</p>

Juvenile Justice Training Manual: Facilitator's Guide and Participant's Materials (2006)	N/A	Child Friendly Justice, Alternatives to Detention, Reintegration & Rehabilitation	UNICEF
Know Your Rights – Guide for Minors in Conflict with the Law (2021)	<i>LA Child (2020-2021)</i>	Legal Aid, Children Suspects and/or Accused, Criminal Proceedings, Right to be Heard, Right to Legal Assistance	Law Institute of the Lithuanian Centre for Social Sciences, DCI Belgium, Centre of Integrated Legal Services and Practices (CILSP)
Manual for EU Member States: How to Ensure the Rights of Children in Conflict with the Law?	N/A	Children in Migration, Data Collection, Undocumented Children, International & European Law, Regularisation Procedures	DCI Belgium, Italy, Netherlands, Child Circle (Belgium), Bulgarian Helsinki Committee (Bulgaria), Child Law Clinic of the University College Cork (Ireland), Helsinki Foundation for Human Rights (Poland)
Manual on Regularisations for Children, Young People and Families (2018)	N/A	Children Suspects and/or Accused, Reintegration & Rehabilitation, Security Forces	PICUM
Operational Guidelines for Professionals Interacting with Children in Conflict with the Law During COVID-19 (2020)	<i>Global Initiative on Justice with Children</i>	Justice Proceedings, Children in Contact with the Law, COVID-19, Access to Justice, Deprivation of Liberty, Diversion, Child Protection, Reintegration & Rehabilitation	Tdh Europe, Baker McKenzie, Penal Reform International

<p><u>Operational Guidelines for Security Forces Access to Justice for Children and Youth in Times of COVID-19</u> Diverting Children from Judicial Proceedings and Facilitating Reintegration (2020)</p>	<p><i>Global Initiative on Justice with Children</i></p>	<p>Children Suspects and/or Accused, Reintegration & Rehabilitation, Social Work</p>	<p>Tdh Europe, Baker McKenzie, Penal Reform International, Justice for Children, International Bureau for Children's Rights, AIMJ</p>
<p><u>Operational Guidelines: Social Workforce (2020)</u></p>	<p><i>Global Initiative on Justice with Children</i></p>	<p>Legal Aid, Children in Contact with the Law, COVID-19, Deprivation of Liberty, Legal Assistance</p>	<p>Tdh Europe, Baker McKenzie, Penal Reform International, Justice for Children, International Bureau for Children's Rights, AIMJF</p>
<p><u>Operational Recommendations for Legal Professionals (2020)</u></p>	<p><i>Global Initiative on Justice with Children</i></p>	<p>Children Suspects and/or Accused, Deprivation of Liberty, Monitoring Detention, Alternative Measures</p>	<p>Tdh Europe, Baker McKenzie, Penal Reform International, Justice for Children, International Bureau for Children's Rights, AIMJF</p>
<p><u>Practical Guide: Monitoring Places Where Children Are Deprived of Liberty (2013)</u></p>	<p><i>Children's Rights Behind Bars 1 & 2 (2014-2018)</i></p>	<p>Children Suspects and/or Accused, Child Friendly Justice, Child Victims, Child Participation, Restorative Justice</p>	<p>DCI Belgium, France, Italy, Netherlands, Helsinki Foundation for Human Rights (Poland), Ludwig Boltzmann Institute of Human Rights (Austria), Institute of Social Studies of the University of Tartu (Estonia), Irish Penal Reform Trust (Ireland), Ombudsman's Office of the Republic (Latvia), National Association of Educative and Social Communities (Luxembourg), Research Centre CICOP, West University in Timisoara (Romania), Proyectio Solidario (Spain)</p>

<p>Protecting Rights, Restoring Respect and Strengthening Relationships: A European Model of Restorative Justice with Juveniles. (2015)</p>	<p>N/A</p>	<p>IJO, Tim Chapman, Maija Gellin, Ivo Aertsen, Monique Anderson, European Council for Juvenile Justice</p>
<p>Quality Standards for Legal Assistance for Children Suspected and/or Accused: A Step-by-Step Guide (2022)</p>	<p>CLEAR-Rights (2021-2022)</p>	<p>Children Suspects and/or Accused, Criminal Proceedings, Child Friendly Justice, Children in Contact with the Law, Deprivation of Liberty, Procedural Safeguards, Criminal Justice</p>
<p>Save Money, Protect Society and Realise Youth Potential: Improving Youth Justice Systems During a Time of Economic Crisis (2013)</p>	<p>Improving Juvenile Justice Systems in Europe: Training for Professionals</p>	<p>International Juvenile Justice Observatory</p>
<p>Towards a Child-Friendly Justice System: Securing the Rights and Procedural Safeguards of Children Who are Suspects or Accused Persons in Italy (2022)</p>	<p>CREW Project (May 2020 - May 2022)</p>	<p>DCI Italy, Daja Wenke, Mariateresa Veltri, Gabriella Gallizia</p>
<p>What is an "Ideal" Lawyer? (2022)</p>	<p>CLEAR-Rights (2021-2022)</p>	<p>DCI Belgium, Tdh Europe, PILnet, Romania, AADH, ECPAT Netherlands</p>



Advocacy and Policy Documents

TITLE	PROJECT	TOPIC	LEAD / AUTHOR(S)
Accelerate Release of Children from Detention: Protect Children from COVID-19 (2020)	Global Initiative on Justice with Children	COVID-19, Deprivation of Liberty, Children in Detention	Tdh, Baker Mckenzie
Accompanied Children & Families in Reception Centres in Belgium (2022)	Strengthening Opportunities for Assisted Children in Reception Centres	Children in Migration, Child Participation, Right to be Heard, Child Protection, Right to Family Life, Immigration Detention	Katja Fournier, Dirk Geldof, Kaat Van Acker
Breaking Policy Silos to Better Support Children with Disabilities and Their Families (2022)	N/A	Children with Disabilities, Child Protection, Wellbeing	COFACE Disability Platform
Challenge paper : Towards LGBTI+ sensitive justice systems for children in Europe (2022)	N/A	Data Collection, Violence Against Children, LGBTI+ Children, Non-Discrimination, Gender Justice, Hate Crime	Child Friendly Justice European Network, Global Initiative on Justice with Children
Joint Position Paper EU Strategy on the Rights of the Child (2021-2024) (2020)	N/A	Child Friendly Justice, Restorative Justice, Children's Rights	Tdh Europe, EFRJ

<p><u>JUST with Children. Child-Friendly Justice for All Children in Europe (2020)</u></p>	<p>N/A</p>	<p>Child Friendly Justice, Access to Justice, Policy</p> <p>DCI Belgium, Tdh Europe, EFRJ, DCI Netherlands, SAPI Bulgaria, IAYFJM, Penal Reform International, Center za Prava Deteta, Serbia, Leiden Law Netherlands, Leiden School, Ludwig Boltzmann Institute of Fundamental and Human Rights, Restorative Justice Netherlands</p>	<p>CFJ-EN</p>
<p><u>Policy brief : Towards Child Friendly Justice in Europe : findings and recommendations of european experts</u></p>	<p>N/A</p>	<p>Children in Migration, Child Friendly Justice, Right to be Heard, Deprivation of Liberty, Capacity Building, Data Collection</p>	<p>European Child Rights Helpdesk</p>
<p><u>Putting Children's Rights at the Heart of Decision-Making in Cases Involving Children on the Move: Gathering Momentum in Europe (2020)</u></p>	<p>N/A</p>	<p>Children in Migration, Child Friendly Justice</p>	<p>Tdh Europe</p>
<p><u>Recommended Minimum Accreditation Criteria for Lawyers Defending Children in Conflict with the Law (2022)</u></p>	<p>CLEAR-Rights (2021-2022)</p>	<p>Children in Contact with the Law, Assistance by a Lawyer & Legal Aid</p>	<p>Tdh Europe</p>


Tools

TITLE	PROJECT	TOPIC	LEAD / AUTHOR(S)
A Toolkit for Mainstreaming Child Friendly Principles when Working with Children Involved in Administrative and Judicial Procedures (2020)	N/A	Children in Migration, Child Friendly Justice, Justice Proceedings, Administrative Justice	DCI Belgium
Can Anyone Hear Me? Improving Juvenile Justice Systems in Europe: A Toolkit for the Training of Professionals (2017)	N/A	Children Suspects and/or Accused, Child Friendly Justice, Right to be Heard, Access to Justice, Capacity Building	International Juvenile Justice Observatory (IJJO)
Key Principles for Child Rights: Consistent Child Rights Strategic Litigation Practice (2022)	<i>Advancing Child Rights Strategic Litigation (ACRISL) Project</i>	Legal Aid, European Law, Child Friendly Justice, Justice Proceedings, Right to be Heard, Children's Rights, Strategic Litigation	Global Campus of Human Rights, University of Nottingham Human Rights Law Center, Centre for Child Law, University of Pretoria
Lessons Learned in Supporting Undocumented Young People Advocating for Change (2022)	N/A	Child Participation, Right to be Heard, Undocumented Children	PICUM
Toolkit on Diversion and Alternatives to Detention (2009)	N/A	Diversion, Alternatives to Detention	UNICEF
Uncomfortable Data: Ending Deprivation of Liberty of Migrant Children through Improved Data (2021)	N/A	Children in Migration, Deprivation of Liberty, Data Collection	Global Campus of Human Rights



Other instruments

TITLE	PROJECT	TOPIC	LEAD / AUTHOR(S)
Children's Access to Justice: A Critical Assessment (2022)	N/A	Child Friendly Justice, Access to Justice	Mona Paré, Mariëlle Ruth Bruning, Caroline Siffrein-Blanc, Thierry Moreau
Children's Right to Information in EU Civil Actions (2021)	<i>Minor's Right to Information in EU civil actions – MIRI (2014 - 2020)</i>	International Law, Children's Rights, Civil Justice, Family Proceedings, Procedural Rights, Right to Information	Daja Wenke, Roberta Bendinelli, Leontine Bruijnen, Laura Carpaneto, Carlos Esplugues Mota, Samuel Fulli-Lemaire, Maria González Marimón, Sara Lembrechts, Francesca Maoli, Boriana Musseva, Vasil Pandov, Francesco Pesce, Ilaria Queirolo, Pablo Quinzá Redondo, Geraldo Rocha Ribeiro, Dana Rone, Tine Van Hof
Être Enfant en Centre d'Accueil: Renforcer les Chances des Familles Après l'Exil (2023)	<i>Accompagnés en Centre d'Accueil</i>	Children in Migration, Child Protection, Right to Family Life, Immigration Detention	Katja Fournier, Dirk Geldof, Anke Heyerick, Kaat Van Acker, Claire Wiewauters
Thematic Brief on Restorative Child Justice (2020)	N/A	Child Friendly Justice, Restorative Justice	European Forum for Restorative Justice
Q&A on Restorative Justice: Key Concepts and Frequently Asked Questions (2020)	<i>I-RESTORE</i>	Criminal Proceedings, Child Friendly Justice, Child Victims, Restorative Justice	Tdh Europe, Restorative Justice Netherlands, European Forum for Restorative Justice

02

KEY LEGAL STANDARDS AND CASE LAW ON CHILD FRIENDLY JUSTICE



Child friendly justice has its sources in international law, mainly the Convention on the Rights of the Child. It is good to remember that beyond the Child Friendly Justice Guidelines of the Council of Europe, there is a multitude of legal norms and case law in Europe that are directly related to child friendly justice. Thus, there is a strong basis in Europe for a better implementation of child friendly justice principles at local level. The list below does not aim to be exhaustive, but offers a selection of relevant documents.

2.1 International Framework

When mentioning the “international framework” we are mainly referring to rules, principles, standards developed by the United Nations bodies and agencies.

The [United Nations Convention on the Rights of the Child \(CRC\)](#) sets out the civil, political, economic, social, health and cultural rights of children. Some articles are particularly relevant for child friendly justice:

- The Preamble of the Convention
- Article 2 on non-discrimination
- Article 3 on the best interests of the child
- Article 4 on ensuring that children’s rights are respected, protected and fulfilled
- Article 10 on family reunification
- Article 16 on protection of privacy
- Article 19 on violence, abuse, neglect
- Article 20 relating to children without families
- Article 22 on refugee children
- Article 24 concerning the right to a good quality of life
- Article 25 on review of a child’s placement
- Article 37 concerning children deprived of liberty
- Article 38 on children in armed conflict
- Article 39 concerning reintegration and recovery of a child victim
- Article 40 on the administration of child justice

There are other key **UN human rights conventions**, such as the [International Covenant on Civil and Political Rights](#) and the [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment](#). They also contribute to shaping

the international framework on child friendly justice. As they are binding for the States that have ratified them, these Conventions and related monitoring bodies are key for implementing child friendly justice.

