



Children in contact with the law in Europe:

Trends & Opportunities

by Terre des hommes – Europe Region



Table of contents

Acknowledgements	3
Acronyms & Definitions	4
Executive Summary	6
Introduction	7
Methodology	10
The Process.....	10
The Questionnaire.....	10
Geographical Scope.....	12
Strengths and limitations of this research.....	13
Part 1. Key findings	14
Child suspects or accused in criminal proceedings	19
Child victims and witnesses in criminal proceedings.....	21
Other measures to enhance safeguards for children in contact with the law.....	24
Status Offences.....	26
Part 2. Conclusions and Recommendations	28
A.Build stronger skills for professionals working with children in criminal proceedings	29
B.Create child-centred policies and legislative frameworks	29
C.Invest in robust monitoring of the situation of children in criminal proceedings.....	30
D.Improve the knowledge of professionals about the needs of children in criminal proceedings	30
Part 3. Country Fact Sheets	31
References	33

Version: July 2021

Authors: Mariama Diallo, Cédric Foussard, Ana Sofia Perez, Deniece Carrington

Proofreading: Avril Calder

Graphic Design: Terre des hommes, Arina Cretu

Acknowledgements

DLA Piper lawyers who participated in the research across 19 jurisdictions: Alexey Volokhov, Alizée Stappers, Ambroise Foerster, Daniela Koncierova, David Kohegyi, Denisa Postea, Fanny Denoel, Flaminia Lucchetti, Gabor Papp, Gabriele Engels, Glenda Pereire-Robert, Jaap Lameijer, Jan Farbiak, Jasmina Kremmel, Juan Antonio Garcia Jabaloy, Karolina Stepaniuk, Kristian Zenatik, Larysa Gorbunova, Maarit Göös, Maria Shevchenko, Mario Maldonado, Mark Rozsavolgyi, Martina Gondova, Michaela Stessl, Noemi Popa, Noemi Radnai, Oana Dutu-Buzura, Paula Corban, Sandra Ibrahim, Sarah Sameur, Vanessa Gerber, Viktoria Kerteszova, Yuliia Brusko, Margaux Bia and Grégoire Paquet.

European Commission, DG Justice – Valeria Setti and Ingrid Breit, Katerzyna Pawlowska-Chatziioannou for reviewing the questionnaires and forwarding the questionnaires to potential contributors.

Themis Tzimas (Greece) for completing the Questionnaire for Greece, Antanas Jatkevičius (Lithuania) for completing the Questionnaire for Lithuania, Silvia Randazzo (Belgium) for reviewing the Structure of the Country Fact Sheets and the Final Synthesis Report, and Avril Calder for editing the Country Fact Sheets and the Final Synthesis Report.

Experts in Europe for taking time to review Country Fact Sheets: Helmut Sax (Austria), Johan Put and Katrijn Veeckmans (Belgium), Marek Demner (Czech Republic), Tapio Lappi-Seppälä and Arne Kinnunen (Finland), Soraya Mehdaoui (France), Dr. Frieder Dünkel (Germany), Erika Varadi (Hungary), Silvia Randazzo (Italy), Antanas Jatkevičius (Lithuania), Barbara Stańdo-Kawecka (Poland), Rodica Novac and Dumitrita Bologan (Romania), Ignacio V. Mayoral Narros (Spain), and Jenny Lundskog and Karin Sjömillä (Sweden).

Leiden Law School – Ton Liefwaard for assisting with the project and Deniece Carrington for reviewing, analysing, and editing the Country Fact Sheets and the Final Synthesis Report.

We thank in particular members of the Terre des hommes – Europe Region team for their support in coordinating the research, creating the questionnaire, and drafting and designing the Final Synthesis Report: Marcos De Barros, Tifaine Delplanque, Cédric Foussard, Arina Cretu, Mariama Diallo and Ana Sofia Pérez.

Disclaimer

This report is the result of a desk-based research and provides for a general overview of the law which is not deemed to be exhaustive. Our researchers, whose names and contact details are listed in the introduction of the report, have endeavoured to access the most up to date versions of legislation accessible online. As such this publication is intended and should be understood as a general overview. It should not be construed as legal advice to the reader and should not be used as a substitute for the expertise of suitably qualified local counsel. DLA Piper UK LLP will accept no responsibility for any actions taken or not taken on the basis of this report.

Acronyms & Definitions

Acronyms

CEP	Confederation of European Probation
CRC	1989 United Nations Convention on the Rights of the Child
DG Justice	Department of Justice of the European Commission
EC	European Commission
EU	European Union
IAYFJM	International Association of Youth and Family Judges and Magistrates
LGBTQI+	Lesbian, Gay, Bisexual, Transgender, Queer, Intersex
MACR	Minimum age of criminal responsibility
Tdh	Terre des hommes
UNCRC	United Nations Committee on the Rights of the Child

Definitions

Child: A person below the age of 18 years old.

Child in conflict with the law: A person below the age of 18 who is a suspect or accused person in criminal proceedings. A child in conflict with the law may also be referred to as a child suspect or accused.

Child in contact with the law: A person below the age of 18 who comes into contact with the justice system as a result of being suspected or accused of committing an offence, or as a victim or witness of a criminal offence.

Child suspect or accused: A person below the age of 18 who is a suspect or accused person in criminal proceedings. Child suspects or accused may also be referred to as children in conflict with the law.

Child victim: A person below the age of 18 who has suffered harm as a consequence of a criminal offence.

Child witness: A person below the age of 18 who has witnessed a criminal offence.

Deprivation of Liberty: Any form of detention or imprisonment from which a person is not permitted to leave at will. Deprivation of liberty can occur within the administration of justice, for migration-related reasons, in places of detention with or without parents, in institutions, in the context of armed conflict and/or on national security grounds.¹

Diversion: The conditional channelling of children in conflict with the law away from judicial proceedings through the development and implementation of procedures, structures and programmes that enable many to be dealt with by non-judicial bodies, thereby avoiding the negative effects of formal judicial proceedings and a criminal record.²

Minimum age of criminal responsibility: The minimum age below which the law determines that children do not have the capacity to infringe the criminal law.³

¹ UN Global Study on Children Deprived of Liberty (2019).

² UNICEF, (2010, October 18).

³ General comment No. 24 (2019) on children's rights in the child justice system (see Paragraph 8).

Procedural Rights Directive (2016/800/EU): Directive 2016/800/EU on procedural safeguards for children who are suspects or accused persons in criminal proceedings.

Proceedings: all references to proceedings shall mean criminal proceedings involving children. Civil and administrative proceedings are not included within the scope of this report.

Restorative Justice: An approach of addressing harm or the risk of harm through engaging all those affected in coming to a common understanding and agreement on how the harm or wrongdoing can be repaired and justice achieved.⁴

Status Offence: An act or behaviour that is only considered criminal if the person committing it is, or is believed to be, under the age of eighteen (i.e. it is an 'offence' due to their 'status' as a child). Typical status offences include truancy, running away from home, being out after dark or being 'beyond parental control'. Children living on the streets are particularly vulnerable to being apprehended by police on the grounds of status offences. International guidelines call for status offences to be decriminalised.⁵

Victims' Rights Directive (2012/29/EU): Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime.

⁴ European Forum for Restorative Justice, <https://www.euforumj.org/en>

⁵ UNICEF Toolkit on Diversion and Alternatives to Detention; Riyadh Guidelines, Guideline 56 (GA Res 45/112 of 14th December 1990): "In order to prevent further stigmatization, victimization and criminalization of young persons, legislation should be enacted to ensure that any conduct not considered an offence or not penalized if committed by an adult is not considered an offence and not penalized if committed by a young person."

Executive Summary

According to the European Commission, approximately 1 million children face criminal justice proceedings in the European Union each year (thus representing 12% of the estimated 9 million people facing criminal proceedings in the EU).⁶ The 1989 Convention on the Rights of the Child⁷ is the international treaty which provides for children's rights, including the rights of those in conflict with the law. At an European level, the Council of Europe Guidelines on Child-Friendly Justice⁸ offers guidance on the treatment of children in conflict with the law.

In 2019, Terre des hommes Foundation collaborated with the law firm of DLA Piper to complete research on child justice processes in selected European countries. In particular, the research aims to determine the status of implementation of the EU Directive 2016/800 on Procedural safeguards for children who are suspects or accused persons in criminal proceedings, and the EU Directive 2012 on Victim's Rights. This report presents the results of the research, which details the situation of children in contact with the law (child victims, witnesses, suspects or accused) in seventeen EU and two non-EU countries.⁹ While the world is facing a global COVID-19 pandemic affecting millions of children, and the European Union is preparing to launch its new Strategy on the Rights of the child (2021-2024), it is a crucial time to focus on more effective and efficient solutions for children in contact with the law.

The report and eighteen country factsheets highlight: the specialization of child justice systems; legal gaps and challenges which exist for children to have effective access to justice; procedural safeguards enacted in national legislations for children in contact with the law; legislation to address the needs of children in criminal proceedings; and the inclusivity of legislative and policy frameworks.

Key trends identified demonstrate the need to pursue efforts to make justice systems more child friendly. Children continue to be addressed through the criminal justice system for status offences such as begging, school truancy, or romantic relationships with peers. There are still 33% of countries where children above the minimum age of criminal responsibility can be prosecuted for offences that they committed while below the minimum age of criminal responsibility. Individual needs assessments of children involved in criminal proceedings are not systematically conducted. In relation to the level of specialisation of the justice systems reviewed, among the 19 countries studied, the large majority (68%) did not offer specialised training to lawyers representing children. Only 6 countries had specialised child lawyers and only 10 of the countries had specialised judges. Furthermore, children with disabilities remain invisible in the legislation of 4 European countries, evidencing the lack of equal access to justice. Only 3 countries indicated that there were specific provisions in the legislation to protect the needs of children at risk of facing discrimination.

The analysis of responses led to the formulation of key trends and gaps in child justice observed in the countries selected, as well as four sets of recommendations for further action to improve access to justice for children in contact with the law in Europe. The recommendations suggest the following:

- Build stronger skills for professionals working with children in criminal proceedings
- Create child-centred policies and legislative frameworks
- Invest in robust monitoring of the situation of children in criminal proceedings
- Improve the knowledge of professionals about the needs of children in criminal proceedings

The current analysis includes a synthetic analysis report, as well as a set of eighteen country factsheets, which highlight the main specificities for each country concerned.

⁶ European Commission, (2013).

⁷ Convention on the Rights of the Child. Accessible at <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

⁸ Council of Europe Guidelines of 17 November 2010 on child-friendly justice. Accessible at <https://rm.coe.int/16804b2cf3>

⁹ EU Countries: Austria, Belgium, Czech Republic, Finland, France, Germany Greece, Hungary, Italy, Lithuania, Luxembourg, Poland, Romania, Slovakia, Spain, Sweden, and the Netherlands. Non-EU Countries: Russia and Ukraine.

Introduction

According to the European Commission, approximately 1 million children face criminal justice proceedings in the European Union each year (thus representing 12% of the estimated 9 million people facing criminal proceedings in the EU)¹⁰. The 1989 United Nations Convention on the Rights of the Child¹¹ is the international treaty establishing rights for children, including those in conflict with the law. At an European level, the [Council of Europe Guidelines of 17 November 2010 on child-friendly justice](#)¹² offers guidance for situations involving children in contact with the law.

In Europe, children face many challenges when attempting to access justice. Such challenges include the excessive length of judicial procedures, the failure of the state to bring charges or obtain quick resolutions, multiple interviews during criminal proceedings, and children not being clearly informed of their rights. While provisions for the protection of children in contact with the law are improving, and the number of children in conflict with the law is continuously decreasing in Europe, access to justice still remains quite unattainable for children who come from marginalised communities.¹³ Although the large majority of European countries comply with international and European standards,¹⁴ too many children still encounter challenges in accessing legal assistance and finding a specialised lawyer who is skilled in dealing with cases involving children. The information available to children about their rights is not always provided in a clear and accessible language.¹⁵ The language barriers add extra difficulties for specific groups of children, such as children with disabilities, children from minority groups, migrant and asylum-seeking children. Recent studies in Europe¹⁶ found that children/youth offenders and victims were vulnerable in the justice system, and that processes were not child friendly. Moreover, too often, systems of reform are not sufficiently accompanied by human and financial resources to effectively protect the rights of children. Systems require a higher degree of integration to ensure a comprehensive child-centred approach.