To guide and foster the implementation of the rights enshrined in the CRC, the [Committee on the Right of the child](#), publishes [General Comments](#). While all may be connected to some aspect of child friendly justice, some of them are particularly relevant to guide any work on child friendly justice:

- [General Comment No. 6](#) on the treatment of unaccompanied and separated children outside their country of origin (CRC/GC/2005/6)
- [General Comment No. 12](#) on the right of the child to be heard (CRC/GC/2009/12)
- [General Comments No. 14](#) on the right of the child to have his or her best interests taken as a primary consideration (CRC/GC/2013/14)
- [Joint general comment No. 4](#) (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (CRC/GC/2017/23)
- [General Comment No. 24](#) on children's rights in juvenile justice (CRC/GC/2019/24), replacing General Comment No. 10
- [General comment No. 25 on children's rights in relation to the digital environment](#) (CRC/C/GC/2021/25)
- [General comment No. 26 on children's rights and the environment with a special focus on climate change](#) (CRC/C/GC/ 2023/26)

Resolutions adopted by the UN General Assembly also contain guidelines, principles, rules and standards applicable to child friendly justice. These resolutions are not legally binding but provide important recommendations to States. These include:

- [United Nations Guidelines for the Alternative Care of Children \(2010\)](#)
- [United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime \(2005\)](#)
- [United Nations Guidelines for the Prevention of Juvenile Delinquency \(The Riyadh Guidelines\) \(1990\)](#)
- [United Nations Rules for the Protection of Juveniles Deprived of their Liberty \(Havana Rules\) \(1990\)](#)

- [United Nations Standard Minimum Rules for Non-custodial Measures \(The Tokyo Rules\) \(1990\)](#)
- [United Nations Standard Minimum Rules for the Administration of Juvenile Justice \(The Beijing Rules\) \(1985\)](#)

In September 2015, the UN General Assembly endorsed the [Sustainable Development Goals](#) - the pursuit of SDG 16 (peace, justice and strong institutions) is strongly linked to child friendly justice and particularly includes access to justice for children.

In December 2018, the UN General Assembly endorsed the [Global Compact for Safe, Orderly and Regular Migration](#) following its adoption by the majority of UN Member States. The Global compact is related to child friendly proceedings for children in migration.

Other relevant publications for child friendly justice were released by various UN bodies and agencies:

- [UNODC Handbook on Restorative Justice \(2020\)](#)
- [UN Global Study on Children Deprived of Liberty \(2019\)](#)
- [SRSG Report on Violence against Children, "Prevention of and responses to violence against children within the juvenile justice system" \(2012\)](#)
- [UN Human Rights Council Resolution on Human Rights in the Administration of Justice, in particular Juvenile Justice \(2011\)](#)
- [Guidance Note of the United Nations Secretary-General: United Nations Approach to Justice for Children \(2008\)](#)
- [UNODC Guidelines for Action on Children in the Criminal Justice System \(The Vienna Guidelines\) \(1997\)](#)

The [Yogyakarta Principles](#) on international human rights standards and their application to sexual orientation and gender identity issues were created by a group of 29 human rights experts of the International Commission of Jurists (ICJ) in November 2006. They address the application of international human rights law in relation to sexual orientation and gender identity. The Principles were launched as a global charter at the United Nations Human Rights Council on 26 March 2007. It was complemented in 2017 by the [Yogyakarta Principles plus 10](#).

2.2 European framework

In Europe, instrumental standards on child friendly justice have been adopted both in the framework of the European Union and the Council of Europe. The following norms - soft and hard law - outline child friendly justice. They are important tools to work towards justice systems that are effectively child friendly at national level. These standards are of particular importance because they represent the level of commitment of European institutions in implementing children's rights. Each of them, whether binding or not, does have an impact on the legislation of Member States.

2.2.1 European Union

Several types of EU standards are applicable in the field of child friendly justice. Their effects and the way they are applied within the Member States are diverse. Firstly, we have classified the instruments according to the EU institution that developed them (part. 2.2.1.1). Secondly, they are classified by topics to offer an easy overview of how European standards on specific issues relate to child friendly justice.

2.2.1.1 Overview of EU instruments relating to child friendly justice

The European Parliament and the Council adopted two leading directives to protect children and impose safeguards in the field of child friendly justice:

- [Directive 2012/29/EU](#) establishing minimum standards on the rights, support and protection of victims of crime (Victim's Rights Directive)

In 2022, an evaluation of the Directive took place:

- Commission Staff Working Document Evaluation Of 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

Following this evaluation, the European Commission proposed on 12 July 2023 the following revision of the Directive:

- [Proposal for a Directive of The European Parliament and of The Council amending Directive 2012/29/Eu establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/Jha](#)

- [Directive \(EU\) 2016/800](#) on procedural safeguards for children who are suspects or accused persons in criminal proceedings (Procedural Safeguards for Children Directive)

Moreover, there are other relevant directives and regulations apply to all persons in contact with the justice system, including children, inter alia:

- [Directive 2003/86/EC](#) on the right to family reunification (Family Reunification Directive)
- [Directive 2008/52/EC](#) on certain aspects of mediation in civil and commercial matters
- [Directive 2008/115/EC](#) on the return of illegally staying third-country nationals (Return Directive)
- [Directive 2010/64/EU](#) on the right to interpretation and translation
- [Directive 2012/13/EU](#) on the right to information
- [Directive 2013/32/EU](#) on granting and withdrawing international protection (Asylum Procedures Directive)
- [Directive 2013/33/EU](#) on the reception of applicants for international protection (Reception Conditions Directive)
- [Directive 2013/48/EU](#) on the right of access to lawyers and rights in the context of deprivation of liberty
- [Directive \(EU\) 2016/1919](#) on legal aid
- [Directive \(EU\) 2016/343](#) on the right to be present at the trial in criminal proceedings
- [Brussels I Regulation \(44/2001\)](#) on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters
- [Brussels IIter Regulation \(2019/1111\)](#) on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast)

In addition, on 8 March 2022 the European Commission has put forward a proposal for a directive on domestic violence:

- [Proposal for a Directive of the European Parliament and of the Council on combating violence against women and domestic violence](#)

The European Commission regularly adopt strategies, which aim to propose key areas of work for European Member States, such as the EU Strategy on the Rights of the Child. Furthermore, the EC ensures the implementation of EU policies and actions in the Member States through the Committee of the Regions and the

European Economic and Social Committee to promote dialogue with local and regional authorities and civil society.

To encourage Member States to implement EU law, the European Commission has adopted the following strategies that are, to different extent, related to justice for children:

- [The EU Strategy on the rights of the child \(2021-2024\), namely Chapter 4 on CFJ](#)
- [The EU Strategy on victims' rights \(2020-2025\)](#)
- [The Union of Equality: LGBTIQ Equality Strategy 2020-2025](#)
- [The Gender Equality Strategy \(2020-2025\)](#)
- [The European Judicial Training strategy for 2021-2024](#)
- [Regulation on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility \(2201/2003/EC\)](#)
- [Council Regulation on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations \(4/2009/EC\)](#)
- [The 2017 Communication on the protection of children in migration](#)
- [EU Guidelines for the Promotion and Protection of the Rights of the Child \(2017\)](#)
- [The EU Guidelines on children and armed conflict \(2008\)](#)
- Council Decision on the signing, on behalf of the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence with regard to asylum and non-refoulement (2017/866), ratified on 1 June 2023

The European Commission adopted in 2015 the Policy Brief on [Children's involvement in criminal, civil and administrative judicial proceedings in the 28 Member States of the EU](#).

The EU institutions are themselves active in conducting research, encouraging changes in practice and the application of these directives, through the EU Fundamental Rights Agency which has developed several tools in this area such as:

- [Handbook on European law relating to the rights of the child \(2022\)](#)
- [Handbook on European law relating to Access to Justice \(2016\)](#)
- [Report "Child Friendly Justice - Perspectives and experiences of professionals on children's participation in civil and criminal judicial proceedings in 10 EU Member States" \(2015\)](#)
- [Handbook on guardianship for children deprived of parental care \(2014\)](#)

2.2.1.2 Provisions of EU instruments relating to child friendly justice classified by specific topics

This section suggests specific EU provisions relating to justice for children. It is organised by topic in order to provide a quick overview of the European framework for each specific issue. This list of topics is not exhaustive, but provides a general idea of the variety of subtopics embedded in child friendly justice. This section will be complemented as needed in future versions of the handbook.

Asylum & Migration

Entry and residence

TFEU, Article 21 Charter of Fundamental Rights, Article 7 (family life), Article 45 (freedom of movement); Freedom of Movement Directive (2004/38/EC); Asylum Procedures Directive (2013/32/EU); Dublin Regulation (No. 604/2013); Schengen Borders Code Regulation (562/2006), Annex VII, 6

Age assessment

Asylum Procedures Directive (2013/32/EU), Article 25(5)

Reunification and separated children

Family Reunification Directive (2003/86/EC); Qualification Directive (2011/95/EU), Article 31; Reception Conditions Directive (2013/33/EU); Temporary Protection Directive (2001/55/EC); Dublin Regulation (No. 604/2013)

Detention

Reception Conditions Directive (2013/33/EU), Article 11 Return Directive (2008/115/EC), Article 17

Expulsion

Freedom of Movement Directive (2004/38/EC), Preamble (para. 24), Articles 7, 12, 13 and 28 (3) (b) ; TFEU, Article 20 Return Directive (2008/115/EC) ; Dublin Regulation (No. 604/2013)

Access to justice

Charter of Fundamental Rights, Articles 47–48 (right to an effective remedy and to a fair trial, presumption of innocence and right of defence); Dublin Regulation (No. 604/2013); Qualification Directive (2011/95/ EU), Article 31; Asylum Procedures Directive (2013/32/EU), Articles 7 and 25; Victims' Rights Directive (2012/29/EU), Article 8

Criminal justice & alternative proceedings

Fair trial guarantees

Charter of Fundamental Rights, Articles 47 (right to an effective remedy and to fair trial), 48 (presumption of innocence and right of defence) and 49 (principles of legality and proportionality of criminal offences and penalties); Right to Interpretation and Translation Directive (2010/64/EU); Right to Information Directive (2012/13/EU); Access to a Lawyer Directive (2013/48/EU); Procedural Safeguards Directive (2016/800)

Detention

Charter of Fundamental Rights, Articles 4 (prohibition of torture, inhuman or degrading treatment) and 6 (right to liberty); Procedural Safeguards Directive (2016/800)

Witnesses and victims

Victims' Rights Directive (2012/29/EU); Child Sexual Abuse Directive (2011/93/EU) Human Trafficking Directive (2011/36/EU) (include unaccompanied children)

Non discrimination

- EU, European Commission (2020), A union of equality: EU Roma strategic framework for equality, inclusion and participation
- Communication of European Commission (2020) 620 final, 7 October 2020
- EU, European Commission (2020), Union of equality: LGBTIQ equality strategy 2020–2025
- Communication of European Commission (2020) 698 final, 12 November 2020
- EU, European Commission (2021), Report from the Commission to the European Parliament and the Council on the application of Council Directive
- 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin ('the Racial Equality Directive') and of Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation
- Communication of European Commission (2021) 139 final, 19 March 2021
- FRA (2016), Second European Union Minorities and Discrimination Survey: Roma – Selected findings, Luxembourg, Publications Office, 29 November
- 2016. FRA (2017), Second European Union Minorities and Discrimination Survey – Main results, Luxembourg, 6 December 2017
- FRA (2020), A long way to go for LGBTI equality, Luxembourg, 14 May 2020

- FRA and ECtHR (2018), Handbook on European non-discrimination law, Luxembourg, 21 March 2018

Family procedures

- Charter of Fundamental Rights, Article 24 (3) on the right to maintain contact with both parents
- Procedural Safeguards for Children Directive (2016/800)
- [Mediation Directive \(2008/52/EC\)](#)
- [Directive \(2003/8/EC\)](#) on access to justice in cross-border disputes
- [Brussels I Regulation \(44/2001\)](#) on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters
- [Brussels IIter \(2019/1111\)](#) on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast)

2.2.2 Council of Europe

2.2.2.1 Overview of CoE instruments related to child friendly justice

The Council of Europe has published key resources and instruments on child friendly justice. These aim at improving the justice system and adapting it to the specific needs of children.

The lead resource are the [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice \(2011\)](#). These non-binding guidelines are a practical tool based on existing international and European standards which Member States are encouraged to use as a basis for their law reform on child friendly justice. They contain key definitions and principles on this field, such as participation, best interests of the child, dignity, protection from discrimination and rule of law. They include a child rights frameworks for after, during and before judicial proceedings.

The main **international conventions** of the Council of Europe applicable to child-friendly justice are:

- [Convention on Protection of children against sexual exploitation and sexual abuse \(the Lanzarote Convention\) \(2014\)](#)
- [Convention on Contact concerning Children \(2003\)](#)

- [European Convention on the Exercise of Children’s Rights \(1996\)](#)
- [European Convention for the Protection of Human Rights and Fundamental Freedoms \(commonly known as the European Convention on Human Rights - ECHR\) \(1950\)](#)

Other **international instruments** are relevant when addressing child friendly justice:

- [European Social Charter \(revised\) \(ESC\) \(1996\)](#)
- [Framework Convention for the Protection of National Minorities \(1995\)](#)
- [European Convention for the Protection of Torture and Inhuman or Degrading Treatment or Punishment \(1989\)](#)
- [European Convention on the Legal Status of Migrant Workers \(1983\)](#)

An extensive set of standards are contained in:

- [The Council of Europe Strategy on the Rights of the Child \(2022-2027\) \(chapter 2.4 on CFJ\)](#)
- [Venice Declaration on the Role of Restorative Justice in Criminal Matters \(2021\)](#)
- [A study of immigration detention practices and the use of alternatives to immigration detention of children \(2017\)](#)
- [European Rules for juvenile offenders subject to sanctions or measures \(2009\)](#)
- [Guidelines for a better implementation of the existing recommendation concerning mediation in penal matters CPEJ \(2007\)](#)
- [Guidelines for developing a National Children’s Participation Strategy or a Participation Strategy within a National Children’s Rights Strategy \(2023\)](#)

The Committee of Ministers of the Council adopted various recommendations for Member States relating to child friendly justice. The recommendation is a non-binding instrument and it applies on matters for which the Committee has agreed “a common policy”. Article 15.b) of the [Statute of the Council of Europe](#) permits the Committee to ask member governments “to inform it of the action taken by them” in regard to recommendations.

- [Recommendation n° R \(8\) 2023 on strengthening reporting systems on violence against children](#)
- [Recommendation CM/Rec \(2022\)17](#) on protecting the rights of migrant, refugee and asylum-seeking women and girls
- [Recommendation CM/Rec \(2019\)11](#) on effective guardian for unaccompanied and separated children in the context of migration

- [Recommendation CM/Rec \(2018\)5](#) concerning children of imprisoned parents
- [Recommendation CM/Rec \(2016\)7](#) on young people's access to rights
- [Recommendation CM/Rec \(2012\)2](#) on the participation of children and young people under the age of 18
- [Recommendation CM/Rec \(2011\)12](#) on children's rights and social services friendly to children and families
- [Recommendation CM/Rec \(2008\)11](#) on the European Rules for juvenile offenders subject to sanctions or measures
- [Recommendation Rec \(2005\)5](#) concerning the rights of children living in institution
- [Recommendation Rec \(2003\)20](#) concerning new ways of dealing with juvenile delinquency and the role of juvenile justice
- [Recommendation n° R \(88\)6](#) on social reactions to the delinquent behaviour of young people from migrant families
- [Recommendation n° R \(87\)20](#) on social reactions to juvenile delinquency among young people coming from migrant families
- [Recommendation n° R \(79\)17](#) concerning the protection of children against ill-treatment

More generally, various recommendations were adopted in the context of the efforts following the Rome Conference 2000 to improve the efficiency of the Convention System; they are also applicable to children:

- [Recommendation CM/Rec \(2021\)2](#) on measures against the trade in goods used for the death penalty, torture and other cruel, inhuman or degrading treatment or punishment
- [Recommendation CM/Rec \(2018\)8](#) on restorative justice in criminal matters
- [Recommendation Rec \(2006\)2](#) on European penitentiary rules
- [Recommendation Rec \(2004\)10](#) on the protection of human rights and the dignity of people with mental disorders
- [Recommendation Rec \(2004\)5](#) on the verification of the compatibility of draft laws, existing laws and administrative practice with the standards laid down in the European Convention on Human Rights
- [Recommendation Rec \(2001\)10](#) on the European Code of Police Ethics
- [Recommendation Rec \(2000\)20](#) on role of early psychosocial intervention in the prevention of criminality

The following older recommendations can also be mentioned here:

- [Recommendation n° R \(93\)1](#) on effective access to the law and to justice for the very poor
- [Recommendation n° R \(89\)12](#) on education in prison
- [Recommendation n° R \(81\)16](#) on the harmonisation of national procedures relating to asylum
- [Recommendation n° R \(81\)7](#) on measures facilitating access to justice

In addition, the Council of Europe and its Committees and working groups may be asked to draw up reports on thematic areas. The following report are of particular interest in terms of child friendly justice:

- [Annual GRETA report for 2022 on Action against Trafficking in Human Beings \(2023\)](#)
- [Report on Child-friendly juvenile justice: from rhetoric to reality \(2014\)](#) on the reality of juvenile justice interventions, in particular juvenile detention

2.2.2.2 Provisions of CoE instruments related to child friendly justice classified by specific topics

This section offers a selection of specific provisions from the above-mentioned legal instruments, applicable to child friendly justice, organised by topic of interest. They give an idea of the influence of international instruments on child friendly justice. This list is not exhaustive, and other areas could certainly be found to complement this Handbook in future versions.

Asylum & Migration

- **Entry and residence:** ECHR, Article 8 (family life); ESC, Article 19
- **Age assessment:** ECHR, Article 8 (private life)
- **Reunification and separated children:** ECHR, Article 8 (right to respect for private and family life)
- **Detention (overall):** ECHR, Article 5 (right to liberty)
- **Expulsion:** ECHR, Article 8 (right to respect for private and family life)
- **Access to justice:** ECHR, Article 13 (right to an effective remedy)

Criminal justice & alternative proceedings

- **Fair trial guarantees:** ECHR, Article 6 (fair trial); ESC, Article 17 Lanzarote Convention

- **Detention:** ECHR, Articles 3 (prohibition of torture, inhuman or degrading treatment) and 5 (right to liberty); ESC, Article 17 European Convention for the Protection of Torture and Inhuman or Degrading Treatment of Punishment
- **Witnesses and victims:** ECHR, Articles 3 (prohibition of torture, inhuman or degrading treatment) and 8 (private life); Lanzarote Convention, Article 31

Non-discrimination

Council of Europe (2014), LGBTI children have the right to safety and equality, Human Rights Comment by the Council of Europe Commissioner for Human Rights, 2 October 2014; Council of Europe, Advisory Committee on the FCNM (2006), Commentary on education under the Framework Convention for the Protection of National Minorities, ACFC/25DOC (2006)002, 2 March 2006

Family procedures

ECHR, Article 8 (right to respect for family life); Convention on Contact concerning Children, Article 1; European Convention on the Exercise of Children's Rights, Article 6.

2.3 Selection of European case law relating to child friendly justice

The two primary institutions that develop European case law are the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECtHR). In this section, a selection of impactful judgments and legal trends on child-friendly justice are presented, by topic¹. While the judgements included in this section do not represent an exhaustive list, they are intended to give the reader an overview of recent influential case law regarding child-friendly justice².

Even in cases that involve children as the primary applicants or where the rights of a child are directly implicated, children are frequently not represented by legal representatives or advocates, and cases are rarely examined from their point of view. This ongoing omission represents a continued failure on the part of international courts of justice to embody a child's rights to be heard, to fully participate in proceedings that impact their lives and well-being, and to express their unique point of view. As standards of child friendly justice evolve, it is incumbent upon legal actors to ensure children are not only protected by the law but are represented within it.

¹ Wherever possible, judgements are provided in the official English translation. If an official English translation is not available, the French is instead provided. Please note that HUDOC may provide additional official language versions for select judgements.

² Section 2.3 of the Child Friendly Justice Handbook was compiled with the assistance of [the AIRE Centre](#).

Access to justice



Relevant Articles of ECHR

Article 2: Right to Life

Article 3: Prohibition on Torture & Ill-Treatment

Article 5: Right to Liberty & Security

Article 6: Right to a Fair Trial

Article 13: Right to an Effective Remedy

Overriding Principles: Children are entitled to a fair trial, procedural due process, and humane detention, as established under ECHR, just as are adults. In determining adequacy of treatment and proceedings, the Court applies a higher standard for cases involving children. Children are entitled to appropriate access to services, care, and the guidance of a guardian or adult, as well as to increased protection, based on their vulnerability, maturity, and individual needs.

Relevant Case Law

Legal Proceedings:

- **Access to a lawyer** is a fundamental element of the right to a fair trial (Article 6), a right that extends to children, whether in police custody (ECtHR, **Salduz v. Turkey**, No. [36391/02](#), 27 November 2008, para. 51; ECtHR, **Ibrahim and Others v. the United Kingdom**, Nos. [50541/08](#) et al., 13 September 2016), or during the course of legal proceedings, such as in the provision of confession or testimony (ECtHR, **Adamkiewicz c. Pologne**, No. [54729/00](#), 2 March 2010, par. 70 and 89; ECtHR, **Beuze v. Belgium**, No. [71409/10](#), 9 November 2018).
- Procedures that fail to provide, in isolation or combination, legal counsel, the assistance of a guardian, the opportunity to question adversarial witnesses, or the opportunity to meaningfully participate and to be heard, are **procedurally inadequate** and constitute a violation of the child's Article 6 rights: ECtHR, **Blokhin v. Russia** [GC], No. [47152/06](#), 23 March 2016; ECtHR, **Panovits v. Cypress**, No. [4268/04](#), 11 December 2008; **Güveç v. Turkey**, No. [70337/01](#), 20 January 2009; ECtHR, **Soykan v. Turkey**, No. [47368/99](#), 21 April 2009.
- Children are entitled to an impartial judiciary, **impartial administrative and judicial proceedings**, and necessary restraint on the part of judicial actors (ECtHR, **Buscemi v. Italy**, No. [29569/95](#), 16 September 1999). Legal proceedings that are excessively protracted in light of the circumstances may violate an applicant's

Article 6 rights: ECtHR, **Kayak v. Turkey**, No. [60444/08](#), 10 July 2012.

- The determination of whether **access to a lawyer** has been sufficient is subject to greater scrutiny when children are involved: ECtHR, **Salduz v. Turkey**, No. [36391/02](#), 27 November 2008, para. 60; ECSR, **International Commission of Jurists (ICJ) v. Czech Republic**, Complaint No. [148/2017](#), 20 October 2020.
- Procedural limitations on **access to justice**, in particular those that may uniquely impact children—such as statutes of limitations, which may serve to bar child applicants from pursuing legal relief upon reaching the age of majority—must be proportionate to the aim of administering justice and may not deny children effective access to a legal remedy: ECtHR, **Stagno v. Belgium**, No. [1062/07](#), 7 July 2009; ECtHR, **Mizzi v. Malta**, No. [26111/02](#), 12 January 2006; ECtHR, **Efstathiou and Others v. Greece**, No. [36998/02](#), 27 July 2006.
- The Court has held that “a pre-investigation inquiry, not followed by a preliminary investigation, is insufficient for the authorities to comply with the requirements of an **effective investigation** into credible allegations of ill treatment by the police.” ECtHR, **A. v. Russia**, No. [37735/09](#), 12 November 2019, para. 66; ECtHR, **Lyapin v. Russia**, No. [46956/09](#), 24 July 2014; ECtHR, **Samesov v. Russia**, No. [57269/14](#), 20 November 2018.
- Further, a pre-investigation into credible allegations of ill-treatment does not serve to discharge the authorities’ burden of proof: ECtHR, **Olisov and Others v. Russia**, No. [10825/09](#), 2 May 2017; ECtHR, **A. v. Russia**, No. [37735/09](#), 12 November 2019.

Criminal Detention:

- The ECtHR has emphasized that government actors have a “positive obligation to protect” children from ill-treatment while under “full control in detention.” The unique vulnerability of children obligates government actors to differentiate treatment based on their individual needs, to ensure security from future harm where prior ill-treatment has been established, and to provide additional protection: ECtHR: **I.E. v. The Republic of Moldova**, No. [45422/13](#), 26 May 2020, para. 46.
- Demonstrating the need for detention of a child must meet a higher standard than in the case of adults. **Pre-trial detention** of children should be used as a last resort, only for the shortest possible time. Where detention is strictly necessary, children should always be separated from adults: ECtHR, **Nart v. Turkey**, No. [20817/04](#), 6 May 2008; ECtHR, **Çoselav v. Turkey**, No. [1413/07](#), 9 October 2012; **I.E. v. the Republic of Moldova**, No. [45422/13](#), 26 May 2020.
- Detaining children with adults may result in a de facto violation of Article 3 of

the ECHR: ECtHR, **Güveç v. Turkey**, No. [70337/01](#), 20 January 2009.