Since the adoption of the Council of Europe Guidelines on Child-friendly Justice.¹⁷ in 2010, the European Commission made significant steps in attempting to regulate and harmonise children's rights and child justice systems in Europe. After its 2011 EU Agenda on the Rights of the Child.¹⁸ the EC is preparing to launch its Strategy on the Rights of the child (2021-2024) and adopted in June 2020 its first strategy on victims' rights.¹⁹ Terre des hommes Foundation, in

¹⁰ European Commission, (2019).

¹¹ Convention on the Rights of the Child.

¹² Council of Europe (2010).

¹³ Goldson, B. and Chigwada-Bailey, R. (1999) '(What) Justice for Black Children and Young People?', in B. Goldson, (ed.) *Youth Justice: Contemporary Policy and Practice*. Aldershot, Ashgate, pp. 51-74; Lareau, A. (2011) *Unequal Childhoods: class, race, and family life*, University of California Press; Cunneen, C. Goldson, B. and Russell, S. (2016) 'Juvenile Justice, Young People and Human Rights in Australia', *Current Issues in Criminal Justice*, 28(2): 173-189; Cunneen, C. Goldson, B. and Russell, S. (2018) 'Human rights and youth justice reform in England and Wales: A systemic analysis', *Criminology and Criminal Justice*, 18(4): 405-430

¹⁴ Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, 1989 UN Convention on the Rights of the Child, 2010 Council of Europe Guidelines on Child-Friendly Justice, 2007 Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention).

¹⁵ See Policy brief "JUST with children. Child-friendly justice for all children in Europe" developed by Terre des hommes, in consultation with 40 children and partners in Europe, in response to the Consultation on the EU Strategy on the Rights of the Child (2021-2024). Accessible at <http://tdh-europe.org/library/policy-brief-just-with-children-child-friendly-justice-for-all-children-in-europe/7293>.

¹⁶ Liefwaard, T. and Kilkelly, U., *Child-friendly justice: past, present and future*, in Goldson, B. (ed.), *Juvenile Justice in Europe. Past, present and future*, Routledge, 2019, pp. 57-73; Kennan, N. and Kilkelly, U., *Children's involvement in criminal, civil and administrative judicial proceedings in the 28 member states of the EU: policy brief*, European Commission, 2015; European Commission, *Summary of contextual overviews on children's involvement in criminal judicial proceedings in the 28 member states of the EU*, Publication office for the European Union, 2014; FRA Reports on "Child Friendly Justice, available at <https://fra.europa.eu/en/publication/2017/child-friendly-justice-childrens-view>. See also the Joint report of the OHCHR, UNODC and SRSG on Violence Against Children on Prevention of and responses to violence against children within the juvenile justice system," 2012; The Lammy Review - An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System, 2017, <https://www.gov.uk/government/publications/lammy-review-final-report>; Bell, E., *Juvenile (in)justice and neoliberal austerity*, in Goldson, B. (ed.), *Juvenile Justice in Europe. Past, present and future*, Routledge, 2019; Webster, C., 'Race', Ethnicity, Social Class and Juvenile Justice in Europe, in Goldson, B. (ed) *Juvenile Justice in Europe: Past, Present and Future*, Routledge, 2019; White, R., *Juvenile Justice and Youth Vulnerabilities*, in Riele, K., and Radhika, G. (eds), *Interrogating conceptions of "Vulnerable youth" in Theory, policy and practice*, Sense Publishers, 2015; Webster, C. (2015) "'Race, Youth Crime and Youth Justice', in Goldson, B. and Muncie, J. (eds) *Youth Crime and Justice*, 2nd edition, London: Sage; Kilkelly, U., *Measures of deprivation of liberty for young offenders: how to enrich international standards in juvenile justice and promote alternatives to detention in Europe?*, IJJO, 2011.

¹⁷ Council of Europe (2010).

¹⁸ EU Agenda on the Rights of the Child (2011). Accessible at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52011DC0060>.

¹⁹ The *JUST with children* policy brief has been developed by Terre des hommes Foundation, in close collaboration with, in alphabetical order: Bureau International Catholique pour l'Enfance (BICE), Center za prava deteta – Serbia, Défense des Enfants International – Belgique, Defence for Children The Netherlands,

close collaboration with its partners in Europe and 40 children and young people, published the Policy brief "JUST with children. Child-friendly justice for all children in Europe" in response to the Consultation on the EU Strategy on the Rights of the Child (2021-2024).²⁰ This document highlights the four key priorities areas that the Strategy should focus on in relation to child-friendly justice, namely: equality and non-discrimination of all children; fair and appropriate justice to meet the needs and capabilities of the children involved; the application of justice in the case of children deprived of liberty; and building resilient, future-proof child-friendly justice systems for all children in Europe.

The two key European Directives on procedural safeguards for children in contact with the law and for victims of crime,²¹ introduce a package of measures to safeguard children's rights in a manner consistent with the European Court of Human Rights' decisions and the Council of Europe Guidelines on Child-friendly Justice. EU Member States were required to transpose Directive 2016/800/EU on procedural safeguards for children who are suspects or accused persons in criminal proceedings, into national legislation by the 11 June 2019. By January 2021, all Member States had communicated the measures of national law which they had adopted to comply with the Directive. EU member states were required to transpose Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime into national legislation by 16 November 2015. Directive 2012/29/EU makes the best interests of the child a primary consideration in all actions affecting children.

This report aims to describe child justice in selected European countries, with a focus on the implementation of EU Directive 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, and EU Directive 2012 establishing minimum standards on the rights, support and protection of victims of crime. Key recommendations and conclusions for child-friendly justice systems conclude the presentation of the highlighted results.

About Terre des hommes in Europe

Terre des hommes Foundation (Tdh) is the leading Swiss organisation for children's aid, focusing on child health, child protection and emergency relief. Since its establishment in 1960, it has helped build a better future for vulnerable children and their communities, making an impact with innovative and sustainable solutions. Active in around 45 countries, the organisation works with its teams, as well as local and international partners to develop and implement field projects. In 2019, Tdh contributed significantly to the improvement of the daily lives of over four million children and other community members.

Tdh in Europe focuses on 3 of the 4 main pillars of its Theory of Change: Promoting Alternatives to Detention and Restorative Justice; Improving Dignity of Children in Detention; and Enhanced Prevention and Rehabilitation for children in contact with the law. In 2020, the "Access to Justice" programme of [Tdh in Europe](#) was running a total of 8 projects in 7 countries (Albania, Kosovo, Greece, Romania, Hungary, The Netherlands, Serbia), reaching over 2,460 beneficiaries (children, legal and child protection professionals) from direct services, capacity building activities and awareness raising campaigns and advocacy actions. Together with valuable partners, Tdh implements a series of projects that address specific areas of child justice, strongly interlinked with child protection:

- The EU-funded [i-RESTORE project](#) encourages the application of restorative justice in cases involving child victims in Albania, Greece, and Romania as a way for better protection of children.

European Forum for Restorative Justice (EFRJ), International Association of Youth and Family Judges and Magistrates (IAYFJM), Leiden Law School, Ludwig Boltzmann Institute of Fundamental and Human Rights (BIM), Penal Reform International (PRI), Restorative Justice Netherlands (RJN), Social Activities and Practice Institute (SAPI) – Bulgaria. This brief is supported by the [Global Initiative on Justice with Children](#) and the [Child-friendly justice Network](#), with the pro bono support of Baker McKenzie. Available at : <http://tdh-europe.org/library/policy-brief-just-with-children-child-friendly-justice-for-all-children-in-europe/7293>.

²⁰ Ibid.

²¹ Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime

- The EU-funded **FOCUS project** aims to develop a practice of multidisciplinary individual assessment of children, that will ensure individualised responses in the best interests of the child. Bulgaria, Greece, Romania, Serbia, and the Netherlands are the main beneficiary countries.
- The EU-funded **CLEAR-Rights project** improves equal access to lawyers for children suspected or accused of crime, through strengthening access to quality and specialised government-funded legal aid and pro bono legal assistance. The project will specifically support Hungary, Romania, France, Belgium and the Netherlands.
- As part of the **European Barnahus Movement** and **PROMISE project**, Tdh supports the creation throughout Europe of a multidisciplinary service called Barnahus. This is a multidisciplinary model which ensures that child victims can receive help from professional interviews and medical services, as well as receive psychological support and therapy in a child-friendly setting that prevents re-traumatisation.
- Several projects at country level in **Romania**, Albania and Kosovo focus on the **psychosocial wellbeing, rehabilitation, and reintegration into society of children and youth who committed an offence**. For example, through the **PRECISION project** in Romania, Tdh helps children and youth in correctional facilities and detention centres to develop their social skills, resilience and self-esteem, as well as to gain digital skills, employability and entrepreneurial skills.

To support this work, based on a Tdh [methodology](#), Child Advisory Boards are set up in each country where projects are implemented. In 2020, 71 Children and young people from Child Advisory Boards in Albania, Greece, Romania, The Netherlands, Serbia and Bulgaria provided monthly feedback to project partners on restorative justice and individual needs assessments for children. They bring together children and young people who are interested in the justice system or might have experience with it.

The Global Initiative on Justice with Children

In 2019, to commemorate the 30th anniversary of the UN Convention on the Rights of the Child, Terre des hommes Foundation, in partnership with the International Association of Judges and Magistrates for Youth and Family and Penal Reform International, launched the Global Initiative on Justice with Children.²² The Global Initiative is composed of two main areas of activities: World Congresses on Justice with Children²³ and provision of an online global community of practitioners with access to the main international, regional information and documents related to child justice. The initiative also functions as a working tool for advocacy and research purposes. It provides a platform to facilitate interaction between professionals through an online and onsite space for reflection, exchange and constant learning in the field of child justice. This initiative focuses on crime prevention, alternatives to deprivation of liberty with special consideration to restorative justice, and the improvement of conditions of detention for children and young adults. Study of different legal systems, as well as current trends relating to child justice, are at the core of the Global Initiative. The Global Initiative aims to: make children's rights effective worldwide; promote access to justice and participation of children in formal, and informal justice systems; improve the connection between justice for children and child protection systems; promote non-custodial measures worldwide to reduce the use of deprivation of liberty; exchange practice-oriented strategies to prevent child crime, and propose effective responses to recidivism. The results of this research are available on www.justicewithchildren.org and www.childhub.org. In addition, the results will also be included and presented at the 2021 World Congress on Justice with Children.

²² <https://justicewithchildren.org/>

²³ The next edition is taking place online from 15-21 November 2021. See: www.justicewithchildren.org

Methodology

The Process

In May 2019, Terre des hommes Foundation in Europe approached law firm [DLA Piper](#) to request pro bono support to conduct a review of the legal framework and domestic legislation pertaining to child justice across 23 European countries. The purpose of the research was to highlight gaps in implementation of European standards, particularly the Procedural Rights Directive (2016/800) and the Victims' Rights Directive (2012/29), as well as challenges faced by children in contact with the law in Europe. The intention of the research was also to review the implementation of European norms in each jurisdiction. To compile data for this research, Tdh created an extensive questionnaire including 100 questions, which was then circulated within DLA Piper's network of lawyers across Europe.²⁴ DG Justice-European Commission cooperated with Tdh by providing comments that helped to refine the relevance of the questions.

With the pro bono support of DLA Piper, the International Association of Youth and Family Judges and Magistrates (IAYFJM), the Confederation of European Probation (CEP) and DG Justice-European Commission, Part A of the questionnaire was disseminated among potential respondents in 23 countries in the period October 2019 to June 2020.