- An individual charged with a criminal offence must always **be released pending trial**, unless the State can show that there are “relevant and sufficient” reasons for continued detention: ECtHR, **Smirnova v. Russia**, Nos. [46133/99](#) and [48183/99](#), 24 July 2003, para. 58.
- The ECtHR requires State authorities to pay particular attention to the **age** of the child and their **individual needs** when balancing arguments for and against pre-trial detention: ECtHR, **Korneykova v. Ukraine**, No. [39884/05](#), 19 January 2012, paras. 43–44; ECtHR, **Selçuk v. Turkey**, No. [21768/02](#), 10 January 2006, paras. 35–36; ECtHR, **J.M. v. Denmark**, No. [34421/09](#), 13 November 2012, par. 63.
- The concept of “**educational supervision**” in the context of the detention of children should not be equated with classroom teaching: ECtHR, **D.G. v. Ireland**, No. [39474/98](#), 16 May 2002, para. 81.
- See also: **M.P. v. Denmark**, No. [25263/22](#), Communicated 12 May 2022, on the restraint of **children in psychiatric facilities**; other relevant international law:
 - Article 186 § 4 of the Code of Criminal Procedure (CCP) states that pre-trial detention of children (persons under the age of 18) accused of committing an offence may be extended for up to a maximum of four months.
 - The European Prison Rules states, in relevant part, “11.1: Children under the age of 18 years should not be detained in a prison for adults, but in an establishment specially designed for the purpose.”
 - The United Nations Standard Minimum Rules for the Treatment of Prisoners (the “Nelson Mandela Rules”) states, in relevant part, “Rule 11: The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment.
 - The United Nations Convention on the Rights of the Child states, in relevant part: “Article 37: States Parties shall ensure that...(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interest not to do so.”
 - The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules») states, in relevant part: “13.4: Juveniles under detention pending trial shall be kept separate from adults and shall be

detained in a separate institution or in a separate part of an institution also holding adults.”

- The International Covenant on Civil and Political Rights states, in relevant part, “Article 10(2)(b): Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.”

Protection of Child Victims and Witnesses:

- Where young children have been **mistreated by a teacher**, their age, and the nature of the maltreatment, are sufficient to classify the children as particularly vulnerable along with the consideration such a classification merits: CJEU, **Criminal proceedings against Maria Pupino**, Case [C-105/03](#), 16 June 2005.
- All measures concerning the protection and prevention of secondary victimisation must be designed in such a way that the defendant always receives a fair trial: CJEU, **Criminal proceedings against Maria Pupino**, Case [C-105/03](#), 16 June 2005.
- Likewise, authorities must make every effort to **avoid re-victimising or re-traumatising child victims** in the course of judicial proceedings. Indifference to the victim’s suffering, emotional anguish, or trauma, in particular as it relates to the unique vulnerability of child victims, may be sufficient to constitute an Article 3 violation: ECtHR, *B v. Russia*, No. [36328/20](#), 7 February 2023; ECtHR, **N.Ç. v. Turkey**, No. [40591/11](#), 9 February 2021.
- In the past, the Court has found that **sexual violence** against a child, specifically one who is mentally handicapped, requires criminal procedures (“effective deterrence is indispensable”) that effectively protect the victim, and that the absence of such procedures represent a violation of “fundamental values and essential aspects of private life:” ECtHR, **X and Y v. the Netherlands**, No. [8978/80](#), 26 March 1985, para. 27.
- Authorities’ failure to effectively supervise and **ensure the safety** of children, where there is a known or plausible threat, represents a failure to live up to the authorities’ positive obligation to protect children: ECtHR, **Kayak v. Turkey**, No. [60444/08](#), 10 July 2012.
- See also: ECtHR, **M. and M. v. Croatia**, No. [10161/13](#), 3 September 2015, on the particular necessity for swift adjudication in the case of child victims, to avoid re-traumatisation; ECtHR, **Kayak v. Turkey**, No. [60444/08](#), 10 July 2012.

Child Participation



Relevant Articles of ECHR

Article 5: Right to Liberty & Security

Article 6: Right to a Fair Trial

Article 8: Right to Privacy in Personal & Family Life

Overriding Principles: Pursuant to Article 12 of the UN Convention on the Rights of the Child, every child capable of forming their own views is entitled to express said views in matters affecting them, including in administrative and juridical proceedings. To the extent possible given the child's maturity and ability, children must be allowed the opportunity to be heard and to express their preferences. The right of a child to participate in proceedings either affecting them or brought against them is further protected by Article 6 of the ECHR.

Relevant Case Law

- The Court has established a close link between the child's **right to understand and participate** in his or her proceedings, and the imposition of certain limits on the public nature and publicity surrounding a trial, as permitted by Article 6 in criminal trials: ECtHR, **T. v. UK**, No. [24724/94](#), 16 December 1999; ECtHR, **Stanford v. the United Kingdom**, No. [16757/90](#), 23 February 1994.
- Children must be included in matters affecting them to the extent possible, given their maturity and ability. The Court has emphasized that children have the **right to be heard and to have their views** adequately represented in proceedings materially affecting them, in family matters (ECtHR, **M. and M. v. Croatia**, No. [10161/13](#), 3 September 2015; ECtHR, **N.Ts.v. Georgia**, No. [71776/12](#), 2 February 2016) as well as civil or criminal matters (ECtHR, **G.U. v. Turkey**, No. [16143/10](#), 18 October 2016; **Güveç v. Turkey**, No. [70337/01](#), 20 January 2009).
- Meeting with children infrequently or with a lack of meaningful engagement, such as merely to draft reports, does not constitute **adequate child participation**: ECtHR, **N.Ts.v. Georgia**, No. [71776/12](#), 2 February 2016.
- See also: **A.P. and A.M. v. Czech Republic**, No. [22216/20](#), Communicated 27 May 2020, on the **transfer of care of a child** from the mother to a crisis centre, without the participation of the child.

Asylum & Migration



Relevant Articles of ECHR

Article 3: Prohibition on Torture & Ill-Treatment

Article 5: Right to Liberty & Security

Article 8: Right to Privacy in Personal & Family Life

Protocol 4, Art. 4: Prohibition on Collective Expulsion of Migrants

Overriding Principles: The extreme vulnerability of a child migrant takes precedence over either the child's status, or that of their parent(s), as illegal immigrants, and entitles the child to additional protection, whether or not the child is accompanied by his or her parent(s). The detention of child migrants must be seen as a measure of last resort, and should only occur for the shortest possible duration, in conditions that are adapted to the child's age and needs. Child migrants are entitled to legal and humanitarian assistance, must be removed from dangerous or unstable conditions promptly, and should have their best interests treated as paramount in all determinations. In evaluating the appropriateness of detention conditions for children, the Court will primarily consider the child's age, the material conditions of detention, and the duration of detention.

Relevant Case Law

Child-Migrant Detention:

– “Extreme Vulnerability”

- As in other contexts, state authorities in matters of asylum and migration have a **positive obligation to protect and care for vulnerable persons**, in particular when they are children who are very young, unaccompanied, or both. Decisions to deport a child must take into consideration whether or not the child will be looked after, and what conditions the child is likely to meet upon arrival. Failure to consider the “extreme vulnerability” of an unaccompanied child migrant, or to prevent ill-treatment of which the authorities are aware or should be aware, has in the past led the Court to find a “total lack of humanity” amounting to an Article 3 violation: ECtHR, **Mubilanzila Mayeka and Kaniki Mitunga v. Belgium**, No. [13178/03](#), 12 October 2006, para. 103, 66; see also: ECtHR, **Abdullahi Elmi and Aweys Abubakar v. Malta**, Nos. [25794/13](#) and [28151/13](#), 22 November 2016; ECtHR, **H.A. and Others v. Greece**, No. [19951/16](#), 28 February 2019.
- The Court has furthermore found that the child's “extreme vulnerability” is the “decisive factor and takes precedence over considerations relating to the status of illegal immigrant,” including when the child is accompanied by his or her

parents. The **presence of the child's parent(s)** "is not capable of exempting the authorities from their duty to protect children and take appropriate measures as part of their positive obligations under Article 3 of the Convention." ECtHR, **Popov v. France**, No. [39472/07](#), 19 January 2012, para. 91; see also: ECtHR, **Mubilanzila Mayeka and Kaniki Mitunga v. Belgium**, No. [13178/03](#), 12 October 2006; ECtHR, **G.B. and Others v. Turkey**, No. [4633/15](#), 17 October 2019; ECtHR, **Tarakhel v. Switzerland [GC]**, No. [29217/12](#), 4 November 2014; ECtHR, **Muskhadzhieva and Others v. Belgium**, No. [41442/07](#), 19 January 2010.

- It is the responsibility not of unaccompanied migrant children, but of the appropriate authorities, to "take the necessary steps" to secure care and stable housing. In addition, failure of the authorities to act on **provisional placement** orders or to otherwise remove the child from an unsuitable situation may constitute a failure to meet the obligation to "protect and take care of" vulnerable child-migrants, in violation of Article 3 (ECtHR, **Khan v. France**, No. [12267/16](#), 28 February 2019, para. 90, 44). A child "who is seeking to obtain refugee status" is entitled to "protection and humanitarian assistance, whether the child is alone or accompanied by his or her parents." ECtHR, **Tarakhel v. Switzerland**, No. [29217/12](#), 4 November 2014, para. 99.
 - The Court considers the **harmful effects of detention** as a cumulative measurement that incorporates a child's unique mental, emotional, and developmental needs, including their limited ability to understand or process what is happening to them; the particular stress, anxiety, and trauma that detention may cause to young children; and the overall effects of deprivation of liberty: ECtHR, **N.B. and Others v. France**, No. [49775/20](#), 31 March 2022; ECtHR, **Mubilanzila Mayeka and Kaniki Mitunga v. Belgium**, No. [13178/03](#), 12 October 2006; ECtHR, **G.B. and Others v. Turkey**, No. [4633/15](#), 17 October 2019; ECtHR, **M.H. and Others v. Croatia**, No. [15670/18](#), 18 November 2021.
- Inhuman & Degrading Treatment
- The Court has established that, while all circumstances of migrant detention must be evaluated to determine adequacy (ECtHR, **Labita v. Italy [GC]**, No. [26772/95](#), 6 April 2000), there are three areas of particular salience in violations of Articles 3 and 5. In relevant part, these include: the age of the migrant, the material conditions of detention, and duration of detention: ECtHR, **M.D. and A.D. v. France**, No. [57035/18](#), 22 July 2021; ECtHR, **Price v. the United Kingdom**, No. [33394/96](#), 10 July 2001; ECtHR, **Mikadzé v. Russia**, No. [52697/99](#), 7 June 2007; ECtHR, **Rahimi v. Greece**, No. [8687/08](#), 5 April 2011; ECtHR, **N.B. and Others v. France**, No. [49775/20](#), 31 March 2022.

Age & Material Conditions

• Children have “**specific needs**” in the context of migration, not merely because of their vulnerability and “lack of independence,” but also due to their **asylum-seeker status**. Of paramount importance in detention centres’ ability to meeting these needs is that conditions be well “adapted” to children’s age and needs, including furniture and childcare needs, duration of detention, access to medical care and other human services, psychological services, access to the outdoors and to exercise, education and educational supervision, legal representation, and humanitarian assistance. The detention of children in adult facilities generally constitutes ill-treatment: ECtHR, **R.R. and Others v. Hungary**, No. [36037/17](#), 2 March 2021, para 41, 44; ECtHR, **Mubilanzila Mayeka and Kaniki Mitunga v. Belgium**, No. [13178/03](#), 12 October 2006; ECtHR, **Tarakhel v. Switzerland**, No. [29217/12](#), 4 November 2014; ECtHR, **S.F. and Others v. Bulgaria**, No. [8138/16](#), 7 December 2017; ECtHR, **Muskhadzhiyeva and Others v. Belgium**, No. [41442/07](#), 19 January 2010; ECtHR, **Moustahi v. France**, No. [9347/14](#), 25 June 2020; ECtHR, **Darboe and Camara v. Italy**, No. [5797/17](#), 21 July 2022; ECtHR, **M.H. and Others v. Croatia**, No. [15670/18](#), 18 November 2021; ECtHR, **Rahimi v. Greece**, No. [8687/08](#), 5 April 2011.

• In addition to conditions **being adapted to children’s needs**, in evaluating detention conditions the Court has considered “factors such as the personal space available in the detention area, the availability of outdoor exercise, access to natural light or air, ventilation, and compliance with basic sanitary and hygiene requirements,” among other considerations. When children are present, these conditions may be subject to greater scrutiny than if only adults were present. Detaining “young children in unsuitable conditions... may on its own lead to a finding of a violation of Article 5 § 1:” ECtHR, **G.B. and Others v. Turkey**, No. [4633/15](#), 17 October 2019, para. 100, 151; ECtHR, **Mubilanzila Mayeka and Kaniki Mitunga v. Belgium**, No. [13178/03](#), 12 October 2006; ECtHR, **Mahmundi and Others v. Greece**, No. [14902/10](#), 31 July 2012. This also may include consideration of the child’s past traumas, and the impact of detention on the child’s development and relationships: ECtHR, **M.H. and Others v. Croatia**, No. [15670/18](#), 18 November 2021.

• Exposure to violence or unrest is of particular concern to the Court when children are involved: ECtHR, **Rahimi v. Greece**, No. [8687/08](#), 5 April 2011, para. 85, 91.

• The Court has distinguished between past Article 3 violations and those cases not meeting the threshold of Article 3 by assessing the “minimum level of severity” of the conditions, based on “all the circumstances of the case,” including the age of the victim: ECtHR, **A.B. and Others v. France**, No. [11593/12](#), 12 July 2016, para. 108.

Duration

- Prison-like conditions, those that contribute to sensory or emotional harm, or those that may otherwise contribute to anxiety, uncertainty, or distress on the part of children, even if otherwise adequately adapted to families “would necessarily have harmful consequences for children, exceeding the... threshold” of Article 3: ECtHR, **M.H. and Others v. Croatia**, No. [15670/18](#), 18 November 2021, para. 199; ECtHR, **R.C. and V.C. v. France**, No. [76491/14](#), 12 July 2016; **R.K. and Others v. France**, No. [68264/14](#), 7 December 2016.

- The duration of detention is “of primary significance,” as the Court has concluded that a short duration may be “permissible,” even when conditions are not otherwise suitable. In the case of very young children or infants, even a short duration may not be acceptable and may be harmful to a child’s physical, mental, and emotional well-being: ECtHR, **A.B. and Others v. France**, No. [11593/12](#), 12 July 2016, para. 114; ECtHR, **R.C. and V.C. v. France**, No. [76491/14](#), 12 July 2016.

- A duration of several months or greater where young children are involved, in conditions unsuitable for their well-being, amounts to a “de facto deprivation of liberty” in violation of Article 5: ECtHR, **R.R. and Others v. Hungary**, No. [36037/17](#), 2 March 2021, para. 74; ECtHR, **H.M. and Others v. Hungary**, No. [38967/17](#), 2 June 2022; ECtHR, **R.M. and Others v. France**, No. [33201/11](#), 12 July 2016; ECtHR, **M.B.K and Others v. Hungary**, No. [73860/17](#), 24 February 2022.

– Lawful Detention of Children and “Measure of Last Resort”

- The Court has distinguished between past Article 3 violations and those cases not meeting the threshold of Article 3 by assessing the imminence or likelihood of future harm coming to the child applicant(s), including placement in an ill-adapted reception centre. Where that likelihood or imminence has been lacking, the Court has declined to find a violation: ECtHR, **N.A. and Others v. Denmark**, No. [15636/16](#), 28 June 2016; ECtHR, **S.M.H. v. The Netherlands**, No. [5868/13](#), 17 May 2016.
- Authorities must demonstrate that the detention of any migrant, including children is both lawful, and not arbitrary. Several parameters come into play in assessing the latter, including whether the authorities acted in good faith, if there was a sufficient connection between continued detention and the stated objective, and that the duration and conditions of detention were reasonable: ECtHR, **Kanagaratnam v. Belgium**, No. [15297/09](#), 13 December 2011.
- The Court has emphasized that, “in all decisions concerning children, their **best interests** must be paramount,” which includes ensuring that the “detention

of children is only a measure of last resort: " ECtHR, **Popov v. France**, No. [39472/07](#), 19 January 2012, para. 140-141. The Court has noted that "various international bodies are increasingly calling on States to expeditiously and completely cease or eradicate immigration detention of children" (ECtHR, **M.H. and Others v. Croatia**, No. [15670/18](#), 18 November 2021, para. 200) and that authorities are within compliance with Article 5 only when they are able to demonstrate that the detention of a child was truly "a measure of last resort." ECtHR, **M.D. and A.D. v. France**, No. [57035/18](#), 22 July 2021, para. 86.

- Child migrants and families are entitled to meaningful legal review of the lawfulness of their detention, including the provision of legal assistance and of materials in a language the applicants can understand: ECtHR, **Mahmundi and Others v. Greece**, No. [14902/10](#), 31 July 2012.
- Authorities are obligated to inform the public prosecutor or other appropriate authority of the existence of unaccompanied children, in order that they may be assigned a guardian, provided with legal assistance and protection, and informed of available assistance: ECtHR, **Sh.D. and Others v. Greece, Austria, Croatia, Hungary, North Macedonia, Serbia and Slovenia**, No. [14165/16](#), 13 June 2019.
- See also: ECtHR, **R.R. and Others v. Hungary**, No. [36037/17](#), 2 March 2021, evaluating acceptable conditions for child asylum-seekers; ECtHR, **M.S.S. v. Belgium and Greece** [GC], No. [30696/09](#), 21 January 2011; ECtHR, **Khlaifia and Others v. Italy**, No. [16483/12](#), 15 December 2016 on the question of acceptable detention conditions more generally. Communicated cases: ECtHR, **Hasani v. Sweden**, No. [35950/20](#), Communicated 22 September 2022; **K.O. and v.O. v. Poland**, No. [46748/21](#), Communicated 6 February 2023.
- In the past, the Court has seen fit to reference the work of child psychiatrist Dr. Hayez on the "disastrous impact of confinement on the development of children," which may lead to "a radical sense of inferiority and despair, a disturbed self-image and self-esteem, doubts about the value of parents and family, an erroneous and pessimistic assessment of what is permitted and forbidden and, more radically, of what is right and wrong, a negative image of social authority as unjust and always to be distrusted, and the development of a feeling of hatred and a desire for revenge." See: ECtHR, **Kanagaratnam v. Belgium**, No. [15297/09](#), 13 December 2011, para. 41 (Translated with www.DeepL.com/Translator).

Entry & Residence:

- The CJEU has ruled that, where an unaccompanied child applies for asylum in two Member States and has no family members present on the territory of either Member States, the Member State responsible is the one in which the child is present upon application: CJEU, **MA and Others v. Secretary of State for the Home Department (United Kingdom)**, Case [C-648/11](#), 21 February 2013. The case concerns the interpretation of Article 6 of Regulation 343/2003.
- The European Committee of the Regions on EU regions and cities “stresses that many **Ukrainian refugees are particularly vulnerable** and that about half of them are children”, “supports a “Child Protection Package» for Ukrainian refugee children,” “calls for strong measures to prevent human trafficking, as the majority of those fleeing Ukraine are women and children and human rights reports have shown an increase in cases where they are targeted and exploited by organised crime groups, including for sexual and labour exploitation”: **Resolution of the European Committee of the Regions on EU regions and cities’ support for Ukraine**, [2022/C 301/01](#), 5 August 2022.
- In questions of removal, the Court has ruled that authorities must balance the competing interests of the child-migrant and of society, a balance governed by international convention, in particular the Convention on the Rights of the Child: ECtHR, **A.M. and Others v. France**, No. [24587/12](#), 12 July 2016.

Reunification & Separated Children:

- The Court has stated that Article 27 of the Dublin III Regulation, read in conjunction with Articles 7, 24 and 47 of the Charter of Fundamental Rights of the European Union, requires that an unaccompanied child be given the right to judicial review of the decision to refuse to take charge. However, the child’s relative does not have such a right of appeal: CJEU, I, S v. **Staatssecretaris van Justitie en Veiligheid**, [GC], Case [C-19/21](#), 1 August 2022.
- The refusal to issue a national visa for the purposes of family reunification to the parent of an unaccompanied refugee child, which has become an adult during this procedure, is contrary to EU law: CJEU, **Bundesrepublik Deutschland v. SW and BL**, Case [C-273/20](#), 1 August 2022; **Bundesrepublik Deutschland v. BC**, [C-355/20](#), 1 August 2022; **Bundesrepublik Deutschland v. XC**, [C-279/20](#), 1 August 2022.
- An international protection application lodged by a child under the age of 18 cannot be rejected as inadmissible on the grounds that his / her parents have

already been granted such protection in another Member State, under the Dublin III Regulation: CJEU, **RO v. Bundesrepublik Deutschland**, Case [C-720/20](#), 1 August 2022.

- The “**expulsion of a settled migrant**” interferes with an individual’s Article 8 rights, in particular when the applicant is a child. Article 8 “protects the right to establish and develop relationships with other human beings” and can “embrace aspects of an individual’s social identity.” For this reason, “the totality of social ties between settled migrants and the community in which they are living constitutes part of the concept of ‘private life’” protected by Article 8: ECtHR, **Maslov v. Austria** [GC], No. [1638/03](#), 23 June 2008, para. 63; ECtHR, **Osman v. Denmark**, No. 38058/09, 14 June 2011.
- The Court has held that parents who leave their children behind in the country of origin, and resettle elsewhere, “cannot be assumed to have irrevocably decided that those children are to remain... and to have abandoned any idea of a future family reunification.” ECtHR, **Sen v. the Netherlands**, No. [31465/96](#), 21 December 2001, para. 176.
- Likewise, where parents voluntarily send their children to reside in another country, the child does not lose their right to maintain contact with their family, nor to have their interests in family reunification considered in residency and expulsion determinations: ECtHR, **Osman v. Denmark**, No. [38058/09](#), 14 June 2011.
- While States have no general obligation to respect migrants’ choice of residency or family reunification (ECtHR, **Abdulaziz, Cabales and Balkandali v. the United Kingdom**, No. [9214/80](#), 28 May 1983), in cases involving children and families, the authorities must give precedence to the child’s best interests, and should consider the extent to which expulsion would present a hindrance in the provision and protection of family life: ECtHR, **Mugenzi v. France**, No. [52701/09](#), 10 July 2014; ECtHR, **Sen v. The Netherlands**, No. [31465/96](#), 21 December 2001.
- Families are entitled to procedural protections and due process in matters of expulsion and reunification, including a respect for the interests safeguarded by Article 8. An adequate decision-making process is both fair and prompt: ECtHR, **Cılız v. the Netherlands**, No. [29192/95](#), 11 July 2000; ECtHR, **Saleck Bardi v. Spain**, No. [66167/09](#), 24 May 2011.
- The Court will consider the **age of the children** at the time of their application for **family reunification**, the likelihood that family reunification will actually occur, and the children’s ties to the application country versus their country of residency or origin—linguistic, cultural, social, and familial. In the past, the Court has rejected applications where the “children concerned have... reached an age

where they were presumably not as much in need of care as young children and are increasingly able to fend for themselves:" ECtHR, **Berisha v. Switzerland**, No. [948/12](#), 30 July 2013, para. 56; **I.A.A and Others v. The United Kingdom**, No. [25960/13](#), 8 March 2016; ECtHR, **Sen v. The Netherlands**, No. [31465/96](#), 21 December 2001.

Child Trafficking & Forced Labour



Relevant Articles of ECHR

Article 3: Prohibition on Torture & Ill-Treatment

Article 4: Prohibition on Human Trafficking, Slavery, Forced Labour

Overriding Principles: The particular vulnerability of children entitles them to additional protection on the part of authorities, who are obligated not only to establish effective deterrents to child trafficking, but to investigate all credible claims of such action, and to prosecute those who have committed such breaches of human dignity and integrity. In order to qualify as "forced or compulsory labour" within the meaning of Article 4, it is sufficient that children establish fear and hopelessness tantamount to an absence of choice, even when traditional physical coercion is absent.

Relevant Case Law

- The Court has held that "children and other vulnerable individuals, in particular, are entitled to **State protection**, in the form of effective deterrence, against... serious breaches of personal integrity" such as human trafficking or forced labour: ECtHR, **Stubbings and Others v. the United Kingdom**, No. [22083/93](#), 22 October 1996, para. 64; **A. v. the United Kingdom**; ECtHR, **Siliadin v. France**, No. [73316/01](#), 26 July 2005; ECtHR, **V.C.L. and A.N. v. the United Kingdom**, Nos. [77587/12](#) and [74603/12](#), 16 February 2021.
- In order to qualify as "**forced or compulsory labour**," physical or mental compulsion is not necessarily required. In the case of children in particular, the Court has emphasized that it is sufficient that the individual feel threatened to the point that they do not have a meaningful choice to leave or decline service. This fear may be exacerbated by the increased vulnerability of unaccompanied migrants: ECtHR, **Siliadin v. France**, No. [73316/01](#), 26 July 2005, para. 116-118; ECtHR, **C.N. and V. v. France**, No. [67724/09](#), 11 October 2012.
- The Court has held that, because "**child victims of trafficking** are a particularly vulnerable group who may not be aware that they have been trafficked, or who may be too afraid to disclose," their status as victims, efforts to prosecute child

trafficking victims for crimes committed in the course of their forced labor should consider the limits of acquiring usable evidence, as well as the volitional culpability of the child: ECtHR, **V.C.L. and A.N. v. the United Kingdom**, Nos. [77587/12](#) and [74603/12](#), 16 February 2021, para. 199.

- The State’s efforts to protect children against “acts of violence falling within the scope of Articles 3 and 8” must be “aimed at ensuring respect for human dignity and protecting the best interests of the child,” produce deterrents to future ill-treatment, and reasonably prevent present or future ill-treatment: ECtHR, **Söderman v. Sweden**, No. [5786/08](#), 12 November 2013, para. 81; ECtHR, **M.P. and Others v. Bulgaria**, No. [22457/08](#), 15 November 2011; ECtHR, **V.C.L. and A.N. v. the United Kingdom**, Nos. [77587/12](#) and [74603/12](#), 16 February 2021.
- The Court has clarified that States have positive obligations under Article 4 both to “penalise and effectively prosecute actions that breach Article 4...and the procedural obligation to investigate **situations of potential exploitation**” when they come to the attention of authorities. This is particularly true in the case of child victims: ECtHR, **C.N. and V. v. France**, No. [67724/09](#), 11 October 2012, para. 104; ECtHR, **Rantsev v. Cyprus and Russia**, No. [25965/04](#), 7 January 2010; ECtHR, **M. and Others v. Italy and Bulgaria**, No. [40020/03](#), 31 July 2012.