DLA Piper's pro bono lawyers in Europe received the first batch of memos in March/April 2019. As a result, thirty lawyers from DLA Piper expressed their interest to participate, on a pro bono basis, and started working on Part A of the questionnaire for 17 EU countries and 2 non-EU countries (see footnote 9). The lawyers worked on answering the questionnaire from December 2019 through to July 2020. In June/July 2020, Tdh requested the team of lawyers of DLA Piper team to compile country fact sheets, which would constitute an integral part of the final report. The fact sheets were completed by DLA Piper's team in the period July-December 2020. The responses to the questionnaires and the country fact sheets were reviewed by the Access to Justice team members of Tdh, with the support of a lawyer currently studying in the International Children's Rights Master of Laws programme at Leiden Law School, The Netherlands. Part B of the questionnaire is expected to be disseminated (practice-oriented questions) in the second semester of 2022.

The Questionnaire

The United Nations Convention on the Rights of the Child, the Procedural Rights Directive (2016/800), and the Victims' Rights Directive (2012/29) were the guiding documents in creating the questionnaire and formulating these key findings from the responses received. The questionnaire contains two parts:

- Part A – Legal Aspects
- Part B – Practices Assessment

Both parts, complementary to each other, approach child justice in Europe from a broad angle. They are structured into 5 sections covering practice-oriented aspects of child-friendly justice and key legal and policy questions:

- **SECTION 1. Overview of the child justice system in your country**

This section asks respondents about the minimum age of criminal responsibility and imprisonment in their country, their type of legal system, the existence of child-specific legislation, as well as provisions in the law concerning different cases involving children with disabilities, child victims and witnesses, affected by

²⁴ Questionnaire template accessible on request.

hate crimes. It also touches upon the specialisation of child-justice institutions, professionals and those persons who children first come into contact with during their interaction with the criminal justice system.

- **SECTION 2. Children in conflict with the law**

This section contains questions related to diversion, data collection practices, safeguards and rights of children who have allegedly committed an offence. It also covers the applicable rights and safeguards available for children in detention centres.

- **SECTION 3. Child victims and child witnesses of crime**

This section focuses on the rights and safeguards for child victims and witnesses, with particular reference to safeguards aiming to protect such children from discrimination. It also looks at specific initiatives that aim to transpose European directives on child victims and witnesses into national law.

- **SECTION 4. Key stakeholders & experts**

This section focuses on civil society organisations' participation in the child justice system, the existence of child-led advocacy initiatives, universities doing research on child justice and training for child lawyers.

- **SECTION 5. Status offences and the child justice system**

This section seeks to inquire about how countries' national legislation deals with different status offences, i.e. situations and behaviours such as school truancy, running away from home and possessing tobacco and alcohol.

Geographical Scope

From 23 countries, Tdh received answers on Part A of the questionnaire for the following 19 European countries, including 17 Member States of the European Union:

EU countries

1. Austria
2. Belgium
3. Czech Republic
4. Finland
5. France
6. Germany
7. Greece
8. Hungary
9. Italy
10. Lithuania
11. Luxembourg
12. Poland
13. Romania
14. Slovakia
15. Spain
16. Sweden
17. The Netherlands

Non-EU countries

18. Russia
19. Ukraine



The analysis of responses led to the current comparative report, which is comprised of key trends and gaps in child justice observed in the countries selected (Part 1). The study includes 18 country factsheets, which highlight the main specificities for each country concerned (Part 2). The report ends with a set of conclusions and recommendations for further action to improve access to justice for children in contact with the law in Europe (Part 3).

Strengths and limitations of this research

The research was conducted on a 100% voluntary basis. This was a massive achievement given the high demands of the project. Pro bono lawyers and experts from DLA Piper, as well as from the Leiden Law School and individual experts, who participated in with this project generously offering their time in addition to their heavy workload. The results of the survey were therefore received in the period of November 2019 to February 2021. Changes in law and other information contained in this report and the fact sheets may have occurred between the time the first responses were received and the publication of this report. It is therefore essential to plan for periodic updates of the information on an ongoing basis and provide for an annual revision of the data shared.

The following limitations to this research need to be mentioned. While the questionnaire was sent to focal points in 23 countries, Tdh and DLA Piper received 19 questionnaires in return and these responses are considered as part of this Synthesis Report. Nonetheless, due to the specificity of information required for the fact sheets, only 18 fact sheets were generated from the 19 questionnaires. The fact sheet for Greece remains pending for the moment and Tdh hopes to develop this fact sheet further on in 2021.

Language barriers is another factor to consider as a potential limitation of this research. Even though the fact sheets and the questionnaires were answered by lawyers from the given country, some information could not be verified by Tdh as the original documents or laws were only available in the country's language.

This research does not include the points of views of State actors.

Part 1. Key findings

The overall arching principle is that child-friendly justice is necessary to safeguard the rights of the child. Part 1 of the key findings will review certain aspects of the child justice system in the respondent countries, which will include the examination of: Minimum Ages, Child Specific Legislation, Specialised Professionals, Child Suspects or Accused in Criminal Proceedings, Child Victims and Witnesses in Criminal Proceedings, Status Offences, and Other relevant information. The responses and graphs will provide an overview of how the respondent countries may or may not comply with the provisions of the United Nations Convention on the Rights of the Child, the Procedural Rights Directive (2016/800), and the Victims’ Rights Directive (2012/29).

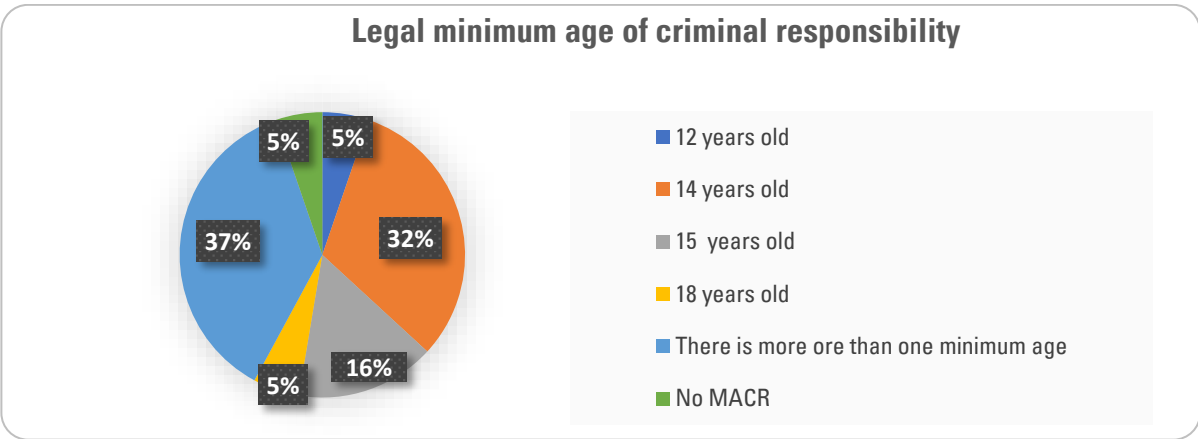
Minimum Ages

The minimum age of criminal responsibility is the minimum age below which the law determines that children do not have the capacity to infringe the criminal law.²⁵ In its General Comment 24, the Committee on the Rights of the Child recommends that States with lower ages should increase the minimum age of criminal responsibility to **14 years old**.²⁶ However, the Procedural Rights Directive (2016/800/EU) is clear that the Directive does not affect national rules determining the minimum age of criminal responsibility.²⁷

The Committee on the Rights of the Child also commends states which allow their child justice system to continue to apply to children over the age of 18. In addition to that, the Procedural Rights Direction (2016/800/EU) urges Member States to apply the procedural safeguards contained in the directive until the person reaches the age of 21 years.

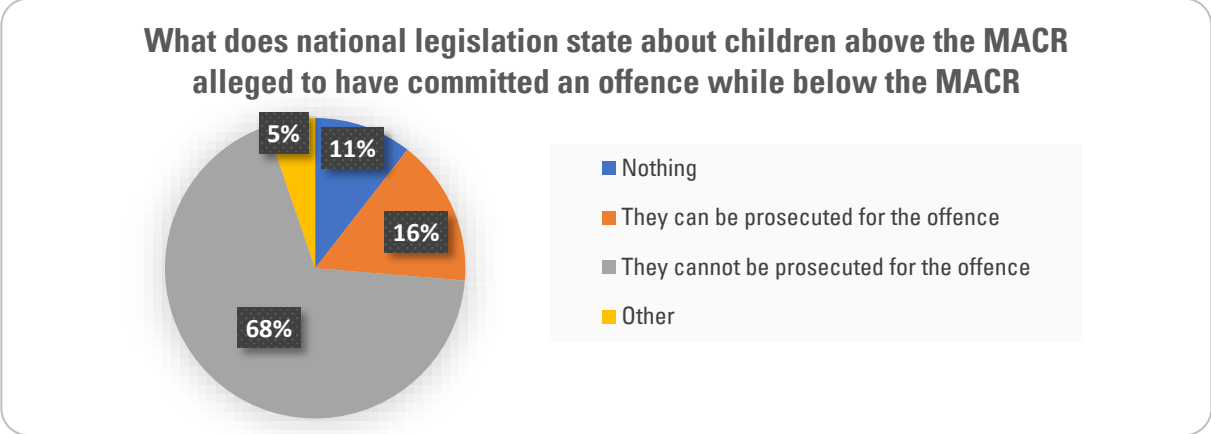
In the questionnaire, respondents were asked to provide the minimum age of criminal responsibility and imprisonment in their assigned countries. The responses show that most States have set minimum ages at 14 years of age or older.

In relation to the **minimum legal age of criminal responsibility (MACR)**, 53% of respondents mentioned an age between 14 and 18 years old. One respondent indicated a MACR of 12 years old (Netherlands) and one respondent (Luxembourg) indicated a MACR of 18 years old. For 7 countries (Czech Republic, Hungary, Poland, Slovak Republic, Lithuania, Ukraine and France), there were multiple ages mentioned, depending on the offence committed and one respondent (Belgium) does not have a MACR, although a child protection system is in place for children under 18:

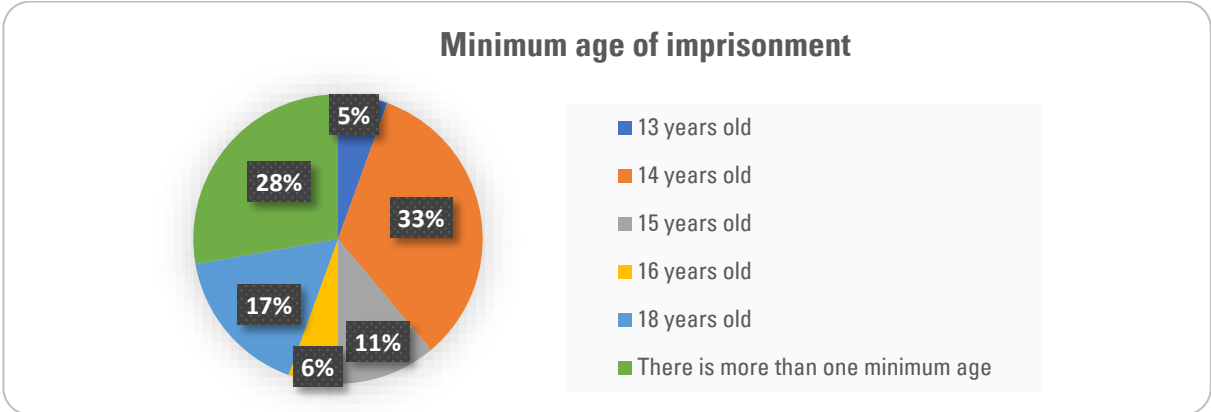


²⁵ General comment No. 24 (2019) on children’s rights in the child justice system (see Paragraph 8).
²⁶ General comment No. 24 (2019) on children’s rights in the child justice system (see Paragraph 24).
²⁷ DIRECTIVE (EU) 2016/800 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings. (See Article 2, Paragraph 5).