Family Procedures



Relevant Articles of ECHR

Article 8: Right to Privacy in Personal & Family Life

Overriding Principles: In cases involving Family Procedures, as in other cases involving the rights of the child, the child’s best interests should be the paramount consideration. The interests a child has in the bond of family is fundamentally important in any question of maintaining contact with their family; of instituting a temporary care regime; or of establishing a right to information (such as paternity) that would aid a child in formative development. Children are also entitled to fundamental legal protections that issue from familial bonds, such as inheritance or citizenship, regardless of their parents’ marital status, sexual orientation, or the child’s adoptive versus biological status.

Relevant Case Law

Parentage, Custody, & Citizenship:

- A court of a Member State shall not have jurisdiction to give judgment in matters of child custody on the basis of the Brussels IIa Regulation 1, where

the child's habitual residence has been lawfully transferred, in the course of the proceedings, to the territory of a third State which is party to the 1996 Hague Convention (Russia): CJEU, **CC v. VO**, Case [C-572/21](#), 14 July 2022.

- The Court has held that continuous, long-term non-communication between a parent and child may hinder the finding of an “established family relationship” protected under Article 8: ECtHR, **Katsikeros v. Greece**, No. [2303/19](#), 21 July 2022, para. 47.
- The Court has held that Article 8 of the Convention “can be interpreted as imposing on member States an obligation to examine on a case-by-case basis whether it is in the child's best interests to maintain contact with a person, whether biologically related or not, who has taken care of him or her for a sufficiently long period of time,” and that systems which inflexibly subscribe to a system of biological relationship alone are insufficient: ECtHR, **V.D. and Others v. Russia**, No. [72931/10](#), 9 April 2019, para 126, 129; ECtHR, **Carbonai v. Italy**, No. [9825/21](#), 29 November, 2022, para 16-18. ECtHR, **Nazarenko v. Russia**, No. [29933/04](#), 19 January 2016.
- The Court has emphasized that a reasonable time-frame for civil disputes is essential and that it is up to States to organise their legal systems in such a way as to accomplish this: **G.H. v. Austria**, No. [31266/96](#), 3 October 2000; ECtHR, **Mikulić v. Croatia**, No. [53176/99](#), 7 February 2002.
- The Court has held that paternity proceedings fall within the ambit of Article 8 (**Rasmussen v. Denmark**, No. [8777/79](#), 28 November 1984; **Keegan v. Ireland**, No. [16969/90](#), 26 May 1994); individuals are entitled to information that helps “to establish details of their identity as individual human beings” or which has “formative implications for his or her personality:” ECtHR, **Gaskin v. the United Kingdom**, No. [10454/83](#), 7 July 1989, para. 39; ECtHR, **Mikulić v. Croatia**, [53176/99](#), 7 February 2002, para. 54.
- Likewise, the concept of family life expressed in Article 8 “is not confined solely to marriage-based relationships but may also encompass other de facto ‘family ties’ where sufficient constancy is present:” ECtHR, **Kroon and Others v. the Netherlands**, No. [18535/91](#), 27 October 1994, para. 30; ECtHR, **Mikulić v. Croatia**, No. [53176/99](#), 7 February 2002.

Temporary Care & Deprivation of Parental Authority:

- Breaking up a family via **adoption or temporary placement procedures**, when doing so is not absolutely necessary or does not advance the best interests of the children, constitutes an interference with family life within the ambit of Article 8:

ECtHR, **A.I. v. Italy**, No. [70896/17](#), 1 April 2021, para. 101; ECtHR, **Y.I. v. Russia**, No. [68868/14](#), 25 February 2020; **Soares de Melo v. Portugal**, No. [72850/14](#), 16 February 2016; **Pontes v. Portugal**, No. [19554/09](#), 10 April 2012.

- Placing a child into temporary care or custody, or otherwise breaking up a family, is an “extreme measure,” which requires the authorities to pursue other measures if available, and to provide evidence of any claim of present or future harm to the child. Removing a child to care “should be regarded as a temporary measure,” with the shortest possible timeframe, and with “the ultimate aim of reuniting the natural parent with his or her child.” ECtHR, **Strand Lobben and Others v. Norway** [GC], No. [37283/13](#), 10 September 2019, para. 187; ECtHR, **A.I. v. Italy**, No. [70896/17](#), 1 April 2021; ECtHR, **V.D. and Others v. Russia**, No. [72931/10](#), 9 April 2019.
- A “complete and a complete and definite severance of the ties” between parent and child is considered to be a State interference into family life that is of extreme gravity, and it therefore must be not only exceptional, but driven by the best interests of the child, and also representative of a “fair balance between the competing interests at stake.” The “stricter scrutiny” such a decision entails is required of authorities even if a parent does not apply directly for family reunification: ECtHR, **Abdi Ibrahim v. Norway** [GC], No. [15379/16](#), 10 December 2021, para. 150, 162, 149; ECtHR, **Strand Lobben and Others v. Norway** [GC], No. [37283/13](#), 10 September 2019.
- The Court has established that being together is a fundamental element of family life for a parent and child. State measures preventing parents from remaining with their children constitute a violation of Article 8 and must be justified by a legitimate aim that supersedes the applicants’ right to family life, or advances the child’s best interests: ECtHR, **A.I. v. Italy**, No. [70896/17](#), 1 April 2021, para. 83; **K. and T. v. Finland**, No. [25702/94](#), 12 July 2001; **Barnea and Caldararu v. Italy**, No. [37931/15](#), 22 June 2017.
- See also: **A.P. and A.M. v. Czech Republic**, [22216/20](#), Communicated 15 January 2021, on the transfer of care of a child from the mother to a crisis centre, without the participation of the child.

Anti-Discrimination, Legal Status, and Privileges:

- The CJEU has ruled that an EU Member State may not require the prior establishment of a birth certificate in order to issue an identity card or passport. It must also recognise like documents that permit the child to exercise their right to move and reside freely within the EU territory, with either parent in a same-sex union: CJEU, **V.M.A. v. Stolichna Obsthina, Rayon ‘Pancharevo’**, Case

[C-490/20](#), 2 October 2020.

- The Court has further clarified that there is an obligation under EU law to recognise the **indirect right of residence**, under article 21 TFEU, of a same-sex spouse: CJEU, **Relu Adrian Coman v. Inspectoratul General pentru Imigrări**, Case [C-673/16](#), 5 June 2018.
- The Court has held that “a distinction is discriminatory for the purposes of Article 14 if it has no objective and reasonable justification” (ECtHR, **Fretté v. France**, No. [36515/97](#), 26 February 2002, para. 34), a definition that applies to arbitrary distinctions between biological and adoptive children, or between children of married persons and unmarried or adulterine relationships, as it relates to the child’s legal rights and privileges: ECtHR, **Pla and Puncernau v. Andorra**, No. [69498/01](#), 13 July 2004; ECtHR, **Mazurek v. France**, No. [34406/97](#), 1 February 2000.
- Per the Court, an adopted child “is in the same legal position as a biological child of his or her parents in all respects: relations and consequences connected with his or her family life and the resulting property rights,” and any suggestion to the contrary requires a heavy evidentiary burden: ECtHR, **Pla and Puncernau v. Andorra**, No. [69498/01](#), 13 July 2004, para. 61.
- Similarly, the Court has established that there is a presumption against justifying any legal discrimination in the rights and privileges, such as those involved in succession or inheritance, granted to children on the grounds of their legitimacy or “birth out of wedlock:” ECtHR, **Mazurek v. France**, No. [34406/97](#), 1 February 2000, para. 49; ECtHR, **Camp and Bourimi v. the Netherlands**, [28369/95](#), 3 October 2000; ECtHR, **Marckx v. Belgium**, [6833/74](#), 13 June 1979; **Fabris v. France** [GC], [16574/08](#), 7 February 2013; ECtHR, **Mitzinger v. Germany**, No. [29762/10](#), 25 January 2018; ECtHR, **Brauer v. Germany**, No. [3545/04](#), 28 May 2009.
- Well-founded justifications for distinctions along birth status may exist but must be proportionate in consideration of all of the rights and interests that need to be balanced. For example, the interests of ‘legitimate’ heirs in maintaining inheritance stakes at the expense of an ‘illegitimate’ heir, where the latter individual is known to and in relation with the family, is disproportionate: ECtHR, **Camp and Bourimi v. the Netherlands**, No. [28369/95](#), 3 October 2000.
- Likewise, in the consideration or granting of citizenship rights, where all other facts are equal, authorities may not distinguish between the birth status or ‘legitimacy’ of a child, or the nature of their parents’ relationship at the time of birth: ECtHR, **Genovese v. Malta**, No. [53124/09](#), 11 October 2011.

Education:

- While the Court has acknowledged that exclusion from school due to vaccination status may mean the loss of “an important opportunity for... children to develop their personalities and to begin to acquire important social and learning skills,” it has nevertheless found that vaccination mandates are “consistent with the rationale of protecting the health of the population:” ECtHR, **Vavříčka and Others v. Czech Republic** [GC], No. [47621/13](#), 8 April 2021, para. 306.
- In the context of accommodating children with disabilities in mixed educational settings, the Court has allowed for a flexible “margin of appreciation” that incorporates “context-specific assessments.” More specifically, the Court has emphasized that Article 14 “requires reasonable accommodation, rather than all possible adjustments which could be made” regardless of undue burdens or the implication on other important interests, such as the well-being, safety, and education of other pupils: ECtHR, **T.H. v. Bulgaria**, No. [46519/20](#), 11 April 2023, para 120, 122; ECtHR, **Arnar Helgi Lárusson v. Iceland**, No. [23077/19](#), 31 May 2022, para 59.
- The Court has stressed that racial discrimination is “particularly invidious” and requires aggressive State action. Accordingly, “it is not necessary to prove discriminatory intent” in the context of discrimination in education. It follows from the above that the “education of Roma children in segregated classes or schools,” regardless of intent, without an adequate corrective response is incompatible with Article 14 obligations. ECtHR, **Szolcsán v. Hungary**, No. [24408/16](#), 30 March 2023, para. 46, 48, 57; ECtHR, **D.H. and Others v. the Czech Republic** [GC], No. [57325/00](#), 13 November 2007, para. 176; ECtHR, **Horváth and Kiss v. Hungary**, No. [11146/11](#), 29 January 2013, para. 127.

Abuse, Neglect, and Ill-treatment



Relevant Articles of ECHR

Article 3: Prohibition on Torture & Ill-Treatment

Article 8: Right to Privacy in Personal & Family Life

Article 13: Right to an Effective Remedy

Overriding Principles: As in other areas involving child's rights, cases of child physical abuse, neglect, or sexual abuse principally implicate a child's unique vulnerability and dependence. Authorities are expected to employ all reasonable means and available powers to address, deter, and prosecute instances of child abuse. This includes conducting a thorough investigation within a reasonable timeframe and providing prompt legal relief. The psychological needs of children should be incorporated into investigative and judicial procedures, not only to pursue child-friendly justice, but to ensure that authorities are sensitive to the way in which child victims may respond differently to violence than adults.

Relevant Case Law

Increased Obligation to Protect:

- The Court has emphasized that a child's shared **human dignity** is the value underpinning the prosecution and prevention of violence against children: "assuring basic dignity to the child means that there can be no compromise in condemning violence against children, whether accepted as 'tradition' or disguised as 'discipline.'" The child's unique vulnerability and dependence "makes it imperative that they have more, not less, protection from violence" and may influence the Court's assessment of what constitutes ill-treatment: ECtHR, **D.M.D. v. Romania**, No. [23022/13](#), 3 October 2017, para. 50; ECtHR, **Dushka v. Ukraine**, No. [29175/04](#), 3 February 2011.
- The Court has emphasized that "Article 3 enshrines one of the most fundamental values of democratic society," obligating authorities to provide effective protection against **ill-treatment**, including ill-treatment at the hands of private individuals. This is particularly so in the case of children, whose vulnerability creates a "statutory duty" for authorities to provide protection using the full "range of powers" available to them: ECtHR, **Z. and Others v. the United Kingdom** [GC], No. [29392/95](#), 10 May 2001, para. 73-74; see also: ECtHR **A. v. the United Kingdom**, No. [25599/94](#), 23 September 1998; **Osman v. the United Kingdom** [GC], No. [23452/94](#), 28 October 1998.

- In cases involving repeated failures of the judicial system to fulfil their duty to **protect children** and vulnerable victims from violations of Article 3, such repeated acts may “together... characterize gross negligence engaging the State’s liability,” even if the individual acts are merely negligent: ECtHR, **Association Innocence en Danger v. France and Association Enfance et Partage v. France**, No. [15343/15](#), 4 June 2020, para. 191.

Effective Investigation & Prosecution:

- While the full “scope of a State’s positive obligations” may differ across Article 3 cases, an official investigation is nevertheless required, and what constitutes an effective investigation is consistent: the authorities must use all reasonable means available to lead to the “establishment of the facts of the case and to the identification and punishment of those responsible. This is not an obligation as to the results to be achieved but as to the means to be employed.” This includes an implicit expectation of expeditious proceedings and a prompt investigation as “essential.” ECtHR, **M.C. and A.C. v. Romania**, No. [12060/12](#), 12 April 2016, para. 111; ECtHR, **D.M.D. v. Romania**, No. [23022/13](#), 3 October 2017; ECtHR, **X and Others v. Bulgaria**, No. [22457/16](#), 2 February 2021.
- A “failure to take reasonably available measures,” including “**lack of investigation**, communication and co-operation by the relevant authorities” in cases of ongoing, established child abuse and neglect, constitutes a failure to fulfill the State’s duty of protection: ECtHR, **E. and Others v. the United Kingdom**, No. [33218/96](#), 26 November 2002, para. 99-100; ECtHR, **D.M.D. v. Romania**, No. [23022/13](#), 3 October 2017.
- The “absence of any direct State responsibility for acts of violence of such severity as to engage Article 3 of the Convention does not absolve the State from all obligations.” On the contrary, in these cases the authorities are required to “conduct an effective official investigation into the alleged ill-treatment, even if such treatment has been inflicted by private individuals:” ECtHR, **M.C. and A.C. v. Romania**, No. [12060/12](#), 12 April 2016, para. 110; ECtHR, **D.M.D. v. Romania**, No. [23022/13](#), 3 October 2017; ECtHR, **Denis Vasilyev v. Russia**, No. [32704/04](#), 17 December 2009; ECtHR, **Z. and Others v. the United Kingdom**, No. [29392/95](#), 10 May 2001.
- In the past, the Court has found that a system that requires victims of **domestic violence** “children or otherwise” to “initiate and pursue judicial proceedings” when they may not be in a position to do so, legally, psychologically, or otherwise, is inadequate and “falls short of the State’s positive obligation to put in place an effective system punishing all forms of domestic violence and providing sufficient safeguards for victims:” ECtHR, **A.E. v. Bulgaria**, No. [53891/20](#), 23 May 2023, para. 100; ECtHR, **Volodina v. Russia**, No. [41261/17](#), 9 July 2019.

Police Violence:

- Regarding police violence, the Court has held that “police officers must, if they are in contact with children, take account of their **particular vulnerability**” and “conduct on their part with regard to children may, by the mere fact that they are children, be incompatible with the requirements of Article 3 of the Convention even though it might be considered acceptable if it were directed at adults:” ECtHR, **Bouyid v. Belgium** [GC], No. [23380/09](#), 28 September 2015.
- Further, the Court has held that police violence directed at adults with children present, in particular when directed at adults with whom the children have a close personal relationship, amounts “to a failure on the part of the authorities to prevent... ill-treatment.” Law enforcement should always “heed” the presence of children and their strong interests in emotional and physical security: ECtHR, **A. v. Russia**, No. [37735/09](#), 12 November 2019.

Public Institutions & Schools:

- The Court has observed that, in cases where child abuse is suspected, “teachers can play a vital role in the violence prevention system... Indeed, teachers, who are sometimes the child’s only trusted confidants, and who are responsible for observing the child closely on a daily basis” are in a unique position to “have an overall view of the child’s development.” Authorities should consider this when conducting investigations into suspected child abuse, and in taking seriously reports to this effect submitted by educators: ECtHR, **Association Innocence en Danger v. France and Association Enfance et Partage v. France**, No. [15343/15](#), 4 June 2020, para. 167.
- Teachers are “placed in a unique position of authority” over students, making their actions particularly powerful on a child’s sense of “dignity, well-being and psychological development.” In part because children are subject to the control of educational authorities while at school, the “primary duty of the education authorities is to ensure the students’ safety.” ECtHR, **F.O. v. Croatia**, No. [29555/13](#), 22 April 2021, para. 86, 82; ECtHR, **Kayak v. Turkey**, No. 60444/08, 10 July 2012; **Osman v. the United Kingdom** [GC], No. [23452/94](#), 28 October 1998.
- Indeed, a State’s affirmative obligation of to protect children from harm “assumes particular importance in the context of the provision of an important public service such as primary education,” where State actors such as school authorities are obligated to protect the “well-being of pupils and, in particular, of young children who are especially vulnerable and are under the exclusive control of those authorities:” ECtHR, **O’Keeffe v. Ireland** [GC], No. [35810/09](#), 28 January 2014, para. 145; see also ECtHR, **Grzelak v. Poland**, No. [7710/02](#), 15

June 2010; **İlbeyi Kemaloğlu and Meriye Kemaloğlu v. Turkey**, No. [19986/06](#), 10 April 2012; ECtHR, **X and Others v. Bulgaria**, No. [22457/16](#), 2 February 2021.

- Further, this principle applies to other public institutions, such as orphanages, where States likewise “have a heightened duty of protection,” as children are made still more vulnerable, being “deprived of parental care” and placed instead into the care of State authorities. In such instances, authorities’ duty of care is ongoing, and, where ill-treatment is a real risk, “particular vigilance:” ECtHR, **X and Others v. Bulgaria**, No. [22457/16](#), 2 February 2021, para. 195, 197; ECtHR, **Nencheva and Others v. Bulgaria**, No. [48609/06](#), 18 June 2013; ECtHR, **O’Keeffe v. Ireland**, No. [35810/09](#), 28 January 2014.

Sexual Abuse:

- Effective Legislation, Investigation, & Law-Enforcement
 - The “nature of child sexual abuse” is such that, the Court has held, “the existence of useful detection and reporting mechanisms are fundamental to the effective implementation of the relevant criminal laws, as is a supportive and functional “law-enforcement machinery” capable of prompt investigation and prosecution. ECtHR, **O’Keeffe v. Ireland**, No. [35810/09](#), 28 January 2014, para. 148; ECtHR, **X and Y v. the Netherlands**, No. [8978/80](#), 26 March 1985; ECtHR, **Juppala v. Finland**, No. [18620/03](#), 2 December 2008; ECtHR, **Beganović v. Croatia**, No. [46423/06](#), 25 June 2009; ECtHR, **Mahmut Kaya v. Turkey**, No. [22535/93](#), 28 March 2020.
 - The Court has further held that States have a “positive obligation” to provide “efficient criminal-law provisions,” accessible legal remedies, and effective deterrence “against grave acts such as rape, where fundamental values and essential aspects of private life are at stake” This applies in particular to “children and other vulnerable individuals” ECtHR, **M.C. v. Bulgaria**, No. [39272/98](#), 4 December 2003, para. 150; ECtHR, **X and Y v. the Netherlands**, No. [8978/80](#), 26 March 1985.
 - Where multiple authorities are involved, failure to institute sufficient cooperation, coordination, or communication, where such failure is responsible for a failure to mitigate known or suspected child sexual abuse, this represents a failure on the part of the State to adequately protect children from ill-treatment: ECtHR, **Lošte v. France**, No. [59227/12](#), 3 November 2022, para. 102-103.
 - In the case of child rape or sexual assault, the Court has stated that “any rigid approach to the prosecution of sexual offences, such as requiring proof of physical resistance in all circumstances, risks leaving certain types of rape unpunished” and places children at particular risk, who, “because of a variety

of psychological factors” may not be able to meet standards of non-consent expected of adults: ECtHR, **M.C. v. Bulgaria**, No. [39272/98](#), 4 December 2003, para. 164, 166; ECtHR, **I.G. v. Moldova**, No. [53519/07](#), 15 May 2012.

- Child sexual abuse and rape should prompt “urgent investigative measures” and, like other effective investigations, be completed within a reasonable time-frame conducive to victim relief and “capable of leading to the proper punishment of those responsible.” The failure of authorities to act in such a manner should not time-bar an applicant from legal remedy: ECtHR, **P.M. v. Bulgaria**, No. [49669/07](#), 24 January 2012, Para. 65-66; ECtHR, **C.A.S. and C.S. v. Romania**, No. [26692/05](#), 20 March 2012; ECtHR, **R.I.P. and D.L.P. v. Romania**, No. [27782/10](#), 10 May 2012.
- The Court has emphasized that the “**absence of legislation criminalising sexual advances to a mentally handicapped**” child is tantamount to a failure on the part of the State to “fulfill its positive obligation to protect the Article 8 rights of the victim:” ECtHR, **O’Keeffe v. Ireland**, No. [35810/09](#), 28 January 2014, para. 147; ECtHR, **X and Y v. the Netherlands**, No. [8978/80](#), 26 March 1985. While specific legislation is not always required, States are obligated to consider the overall vulnerability and psychology of children, and the heightened vulnerability of individual children with mental handicaps, special needs, mental health issues, or physical disabilities, in their adjudication of child sexual abuse: ECtHR, **V.C. v. Italy**, No. [54227/14](#), 1 February 2018, para. 110; ECtHR, **I.C. v. Romania**, No. [36934/08](#), 24 May 2016.
- Child Needs & Child-Friendly Procedures
 - The Court has held that the “effective protection of children’s rights” depends upon safeguarding their “testimony both during the pre-trial investigation and trial.” This includes the adoption of flexible standards that allow for “**child-friendly**” adaptations, where it is necessary to the effective prosecution of grave acts of ill-treatment against children, as well as ensuring that “child-friendly measures” do “not in themselves diminish the value given to a child’s testimony or evidence:” ECtHR, **R.B. v. Estonia**, No. [22597/16](#), 22 June 2021, para. 102; ECtHR, **M.G.C. v. Romania**, No. [61495/11](#), 15 March 2016; ECtHR, **I.C. v. Romania**, No. [36934/08](#), 24 May 2016.
 - The Court has emphasized that States’ responsibilities under Articles 3 and 7 “require that **the best interests of the child** be respected” during criminal investigations, and that any consideration of child victims’ actions be sensitive to a child’s psychological and intellectual state. Failure to be mindful of the “special psychological factors involved in cases concerning violent sexual abuse of children” may raise “doubts as to the effectiveness”

of the system the State has put into place to protect children from sexual abuse: ECtHR, **C.A.S. and C.S. v. Romania**, No. [26692/05](#), 20 March 2012, para. 81-82; ECtHR, **P. and S. v. Poland**, No. [57375/08](#), 30 October 2012; ECtHR, **M.G.C. v. Romania**, No. [61495/11](#), 15 March 2016; ECtHR, **I.C. v. Romania**, No. [36934/08](#), 24 May 2016.

- Due attention to a child's particular psychological needs is an essential component not only of providing adequate protection to children, but of conducting an effective investigation. This includes heeding psychological experts and testimony, the provision of assistance and counseling, questioning by individuals appropriately trained in child psychology, and incorporation of the child's views and feelings: ECtHR, **A.P. v. the Republic of Moldova**, No. [41086/12](#), 26 October 2021; ECtHR, **I.G. v. Moldova**, No. [53519/07](#), 15 May 2012; ECtHR, **X and Others v. Bulgaria**, No. [22457/16](#), 2 February 2021; **N.Ç. v. Turkey**, No. [40591/11](#), 9 February 2021.
- State proceedings in cases of child **sexual abuse** should always be mindful of the child's vulnerability, their "own views and feelings," and the unique psychological and emotional difficulties of their situation. Failure to do so suggests a system inadequate to the obligation to protect children from current and future ill-treatment: ECtHR, **P. and S. v. Poland**, No. [57375/08](#), 30 October 2012, para. 166; ECtHR, **M.G.C. v. Romania**, No. [61495/11](#), 15 March 2016.

03

AGENDAS & OPPORTUNITIES AT EUROPEAN LEVEL ON CHILD FRIENDLY JUSTICE



This section presents who main key stakeholders working in the area of child friendly justice are in Europe, recent developments at European level and an analysis of agendas and opportunities within the institutions of the Council of Europe and the European Union. Advocacy efforts could therefore be organised around and according to the themes and meetings planned by the various bodies and agencies.

3.1 Key Stakeholders

Engaging with European partners and policy makers is of paramount importance in implementing the advocacy objective of prioritising child friendly justice in a political agenda. Collaboration with various stakeholders, including organisations, experts and policy makers allows to leverage diverse perspectives, resources, and expertise. Partnerships develop comprehensive strategies, share best practices, and jointly advocate for reforms that prioritise the rights, well-being and protection of children within the justice system. By actively engaging with policy makers, the CFJ-EN and its members can become a lead influencer for policy decisions. In this section you will find a non-exhaustive list of the relevant stakeholders at the heart of child-friendly justice.