In 13 countries concerning children at or above the MACR that have allegedly committed an offence while below the MACR, the child cannot be prosecuted for the offence (Austria, Czech Republic, Finland, Germany, Hungary, Italy, Netherlands, Romania, Slovak Republic, Spain, Sweden, Lithuania and Greece). While in 3 countries (Luxembourg, Poland and France) they can be prosecuted for the offence (16%). There was no information received for Ukraine and Russia (11%). Belgium’s response indicated that a child will be treated as a child and therefore, selected the “Other” option:



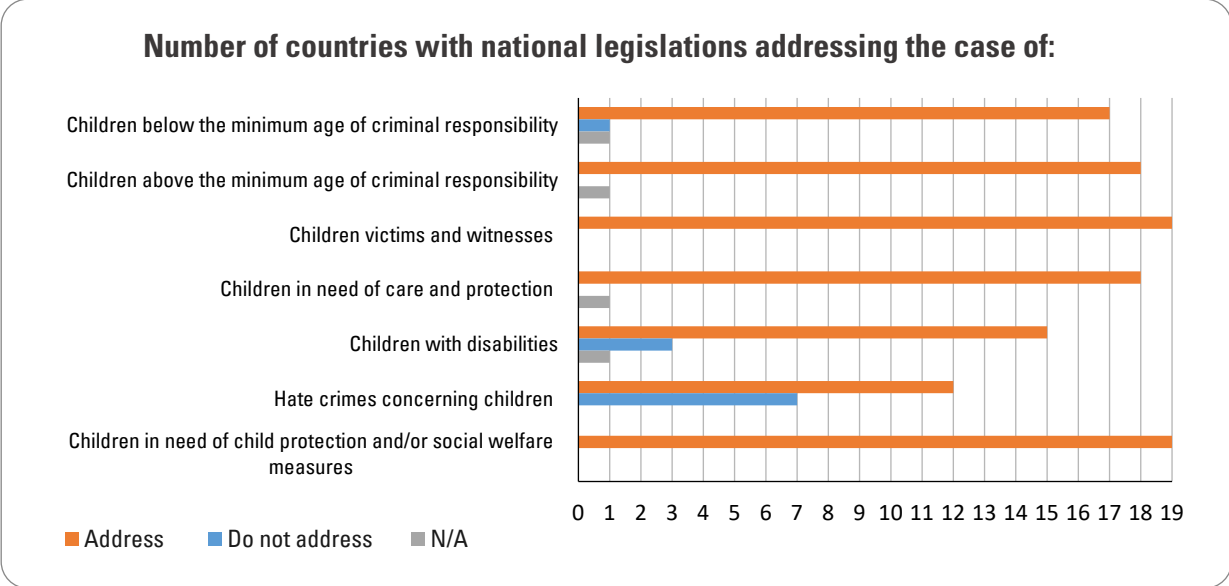
Regarding the **minimum age of imprisonment** (deprivation of liberty pre and post-trial), 33% of respondents indicated the age of 14 years old, as can be seen in the chart below, followed by 28% of the respondents stating their countries have more than one minimum age. One country mentioned that the minimum age was 13 years (France), two countries noted theirs was 15 years old (Greece and Czech Republic) and three countries stated that their minimum age was 18 years old (Belgium, Romania, Sweden).



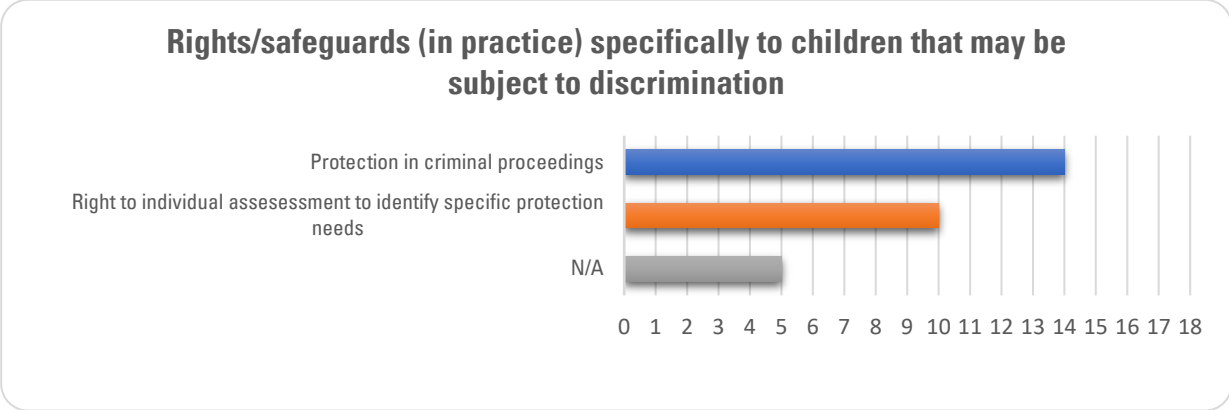
Child Specific Legislation

Child specific legislation is crucial to a child friendly justice system. Specific provisions in the law which provide safeguards for children in contact with the law offer the opportunity for a country to adopt a system that adapts the needs and rights of children when they access justice, by taking into account their best interests and their particularities as being non adults. Respondents were asked to comment on whether their State has legislation specifically addressing children, child victims and witnesses, children in need of care and protection, children with disabilities, and hate crimes involving children.

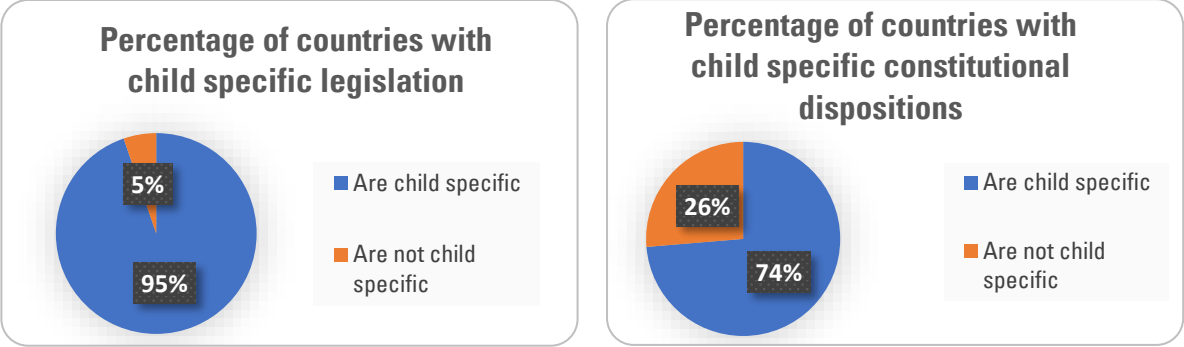
When asked about the existence of **national legislations** in relation to hate crime, disabilities and protection, there were still 7 European countries who did not have child-specific provisions related to hate crime (Belgium, Luxembourg, Sweden, Lithuania and France) and 3 countries with no provisions relating to children with disabilities (Finland, Luxembourg, and Spain). However, all the European countries had specific provisions for children in need of protection and or social welfare measures. Furthermore, all respondent countries have legislation for child victims and witnesses, while all but Greece have legislation for children in need of care and protection. Greece did not respond to this question.



Concerning **rights and safeguards that exist specifically in relation to children that might be subject to discrimination**, 14 countries were found to have ensured that child protective measures were present in criminal proceedings. For example, in the Ukraine children may be temporarily placed in pre-school educational institutions under the consent of their parents, and the law allows for protection measures, including personal protection. In Germany, certain parties may be excluded from the proceedings if it is in the best interests of the child. With respect to individual assessments, 9 countries were also found to have ensured that rights to individual assessment for specific protection needs were in place. There was no answer from 6 countries, suggesting that there are either no rights and safeguards in place in those countries, or this information was not made available to the respondent at the time of responding to the questionnaire. Hungary indicated that these rights existed, however not specifically for children. France selected the “Other” option.



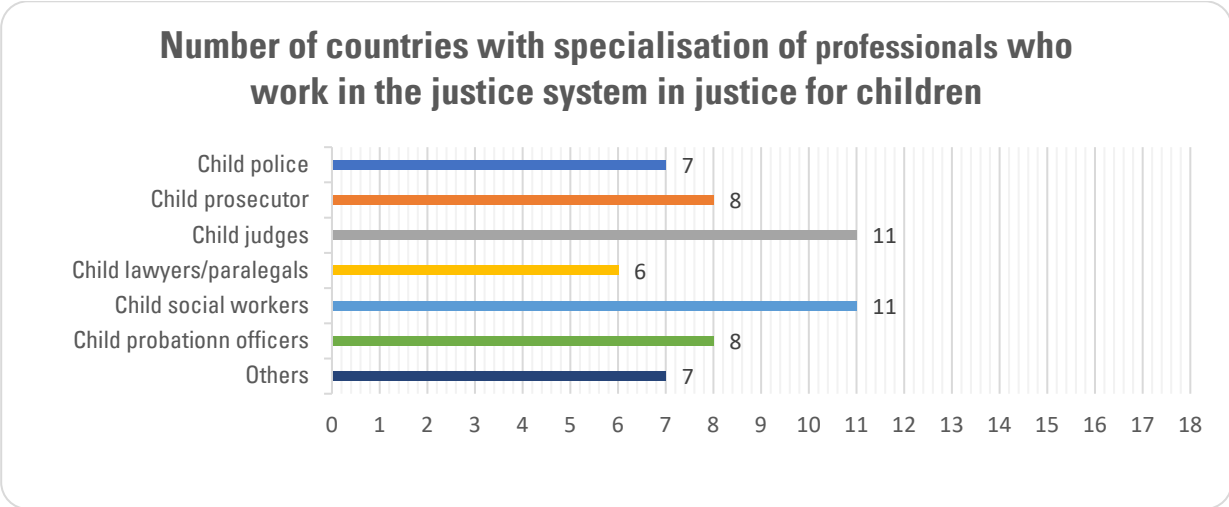
On the percentage of **countries with child specific legislation**, it was found that 95% of the analysed countries have child specific legislation with only 1 country as an exception (Russia). More than two-thirds of the countries (14 countries) have **child specific constitutional dispositions** including rights to protection and care and the child’s right to have their moral, physical, mental, and sexual integrity respected. While 32% of countries do not have child specific constitutional dispositions, including Czech Republic, Hungary, Luxembourg, The Netherlands, and Ukraine.



Regarding the number of countries with **specialised child justice institutions**, it was found that the most prevalent child specialised institution was the Child Social Work Service (68%), followed by Child Courts (53%) and in third place, all with the same frequency, were Child Police Units, Child Prosecution Offices, and Child Probation Services (42.10%). It is worth noting that 2 countries, Finland and Sweden, did not report any kind of specialised institution.



Specialised Professionals and Institutions

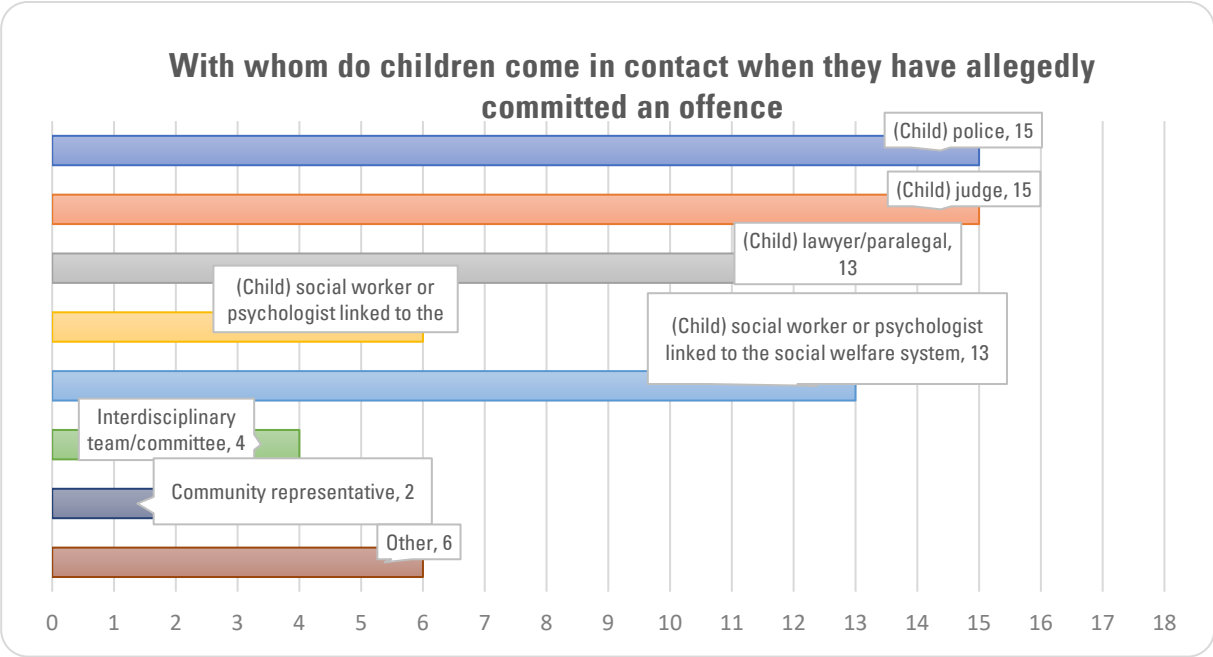


In the majority of cases, **the first contact of children (for both victims and suspects/accused) with a professional** is a police officer (15 out of 19 cases), and/or a judge (15 cases). This is followed by a child lawyer (13 cases) and a psychologist or social worker (12 cases).

In 5 cases, children in contact with the law are first seen by:

- Specialised units in hospitals (Belgium)
- The Bureau Halt (specialised child justice institution) (The Netherlands)
- The Ombudsman for Children (Poland)
- The Responsible Specialists of the Juvenile Commission and the Juvenile Department (Russia)
- A representative of the Body of Social-legal Protection of Children and Social Curatorship (Slovak Republic)

It is also worth noting that, according to the responses received from the surveyed countries, children receive attention from a child social worker or psychologist linked to the welfare system twice as much as from a child social worker or psychologist linked to the justice system.



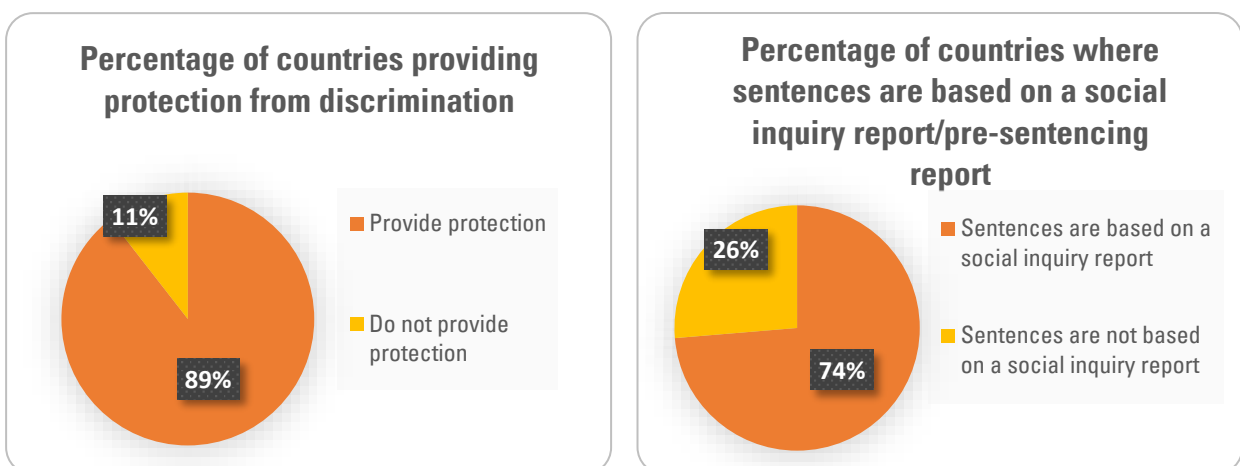
Child suspects or accused in criminal proceedings

The Procedural Rights Directive (2016/800/EU) was adopted on 11 May 2016. The aim of this Directive is to ensure that child suspects or those children that are accused in criminal proceedings are able to understand the proceedings and exercise their right to a fair trial. The Directive also aims to prevent children from reoffending in order to foster their reintegration into society. The Directive was to be transposed by Member States into their national legislation by 11 June 2019.

The aims of the Procedural Rights Directive (2016/800/EU) are consistent with those of the UN Convention on the Rights of the Child. In General Comment 24,²⁸ the Committee on the Rights of the Child established that children should be guaranteed a fair trial and outlined the procedural safeguards for doing so.

Furthermore, both the Procedural Rights Directive (2016/800/EU) and the UN Convention on the Rights of the Child provide that detention should only be used as a measure of last resort. Alternative sentencing measures, such as diversion, are recommended.

The survey asked questions to determine which provisions of the Procedural Rights Directive (2016/800/EU) had been transposed into national law and what procedural safeguards for criminal proceedings involving children in conflict with the law exist. This section contains a summary of those responses.

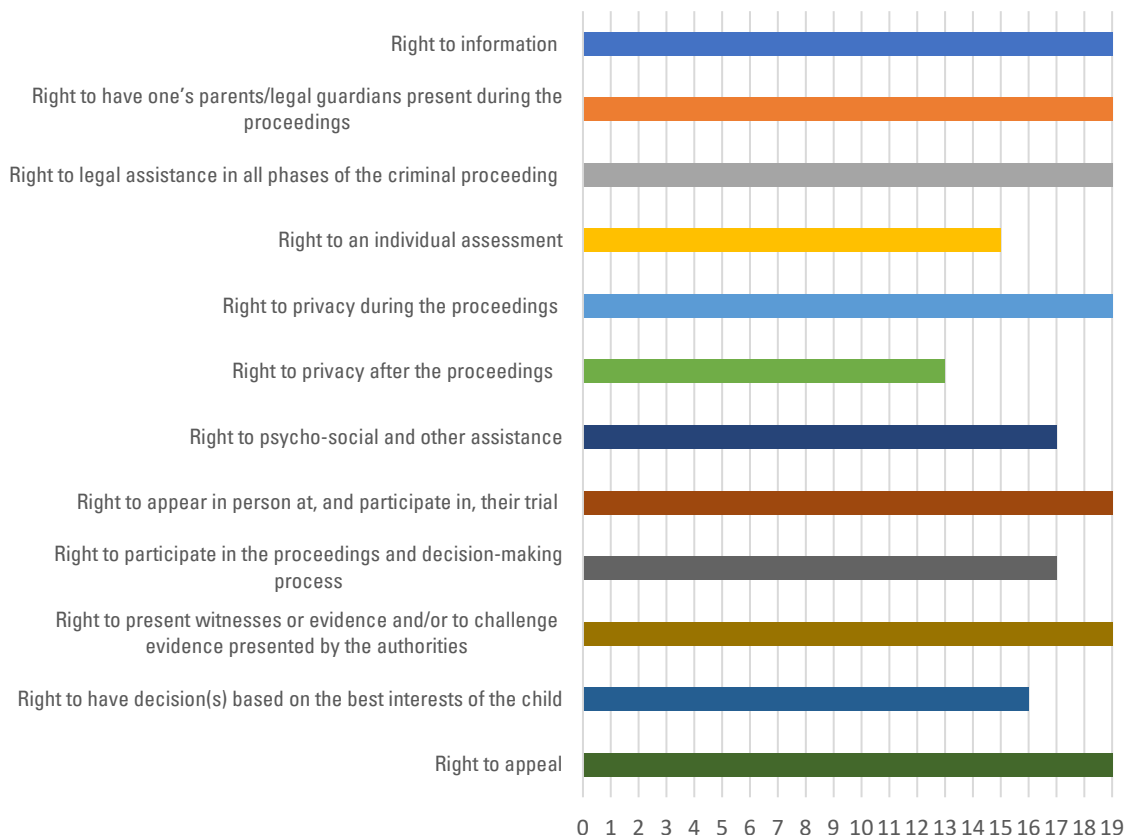


Regarding the countries' **provision of protection against discrimination**, a majority of the countries (17) have provisions in their laws protecting individuals from discrimination. These provisions are not present in the laws of 11% of the countries analysed (Luxembourg and Czech Republic).

Concerning the percentage of countries **where sentences imposed by a court are based on social inquiries and/or pre-sentencing report**, 74% of responses indicated that the judge, when deciding on a case involving a child in conflict with the law, based his or her decision on a social inquiry report. On the contrary however, this does not occur in the countries (26%) of Austria, Czech Republic, Italy, Luxembourg and Russia.

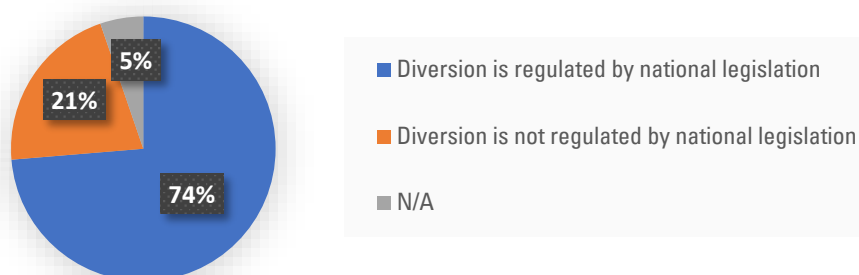
²⁸ <https://undocs.org/en/CRC/C/GC/24>

Safeguards/rights that are applied in cases of children who have allegedly committed an offence

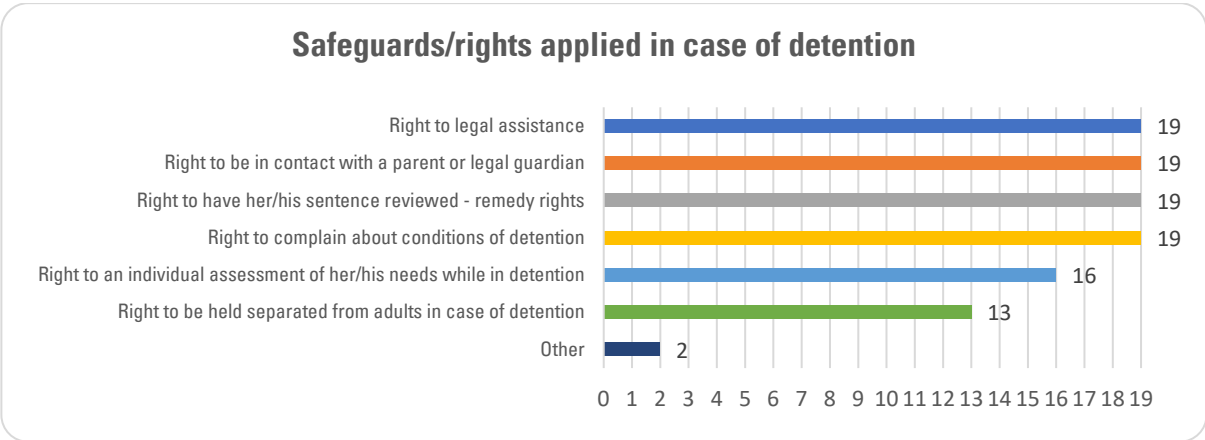


In relation to **the safeguards applied in cases where children are accused of having allegedly committed an offence**, all countries reported they have the following safeguards: the right to information, the right to have one's parents or legal guardian present during the proceedings, the right to legal assistance in all phases of the criminal proceedings, the right to appear in person and participate in their trial, the right to present or challenge witnesses or evidence, and the right to appeal. The least noted safeguard was the right to privacy after the proceedings with only 68% of the surveyed countries ensuring this right. The survey also notes how 22% of the 19 countries do not have safeguards that allow for the right of a child to have an individual needs assessment incorporated into national legislation.