European Union Stakeholders

EC Coordinator on the Rights of the child

The EC Coordinator on the Rights of the Child team establishes closer co-operation between the Commission and Member States on various issues relating to the protection and promotion of the rights of the child. In addition, it supports Member States' efforts to ensure the respect of the rights of the child by facilitating exchange of information, experience and good practice with and among national authorities responsible for protecting and promoting the rights of the child. The EC Coordinator on the Rights of the Child leads a Rights of the Child team at DG Justice.

European Commission Forum on the rights of the child

The EC monitors the implementation of the EU Strategy on the Rights of the Child at EU and national level, and reports on the progress at the annual European Forum on the rights of the child. The Coordinator on the Rights of the Child works

with all the departments of the EC to make sure that the rights of the child are properly considered in all relevant policies and actions.

European Commission Children's rights Network

The aim of the Network is to reinforce the dialogue and mutual learning between the EU and Member States on children's rights. It supports the implementation, monitoring and evaluation of the EU Strategy on the Rights of the Child.

DG Migration and Home Affairs

The role of DG Migration and Home Affairs is to ensure the EU's security, to build a common EU migration and asylum policy, and to promote dialogue and cooperation with non-EU countries.

The European Parliament Coordinator on Children's Rights

The EU Parliament Coordinator on Children's Rights is responsible for acting as a central contact point to monitor and actively promote children's rights in EU policies, ensuring coherence and visibility of Parliament's actions in this area, promoting cross-border mediation in international family disputes and serving as a central information point for EU citizens in international parental child abduction or other cross-border family disputes.

European Parliament Intergroup on Children's Rights

The Intergroup on Children's Rights represents the first formal body within the EP that mainstreams children's rights and assess the impact of legislative and non-legislative work on children.

FRA – European Union Agency for Fundamental Rights

The FRA provides independent, evidence-based advice to EU and national decision makers, thereby helping to make debates, policies and legislation on fundamental rights better informed and targeted. The FRA includes a unit specialised on children's rights.

Council of Europe Stakeholders

Head of the Children's Rights Division and CoE Coordinator for the Rights of the Child

The Head of the Children's Rights Division follows the implementation of the Council of Europe Strategy for the Rights of the Child which promotes equal opportunities for children, the participation of children, a life free from violence and justice system accessible to all children. It finally focuses on developing

a strong agenda to strengthen children’s rights in the digital environment. This Division is led by the Council of Europe Coordinator for the Rights of the Child.

[CDENF Committees and Working Groups](#)

CDENF is the Council of Europe intergovernmental body responsible for the standard-setting activities in the field of the rights of the child. It guides the Council of Europe work in this field by advising the Committee of Ministers on appropriate action and proposals concerning the overall priorities to be taken in its field of competence and future work. The CDENF also oversees the implementation of the Council of Europe [Strategy for the Rights of the Child \(2022-2027\)](#). It includes various committees of experts, namely:

- The [Committee of Experts on the prevention of violence \(ENF-VAE\)](#)
- The [Committee of experts on the rights and the best interests of the child in parental separation and in care proceedings \(CJ/ENF-ISE\)](#)
- The [Ad hoc Committee for the Rights of the Child \(CAHENF\)](#)
- The [Working Group on responses to violence against children \(CDENF-GT-VAE\)](#)

Key Stakeholders at Global level

[Independent Expert for the United Nations Global Study on Children Deprived of Liberty](#)

The UN Global Study on Children Deprived of Liberty, published in 2019, is a comprehensive Study conducted by Manfred Nowak, in collaboration with a large team of experts from all over the world and 274 children who were interviewed. The findings of the Study concern six thematic areas in which children live deprived of liberty: juvenile justice, detention with their primary caregivers, for migration-related reasons, in institutions, in the context of armed conflict or on national security grounds.

[Special Representative of the Secretary-General on Violence Against Children](#)

The Special Representative of the Secretary-General on Violence against Children is a global, independent advocate for the prevention and elimination of all forms of violence against children. On 30 May 2019, the Secretary-General appointed Dr. Najat Maalla M’jid as his Special Representative on Violence against Children.

[Global Initiative on Justice With Children \(World Congress 2025\)](#)

The Global Initiative on Justice with Children organises the World Congresses on Justice with Children, which constitute **spaces for exchange** and participation of stakeholders and academic representatives as well as members of the society. World Congresses are held every 3 or 4 years in a different country and focus on the most recent topics related to child justice.

[Working Group on SDG16+ Justice for Children](#)

The Working Group on SDG16+ Justice for Children is led by the Institute for Inspiring Children's Futures at the University of Strathclyde. [The Pathfinders for Justice's](#) international, multi-agency Working Group on Justice for Children has a strategic vision that actively puts children and children's human rights at the centre of achieving justice for all, in line with SDG 16.3: Promote the rule of law at the national and international levels and ensure equal access to justice for all. It forms an essential part of our collective global challenge to achieve the 2030 Agenda for Sustainable Development. The CFJ-EN is an active member of this Working Group.

[CJAG \(Child Justice Advocacy Group\)](#)

This group is composed of key international nongovernmental organisations working in the field of justice for children. It is led by Terre des hommes. The CFJ-EN is an active member of this Advocacy Group.

Other key Stakeholders

[CRAG - Children's Rights Action Group](#)

The CRAG is an informal group of international and European NGOs which come together to focus on increasing impact on policy-makers and increasing information-sharing and joint initiatives. The manifesto on European Parliament elections will be drafted by the end of the year 2023. The CFJ-EN is an active member of this Advocacy Group.

[Initiative for children in migration \(ICM\)](#)

The ICM is an informal collaboration among NGOs and IGOs who are involved in advocacy on EU law and policy impacting children in migration. It aims to bridge the gap between organisations focusing on child rights and migration organisations, and between EU and national policy debates.

3.2 Legislative and Policy Highlights

Five important updates are linked to child friendly justice at European level in 2023

1. In July 2023, the European Commission published its [proposal of the revision of the victim's rights directive](#) (Directive 2012/29/EU). During the evaluation of the latter in June 2022, despite general positive assessment of the directive's role in enhancing the situation of victims across the EU, it also identified a number of shortcomings, e.g., in relation to victims' access to information, victims' access to support services and to protection in accordance with each victim individual needs, and access to compensation.

EC is currently considering taking the following key measures consisting of minimum rules that go beyond the Victim's Rights Directive: increasing access to information through a victims' helpline for all the EU, safety measures tailored to the specific needs of certain vulnerable groups, specialised support services of vulnerable victims, including the Barnahus model, facilitating access to justice, access to compensation and individual assessment.

The feedback from EU citizens to the proposal directive act opened in the Summer 2023 will be presented to the European Parliament.

2. Important initiatives have also been adopted in the area of gender-based violence. The EC's [legislative proposal on a new directive on combating violence against women and domestic violence](#) is awaiting Parliament's position in 1st reading, after the vote of the European Parliament's Committee on Gender Equality and Committee on Civil Liberties, Justice and Home Affairs to support the proposed directive. In the same time, the EU has finally ratified the [Council of Europe Convention on preventing and combating violence against women](#) ('Istanbul Convention'). The Convention entered into force as regards the European Union on 1st October 2023.
3. The [EU Pact](#) on Migration and Asylum is a policy document that sets out the EU's agenda on migration for the years to come and a package of legislative proposals and recommendations. The Pact was presented by the European Commission in September 2020, with the purpose of "providing a comprehensive approach, bringing together policy in the areas of migration, asylum, integration and border management". It is a project to reform the

European migration policy that was essentially put in place before the 2015 crisis. It comes after the failure of the “Asylum Package» negotiations initiated in 2016. The EU pact on migration is currently being renewed, which involve current reform/adoption of the following regulations and directives. [On June 8, 2023, the Council reached an agreement on key asylum and migration laws](#). The Council agreed on a negotiating position on the Asylum Procedure Regulation and on the Asylum and Migration Management Regulation. [This position will form the basis of negotiations by the Council presidency with the European Parliament](#). The next step is for the European Parliament to vote on the proposal.

4. Various EU laws intervene in relation with human rights of LGBTIQ+ people, especially the anti-discrimination framework (that apply for sexual orientation) and the gender equality framework (that apply for sex). Both CJEU case law as some EU policies are also particularly relevant in the field, such as the [LGBTIQ Equality Strategy](#) (2020-2025). An [open consultation](#) to EU citizens as part of the mid-term evaluation was open until September 2023.
5. On June 8 2023, the FRA published its annual [Fundamental Rights Report](#). The FRA’s report contains a part dedicated to the “the rights of the child” and insist on the importance for Member States of implementing national plans for the [European Child Guarantee](#), dedicating enough resources to ensure the protection of asylum-seeking and migrant children, whether with their families or unaccompanied and ensuring access to a fair trial.

Five important highlights at the heart of child friendly justice issues at European level in 2023

1. On 28 August the Committee on the Rights of the Child published the authoritative guidance on children’s rights and the environment with a special focus on climate change, formally known as [General Comment n°26](#). Their message is clear and loud: administrative and legislative measures should urgently be adopted by states to tackle the effects of climate change on children’s rights.
2. The [EU strategy on the right’s child](#) (2021/24) is currently being implemented by the European Commission. As part of the strategy, a new EU Children’s Participation Platform has officially been launched in partnership with the European Parliament and child rights organisations, to ensure children are better involved in decision-making processes. On June 26-27 around 60 children between the ages of 9-17 came to Brussels from across Europe to

launch the Platform. It aims to become the main platform in the European Union to collect feedback of children on EU internal policies. The platform will work for 14 countries (at first) and organisations are invited to join the initiative by contacting national focal points. The Children’s Panel and the Platform Secretariat will follow up the event and achieve in short, mid and long term what may be possible to be implemented by the Platform.

3. The [EU Child guarantee](#), requested by the EP and initiated by the EC was adopted by the European Council ([Recommendation](#)) on 14 June 2021. The objective of the European Child Guarantee is to prevent and combat social exclusion by guaranteeing effective access of children in need to a set of key services: free early childhood education and care, free education (including school-based activities and at least one healthy meal each school day), free healthcare, healthy nutrition, and adequate housing. In order to implement the Recommendation, the Member States have nominated their Child Guarantee Coordinators and are preparing national action plans, covering the period until 2030. So far 20 national action plans have been adopted.
4. On 10 July 2023, the Council of Europe’s Children’s Rights Division has published the [Technical Co-operation Strategy 2022-2027: Supporting the implementation of children’s rights at regional and national level](#). It supports the implementation of the Council of Europe’s [Strategy for the Rights of the Child](#) (2022-2027) and assists member states in bringing their legislation, policy and practice in line with Council of Europe standards and recommendations relating to the protection of children’s rights. The Technical Co-operation Strategy outlines past and current interventions in the following key areas: violence against children, rights of the child in the digital environment, Child participation and Child-friendly justice.
5. The Council of Europe has twice addressed children’s participation in 2023 by publishing [Guidelines for developing a National Children’s Participation Strategy or a Participation Strategy within a National Children’s Rights Strategy](#) and by publishing a [Guide to meaningful and effective engagement of children in decision-making processes](#).

3.3 2023-2025 institutional agendas (selection)

List of selected key events in 2023-2025 relevant for child friendly justice that European agencies, bodies and Committees have organised or will organise :

- 26-28 September 2023: 39th Lanzarote Committee meeting : Committee of the Parties to the [Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse](#)
- 4-6 October 2023: 8th meeting of the Committee of Experts on the rights and the best interests of the child in parental separation and in care proceedings
- 9-11 October 2023: [Autumn Session](#) of the CoE Conference of INGOs
- 11-12 October: 2nd meeting of the Committee of experts on the prevention of violence (ENF-VAE)
- 15-17 November 2023: [8th meeting of the Steering Committee for the Rights of the Child](#) (CDENF), plenary meeting, joint 1 day meeting of the CDCJ and CDENF (adoption of CJ/ENF-ISE deliverables)
- 28-30 November 2023: 40th Lanzarote Committee meeting
- 4-5 December 2023: 8th meeting of the European Migration Forum *"Migrants in Europe today: specific needs, skills and communication for stronger inclusion"*
- 2025: Global Initiative on Justice With Children - Strengthening Justice for Children Worldwide Organisation of World Congress in 2025 in Madrid.

– European Parliament elections

Members of the next European Parliament will be elected in May 2024 which makes 2023 and early 2024 strategic moments to influence the orientation of the next parliament's priorities. With the procedure of the appointment of European Commissioners starting in 2024, the European Commission will have a new agenda as well.

– The next EU Council Presidencies will be:

- July/December 2023 - Spain
- January/June 2024 – Belgium
- July/December 2024 – Hungary
- January/June 2025 – Germany – Start of the second cycle of presidencies, after the system was introduced in 2007.

The Spanish presidency will particularly organise 2 events: one 2-days meeting (end of September 2023) for children, with child advisors included and a second event on the Child Guarantee.

During the Belgian presidency the rights of the child and the finalising of the EU Migration Pact should be high on the agenda.

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c/o Defence for Children International Belgium ASBL
30 rue du Marché aux Poulets
1000 Brussels, Belgium

Company number: 0447.397.058
RPM: Bruxelles | IBAN: BE89 0682 1223 2185

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