Percentage of countries where diversion of children from judicial proceedings is regulated by national legislation



Diversion²⁹ is not regulated by national legislation in 21% of the countries (Hungary, Luxembourg, Slovak Republic and Sweden). However, the majority of respondents (74%) regulate diversion under their national legislation. Data on **diversion** were unavailable for Russia.



In the case of **detention**, it was noted that all countries have safeguards on the right to legal assistance, the right to be in contact with a parent or legal guardian, the right to have his or her sentence reviewed and the right to access remedy rights. Child detainees have the right to complain about the conditions of detention and the right of children to be held separately from adults when detained. Two countries specify other safeguards. For example, in the Slovak Republic the child justice system ensures compulsory education during detention.

Child victims and witnesses in criminal proceedings

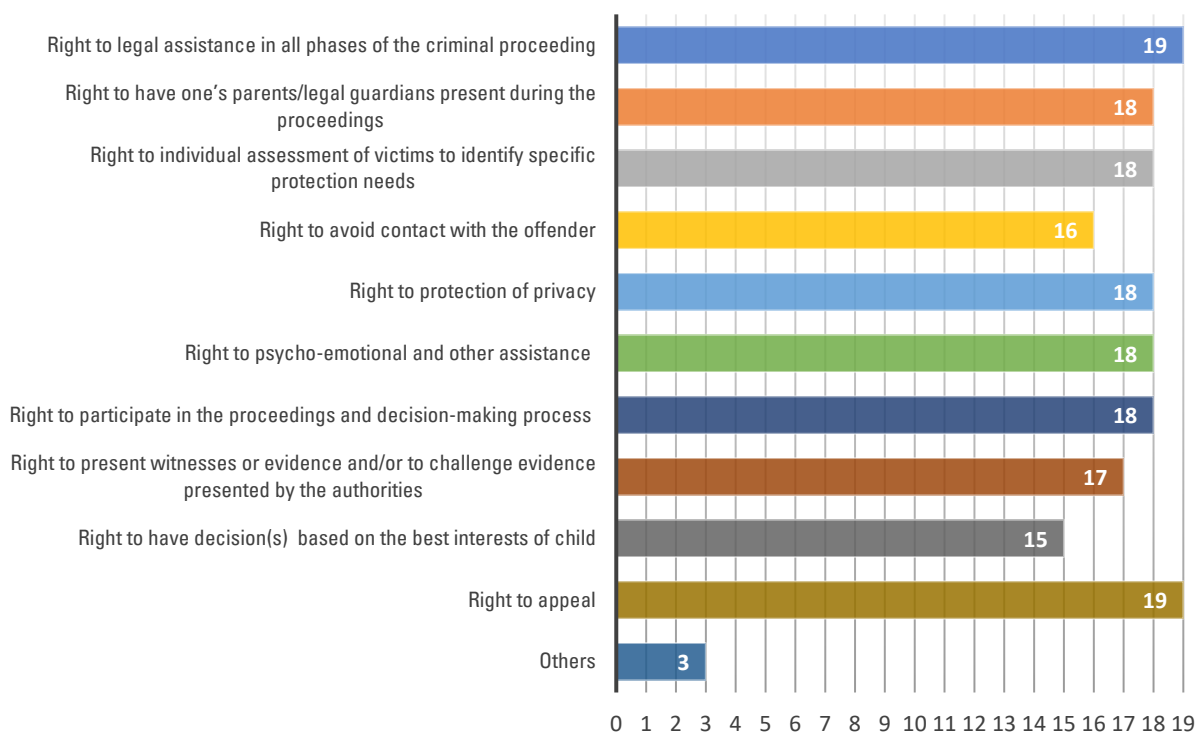
The Victims’ Rights Directive (2012/29/EU) was adopted on 25 October 2012. The aim of this Directive is to ensure that victims are treated in a respectable manner (without discrimination), protected from revictimization, and supported in their recovery. The Directive was to be transposed into the national legislation of Member States by 16 November 2015.

The aims of the Victims’ Rights Directive (2012/29/EU) are consistent with the UN Convention on the Rights of the Child provision pertaining to victims, which is to promote the physical rehabilitation, psychological recovery and social reintegration of a child victim.

With respect to child victims, other aspects of child-friendly justice include the right to be heard during legal proceedings, and to have their needs assessed at the earliest stage possible. The survey asked questions in order to determine which provisions of the Procedural Rights Directive (2012/29/EU) have been transposed into national law and what procedural safeguards for child victims and witnesses exist. This section contains a summary of those responses.

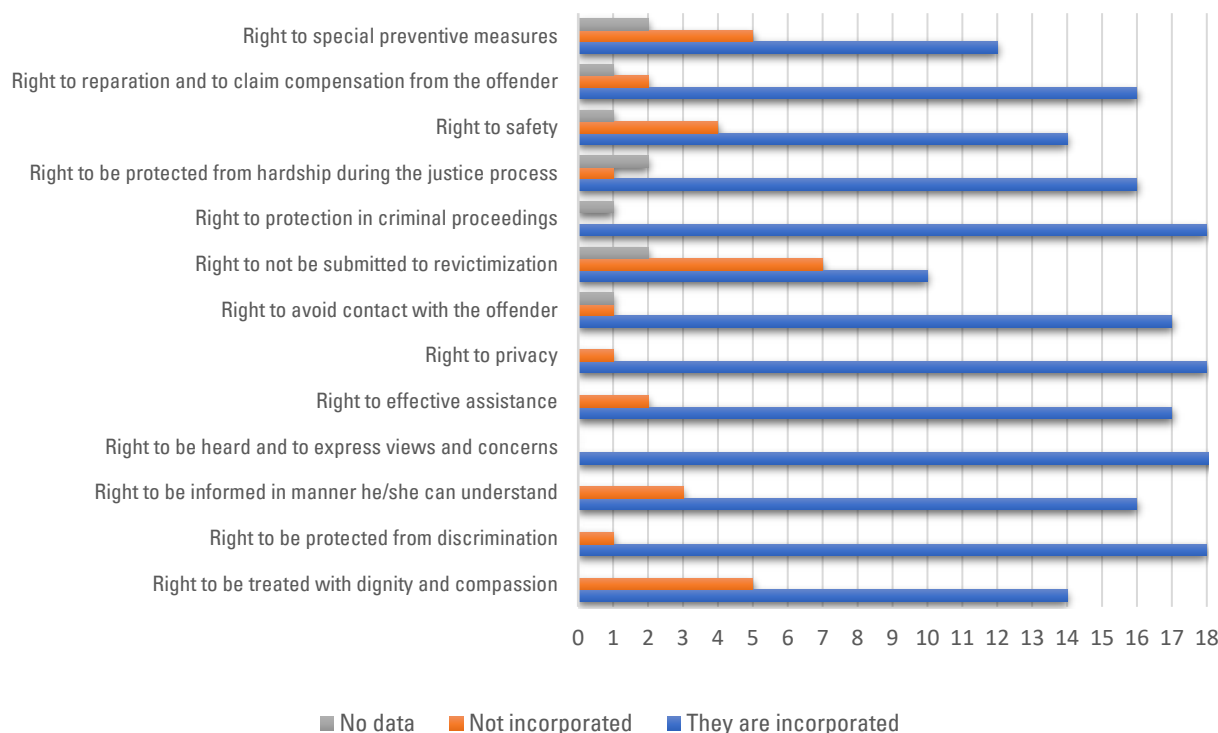
²⁹ Diversion: Diversion means the conditional channelling of children in conflict with the law away from judicial proceedings through the development and implementation of procedures, structures and programmes that enable many children - possibly most - to be dealt with by non-judicial bodies, thereby avoiding the negative effects of formal judicial proceedings and a criminal record. Retrieved from: https://www.unicef.org/tdad/index_56037.html

Safeguards/rights are applied in cases of child victims and witnesses in criminal proceedings



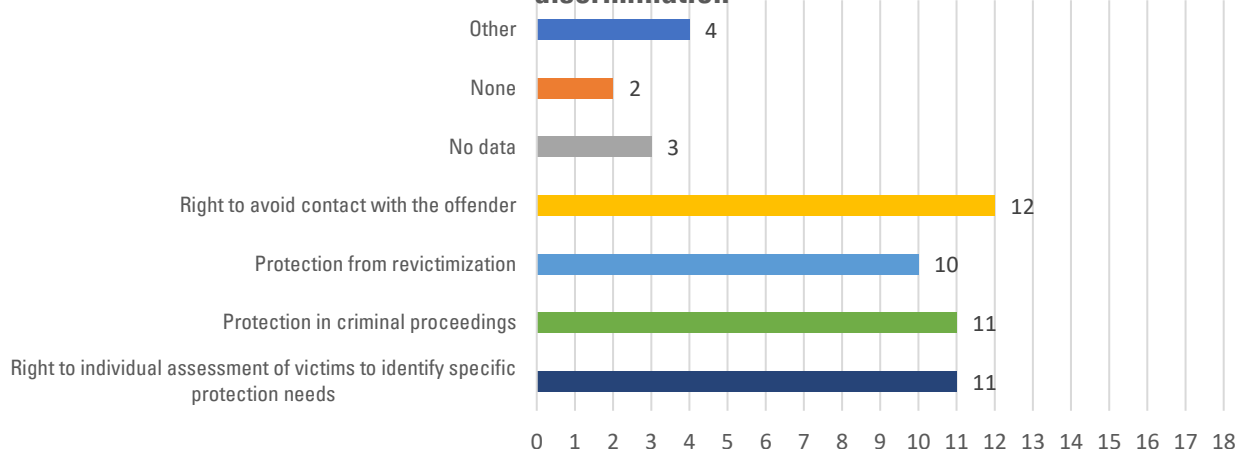
The **existing safeguards and rights for child victims and witnesses during criminal proceedings** showed that the right to appeal and the right to legal assistance exists in all the countries selected. The least common safeguard was the right to have the decision based on the best interests of the child, as 21% of the countries did not confirm this was an available right. With respect to other safeguards, 16% of countries do not ensure a victim's right to avoid contact with the offender and 11% do not ensure the right to present witnesses or evidence and / or challenge the evidence presented by the authorities.

Number of countries where the rights of child victims and witnesses are incorporated into national legislation



When respondents were asked about the **existence of provisions in national legislations that related to procedural safeguards for child victims and witnesses**, it was found that 36% of countries do not have safeguards for the victim or witness to protect them from revictimization. In addition, the right to special preventive measures exists in only 12 of the 19 countries. Other rights, such as the right to protection in criminal proceedings, the right to be heard, right to privacy and the right to be protected from discrimination, are in place for the majority of respondent countries.

Rights/safeguards specifically for children that may be subject to discrimination

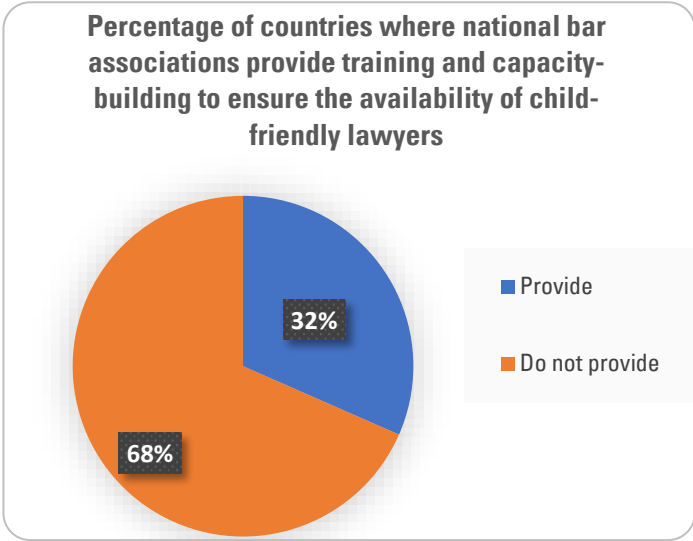


All but one country (Luxembourg) had measures in place to **prevent discrimination of child victims and witnesses**. At least half the countries could not guarantee protection against re-victimization.

Other measures to enhance safeguards for children in contact with the law

As mentioned in the specialised professionals and institutions section, to ensure a child-friendly justice system, professionals who interact with children in the criminal justice sector should receive appropriate and continuous training. Furthermore, children should be able to access free legal advice. This section offers an overview of the child-focused training obtained by professionals and an outline of civil society organisations (NGOs) that are involved in ensuring children receive free legal advice.

When questioned about the availability of child-centred, child-specific or child-focused training, the respondents indicated the following:

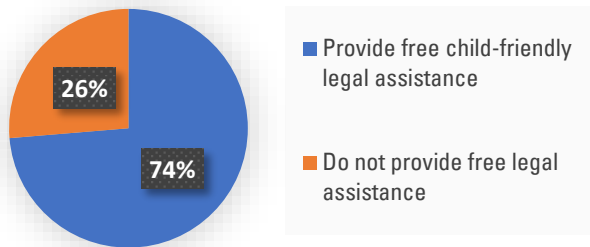


In 68% of the cases, there was no specialised training provided to lawyers representing children. Only 6 countries have training provided by the national bar association for specialised lawyers (Italy, France, Russia, Spain, Sweden and Ukraine).



More than one-third (37%) of countries have specialised trainings on restorative justice (Belgium, Czech Republic, Finland, Hungary, Poland, Spain, Sweden, and Ukraine), while 8 countries (47%) do not have training to on restorative justice. We did not receive an answer in response to this from three countries (16%) (Lithuania, Romania, and Russia).

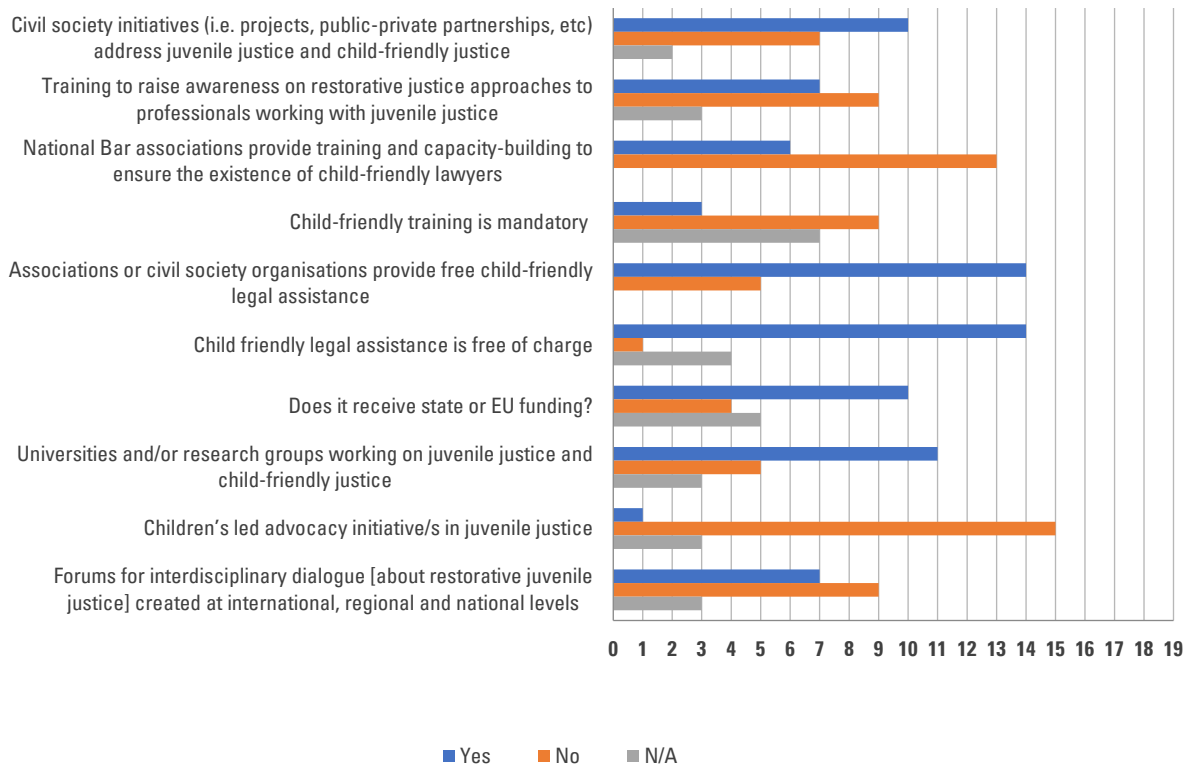
Percentage of countries in which associations or civil society organisations provide free child-friendly legal assistance



In 74% of cases, free child-friendly legal assistance was provided by NGOs. Only Finland did not confirm that civil organisations provide free child-friendly legal assistance.

In 6 out of 18 cases, universities had known initiatives related to child justice. In 8 cases, initiatives were not mentioned. Only France, Spain and Sweden had compulsory child-friendly trainings available.

Training in child-friendly justice



Last but not least, child-friendly training was compulsory in only 3 out of the 19 countries studied (France, Spain and Sweden). Free child-friendly legal assistance is not available everywhere, and it is noted that in less than half the countries, forums for interdisciplinary dialogues about restorative justice were known/available. This highlights the need for further awareness-raising on existing initiatives to promote child-friendly justice and specialised capacity building.

Status Offences

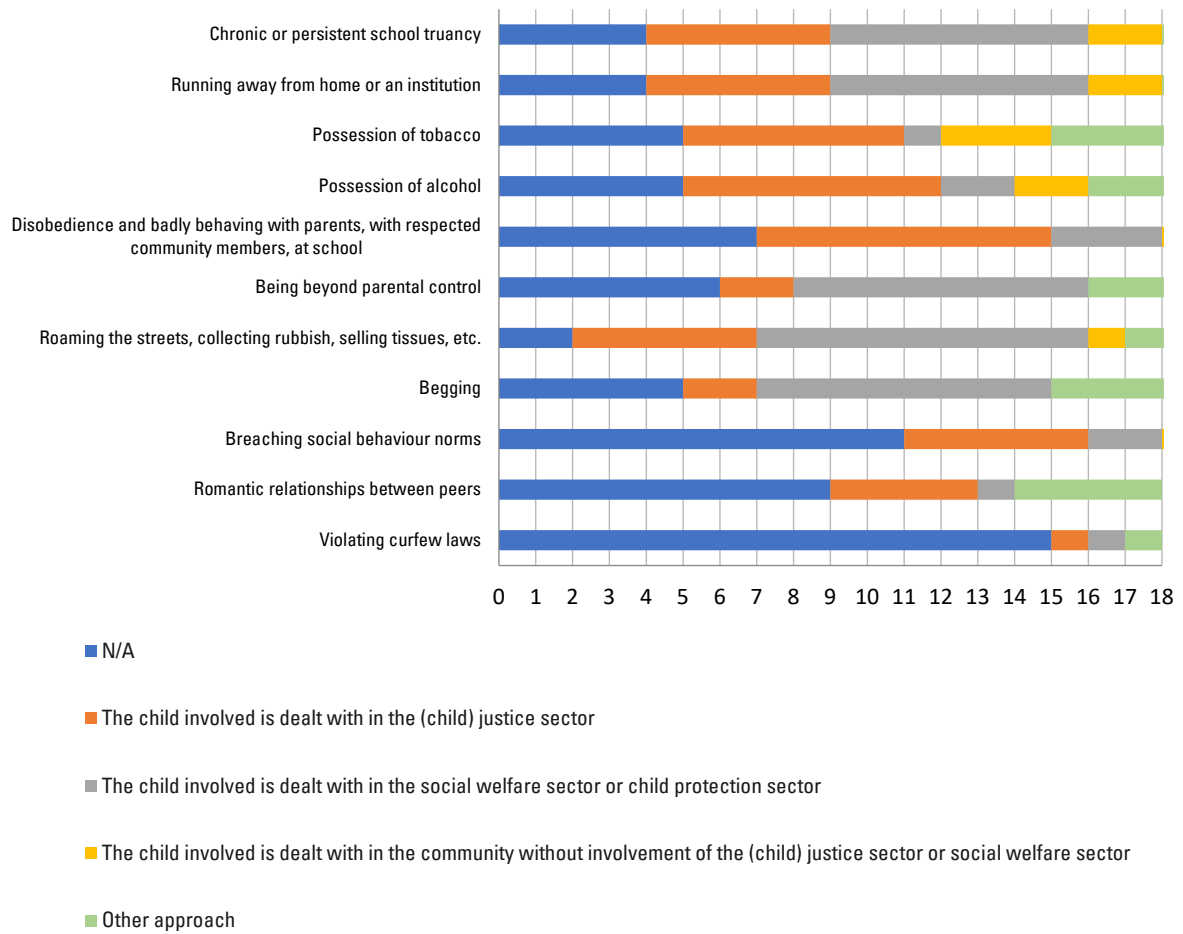
In General Comment 24,³⁰ the Committee on the Rights of the Child urged States to remove status offences from their State laws. Status offences are offences which are not considered crimes when committed by adults but are punishable if committed by children. Status offences include truancy, running away from home, begging, trespassing, and adolescents engaging in consensual sexual acts.

Survey Respondents were asked about a series of potential status offences and how these cases were dealt with. The majority of the countries addressed status offences through their child protection system. However, in some countries the justice systems were still the first response for offences relating to running away (Ukraine and Romania), possession of tobacco (Austria and Ukraine), possession of alcohol (Austria, Finland, The Netherlands and Ukraine), disobedience, roaming streets, peer romances and breaching curfew laws (Belgium, Czech Republic and Spain).

Several countries held adults (i.e., the child's parents or legal guardians) criminally responsible for the child's truancy. In addition, in some countries, while the child may not be held criminally responsible for possession of alcohol or tobacco, the adult that provided it could be. In this research, a specific question was asked to explore if status offences could lead to the deprivation of liberty. Alcohol, begging, breaching social norms, school truancy and possession of tobacco were status offences which could result in the deprivation of liberty. In Finland, the possession of alcohol could result in deprivation of liberty. In Hungary, a child could be deprived of liberty for begging and breaching social norms. In the Netherlands, school truancy could lead to the deprivation of liberty. Truancy, possession of alcohol and possession of tobacco may lead to deprivation of a child's liberty in Sweden. In Lithuania, a child may be deprived of liberty for truancy, possession of alcohol or tobacco, roaming the streets, or breaching social norms. In the Czech Republic, romantic relationships and disobedience could lead children to be deprived of liberty.

³⁰ <https://undocs.org/en/CRC/C/GC/24> (see paragraph 12)

How status offences are dealt within european national legislation



Part 2. Conclusions and Recommendations

In November 2020, 40 children and young people aged 12-25 years old were consulted by Terre des hommes about their views of the justice system.³¹ When asked about what was, according to them, a child-friendly system, they expressed the following opinions:

“I think of ways that we can make a **justice system suited to a child** so that when he/she grows up, the child can be an **active member of the community and benefit the community** itself.” (Greece)

“...Any child who commits any sort of crime **should be given the chance to contribute to society** because they are the future. Child-friendly justice is **necessary for the welfare of society**.” (Greece)

“The right to a lawyer, free of charge, is important for children. Often children don’t know what will happen during the criminal procedure. A lawyer can explain what is happening, because he or she is an expert. A lawyer can also inform the child the best way about the consequences of confessing or denying the offence. Or about remaining silent or lying about what happened.” (Netherlands)

Almost echoing these and the many other opinions shared by children, this Synthesis Report and the country specific Fact Sheets offer insight into the respondent countries’ compliance with child-friendly justice standards and highlights some specific needs of children in contact with the law. This research shows the extent of the specialization of child justice systems in Europe and the prevalence of procedural safeguards in national legislation for children in contact with the law. Key trends identified show that while there is some compliance with the safeguards established by the CRC, Procedural Rights Directive (2016/800/EU) and Victims’ Rights Directive (2012/29/EU), States must take additional measures to truly realize child-friendly justice systems.

Also, in conjunction with the European Commission’s recent publication of the EU Strategy on the Rights of the Child (2021-2024), this Synthesis Report suggests a list of key recommendations to effectively implement the EU Strategy. The EU Strategy provides that “national justice systems must be better equipped to address children’s needs and rights.”³² The EU Strategy finds that at times professionals lack training to interact with children and that there is a lack of awareness of rights for child victims.³³ As such, the EC encourages Member States to “support judicial training providers and all relevant professionals’ bodies to address the rights of the child and child friendly and accessible justice in their activities”³⁴ and “develop robust alternatives to judicial action: from alternatives to detention, to the use of restorative justice and mediation in the context of civil justice.”³⁵ The recommendations made in this Synthesis Report therefore align with the key recommendations developed in the EC Strategy.

While this Synthesis Report is static, the data will be published online, as part of the Justice with Children Global Initiative (www.justicewithchildren.org) and will be regularly updated by the international community of justice professionals. This collective group of stakeholders includes policy makers, academics, non-governmental

³¹ See “Just with children, Child-friendly justice for all children in Europe, Policy Brief in response to the Consultation on EU Strategy on the Rights of the Child 2021-2024”, developed by Terre des hommes in partnership with key child rights organisations in Europe and Baker McKenzie, available at : http://tdh-europe.org/upload/document/7293/JUST_with_Children_Policy_Brief_EC_Strategy_Child_Rights.pdf

³² European Commission, EU Strategy on the Rights of the Child (2021-2024), page 14, available at: https://ec.europa.eu/info/sites/default/files/child_rights_strategy_version_with_visuals3.pdf

³³ Ibid, page 14 and 15.

³⁴ Ibid, page 16.

³⁵ Ibid.

organisations, judiciary, and the private sector. The diverse membership of this community fosters an environment where lessons learned in building successful child-friendly justice systems can be shared.

In close partnership with its key strategic partner organisations, the academic world and European institutions, Terre des hommes in Europe aims to seize opportunities and expand this research, particularly given the increasing digitalisation of justice systems which will need to adapt to the needs and rights of children and young people. By implementing the recommendations below, Tdh aims to ensure child-friendly justice systems for all children in contact with the law in Europe, without discrimination.

Based on the responses collected, the following recommendations have been formulated. The list below is non exhaustive and provides some key areas where Terre des hommes, in close collaboration with its key partners in Europe from the governmental sector and civil society, could invest further resources to pave the way for children to enjoy better access to justice in Europe. The recommendations are categorized in four groups: Build Stronger Skills for Professionals Working with Children in Criminal Proceedings, Create Child-Centred Policy and Legislative Frameworks, Invest in Robust Monitoring of the Situation of Children in Criminal Proceedings, and Improve Knowledge of Professionals about the Needs of Children in Criminal Proceedings.

A. Build stronger skills for professionals working with children in criminal proceedings

1. Make **training programmes on child justice compulsory** for legal practitioners (judges, lawyers, probation officers, social workers, etc).
2. **Develop specific training programmes for all professionals working with children** who committed an offence or experienced victimisation **to learn about communication methods tailored to this specific target group.**
3. Consolidate **partnerships with National Bar Associations** to develop training programmes on child justice for lawyers.
4. **Involve young people when developing training programmes for them** and consider their advice.
5. **Develop training programmes for criminal justice professionals** about the core values and implementation of **child-sensitive and child-specific restorative justice.**
6. **Include innovative tools** (e.g. cards, images, toys, objects, board games, movements) in training on restorative child justice for practice in communication skills.
7. Build the capacities of professionals to understand the specific **needs and rights of child victims** and witnesses.

B. Create child-centred policies and legislative frameworks

8. Influence changes in **legislation for children from vulnerable groups**: children with disabilities in contact with the justice system, child victims of hate crime, identification of specific protection needs. Advocate for the adoption and the implementation of child specific legislation for these vulnerable groups.
9. Where non-existent, **encourage the development and creation of a new, specialised law for children and child justice** that indicates the minimum age of criminal responsibility deals with anti-social behaviour and other important definitions according to international standards.
10. **Raise the minimum age of criminal responsibility** to 14 as a minimum.
11. **End the imprisonment of children**: raise the minimum age of imprisonment to 18 years.
12. Allow for the child justice system to apply to individually to **young adults over the age of 18, to take into account that the brain development continues into the early twenties.**

13. Assess the use of deprivation of liberty for children **and promote the use of alternatives to deprivation of liberty.**
14. **Immediately decriminalise status offences**
15. **Transpose all the safeguards** contained in Directive 2016/800/EU and 2012/29/EU.

C. Invest in robust monitoring of the situation of children in criminal proceedings

16. Collect **data on child offenders, child victims from the first contact with the police to a possible sanction.**
17. Collect **data on children subject to diversion.**
18. Collect **data on children in pre-trial and post-trial detention.**
19. Collect **data on equal access to justice for all children** (among others, children with disabilities, LGBTQI+ children, minority children including Roma children)
20. Share results and **promising practices of collaboration with the academic world** in relation to research on child justice.
21. Support the EC in promoting the implementation of **measurable child justice indicators** at a national level to strengthen data collection.
22. Follow up on the study of data collection on children's involvement in judicial proceedings in EU Member States.

D. Improve the knowledge of professionals about the needs of children in criminal proceedings

23. Invest in **child-led advocacy initiatives** to empower children and ensure that their voices are heard in legal proceedings.
24. Implement the recommendations of the Global study on Children Deprived of Liberty.
25. Develop **communication material on key child-justice concepts** for professionals related to child justice: re-victimization, status offences, etc.
26. Advocate for **free legal assistance** for children in contact with the law.
27. Raise awareness of professionals to conduct robust **multidisciplinary individual needs assessments** for children in contact with the law

Part 3. Country Fact Sheets

This summary serves as a guide to reading the Fact Sheets. Please note that the Fact Sheets do not reflect all the information contained in the questionnaire. For detailed responses or more information, please refer to the questionnaire responses, which will be provided upon request.

The Fact Sheets provide an overview of the country's specific information pertaining to children in contact with the law. They may be used to identify areas within a country's legislation which need improvement and to, highlight areas where the country is succeeding. Practitioners in the field of child justice will also find these Fact Sheets helpful in quickly determining what safeguards are available to children in a certain country. In addition, civil society organisations may use the Fact Sheets and information in this report to plan initiatives and to advocate for change.

Demographic information about the country is provided in the top left text box of the first page, titled **"Overview"**. This section includes the geographic size of the country and the country's population. It also contains statistical data on the number of children living in their country and their age range. Furthermore, relevant information regarding the date the country adopted the U.N. Convention on the Rights of the Child and the date the death penalty was abolished is included in the **Overview**.

Below the Overview section is the section entitled **"Minimum Ages"**. This section provides critical ages for children in conflict with the law, including the minimum age of criminal responsibility ("MACR"), the minimum age of imprisonment, and the age until which the child justice laws are applied. This snapshot will show where the country stands in terms of adherence to recommendations made by the Committee on the Rights of the Child and the EU as outlined in the report.

The right-hand side of the first page incorporates additional information regarding the country, including the **"Type of Legal System"** (for example, civil law, common law, continental law, etc.). As mentioned in the report, both the Committee on the Rights of the Child and the Procedural Rights Directive (2016/800/EU) provide that professionals working with children should be adequately trained to do so. Therefore, the following section summarises the **"Specialisation of the System"** in the country. Finally, the first page ends with a summary of the **"Child Specific Legislation,"** pertaining to the criminal justice sector, which is available in the country.

The second page of the Fact Sheet is dedicated to **"Child Suspects or Accused in Criminal Proceedings"**. This page begins with the status of the **"Implementation of EU Directive 2016/800"** and advises whether the Procedural Rights Directive (2016/800/EU) is fully transposed into national law. The following section reviews the **"Cross-cutting Safeguards"** available to children in conflict with the law. This includes a selection of comments related to the provision of procedural rights of the child suspect or accused, such as the right to free legal assistance, participation in the hearing, and the child suspect's or accused's right to privacy during the proceedings. Any **"Specific Procedural Measures"** present in the country's legal system will be outlined in this section. The section on child suspects or accused in criminal proceedings ends by providing a summary of the country's law relating to **"Diversion and Alternatives to Detention"**.

The Fact Sheet's final page begins with a review of **"Child Victims and Witnesses in Criminal Proceedings"**. A brief statement is made about the "Implementation of EU Directive 2012/29" and whether the country has transposed the Victims' Rights Directive (2012/29/EU). **"Cross-cutting Safeguards"** to protect victims' and witnesses' rights are also mentioned in this section.

The final page continues by providing a summary of the type of behaviour the country categorises as **"Status Offences"**. As stated in the report, status offences are discouraged by the Committee on the Rights of the Child. Finally, the report ends by providing **"Other Relevant Information"** relevant to the country's child justice system. This may include civil society involvement or other procedures in place to protect the rights of children in conflict with the law.

1. **Austria**
2. **Belgium**
3. **Czech Republic**
4. **Finland**
5. **France**
6. **Germany**
7. **Hungary**
8. **Italy**
9. **Lithuania**
10. **Luxembourg**
11. **The Netherlands**
12. **Poland**
13. **Romania**
14. **Russia**
15. **Slovak Republic**
16. **Spain**
17. **Sweden**
18. **Ukraine**

References

1. UNCRC General Comment 24 on Child Justice (2019). Accessible at: <https://undocs.org/en/CRC/C/GC/24>
2. UN Global Study on Children Deprived of Liberty (2019) – Publication available at: <https://www.ohchr.org/EN/HRBodies/CRC/StudyChildrenDeprivedLiberty/Pages/Index.aspx>
3. UNICEF, (2010, October 18). Toolkits on diversion and alternatives to detention. Accessible at: https://www.unicef.org/tdad/index_56037.html
4. European Forum for Restorative Justice, (n.d.). Restorative Justice in a nutshell. Accessible at: <https://www.euforumrj.org/en/restorative-justice-nutshell>
5. European Commission, (2013). Frequently Asked Questions: Fair trial rights (MEMO). Accessible at: https://ec.europa.eu/commission/presscorner/detail/es/MEMO_13_1046
6. Convention the Rights of the Child, accessible at <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
7. European Commission, (2019, June 11). New rules and guarantees in criminal proceedings now across the EU. (Press release). Accessible at: https://ec.europa.eu/commission/presscorner/detail/en/IP_19_2910
8. Council of Europe (2010). Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice. Accessible at: <https://www.coe.int/en/web/cdcj/activities/child-friendly-justice>
9. EU Agenda on the Rights of the Child. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52011DC0060>
10. EU Agenda on the Rights of the Child. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52011DC0060>
11. EU Strategy on the Rights of the Child (2021-2024). Available at: <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12454-Delivering-for-children-an-EU-strategy-on-the-rights-of-the-child>
12. European Commission, (2020, June 24). EU Strategy on Victims Rights (2020-2025). Available at: [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/criminal-justice/protecting-victims-rights/eu-strategy-victims-rights-2020-2025_en#:~:text=2020%2D2025\).-The%20European%20Commission%20adopted%20on%2024%20June%202020%20its%20first,fully%20rely%20on%20their%20rights.](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/criminal-justice/protecting-victims-rights/eu-strategy-victims-rights-2020-2025_en#:~:text=2020%2D2025).-The%20European%20Commission%20adopted%20on%2024%20June%202020%20its%20first,fully%20rely%20on%20their%20rights.)
13. Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime.
14. <https://justicewithchildren.org/>
15. DIRECTIVE (EU) 2016/800 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings. Accessible at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016L0800&from=EN>



Terre des hommes Regional Office in Europe
Bem rakpart 50. Tetótér 1., 1027 Budapest, Hungary
T +36 1 266 5922, E-mail: hun.office@tdh.ch
www.facebook.com/TdhEurope | twitter.com/TdhEurope

www.tdh.ch | tdh-europe.org
www.facebook.com/tdh.ch
www.twitter.com/tdh_ch
www.instagram.com/tdh_ch

