

TOWARDS CHILD-FRIENDLY JUSTICE IN EGYPT

Understanding the justice needs
and child-centred pathways

*Child-friendly Justice Practices
from OECD countries*



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THE PROJECT

The project «**Towards Child-Friendly Justice in Egypt**» aims at enhancing the judicial capacity, institutional coordination and effectiveness of the Egyptian child justice system. Aligned with **Egypt's Vision 2030**, the National Child Strategy and the UN SDGs, the project is implemented by the OECD with the financial support of the Swiss Agency for Development and Cooperation. The project also builds on the work of the MENA-OECD Governance Programme and rule of law support to Egypt. It facilitates high-level engagement in support of effective implementation of the objectives of the **Strategic Framework and National Plan for Childhood and Motherhood in Egypt 2018-2030**.

In this context, the OECD prepared a booklet on child-friendly justice practices based on exchanges and presentations by OECD and international peers on different key aspects of the child justice pathways in practice and their impact on children in Canada, France, Spain, Switzerland and presentations on international standards and good practices on child-friendly justice with examples of the **United Nations Convention on the Rights of the Child (UNCRC) and the Barnahus Model**.

ACKNOWLEDGMENTS

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- › **Ms. Claire Farid**, Director and General Counsel, Family and Children's Law Team, Justice Canada
- › **Judge Véronique Isart**, First Vice President in charge of the children's judge function, Judicial Court of Lille
- › **Judge Jorge Jiménez Martín**, Director of the Judicial School, Spain
- › **Judge Anne-Catherine Hatt**, Swiss Juvenile Court
- › **Dr. Nevena Vučković Šahović**, Professor of international Child Law and former member and general rapporteur of the UN Committee on the Rights of the Child
- › **Ms. Olivia Lind Haldorsson**, Head of Children at Risk Unit, Council of the Baltic Sea States and President of the Promise Barnahus Network

OVERVIEW OF THE CANADIAN SYSTEM

The Youth Criminal Justice Act (YCJA) is the federal law that governs Canada's youth justice system, which applies to youth aged 12 to 17 who come in contact with the law. It acknowledges that young persons are to be held accountable for criminal acts based on a specific justice system and procedures that are consistent with their level of maturity. In Canada, when a young person is found guilty of a criminal offence, the youth court judge must determine the appropriate sentence.¹

The preamble to the Canadian Youth Criminal Justice Act provides that communities, families, parents, and others concerned with the development of young persons should, through multi-disciplinary approaches; take reasonable steps to prevent youth crime by addressing its underlying causes, to responds to the needs of youg persons, and to provide guidance and support to those at risk of committing crimes.

¹ [*Youth Justice - About Canada's System of Justice*](#)

Canada's Criminal Code includes a wide range of criminal procedures that prioritise the best interests of child victims and witnesses in criminal proceedings through measures including testimonial aids, publication bans, and alternative ways of providing testimony.

Canada established Child Advocacy Centres throughout the country since 2010, where there is collaboration between law enforcement, child protection, medical and mental health professionals. They provide an integrated, individualised response for children and youth who have experienced child abuse and their families.

The amendments to the Canadian Divorce Act moved away from the approach based on “custody” and “access” and adopted a child-focused approach, as well as new ways to guarantee that the child's voice is heard.

PEER PRESENTATION

Presentation of the Canadian System during the High-Level Policy Dialogue (9 June 2022) on the Canadian system by Ms. Claire Farid, Director and General Counsel, Family and Children's Law Team, Justice Canada.



Department of Justice
Canada

Ministère de la Justice
Canada

Canada

DIVISION OF POWERS

Canada follows a federal system, as enshrined in the Constitution.

Sections 91 and 92 of the *Constitution Act, 1867* divides law-making powers between the federal government (Government of Canada) and the provincial legislatures.

	Federal	Provincial/Territorial
Criminal Law	Criminal Code Youth Criminal Justice Act Criminal procedure	Administration of justice: for example, courts and services
Family Law	Marriage Divorce Parenting, child and spousal support for divorcing couples	Child protection Never married and separating but not divorcing couples Division of property Administration of justice Adoption
Vital Statistics Programs		Health Care Birth Registration

FAMILY LAW - FOCUSING ON CHILDREN'S BEST INTERESTS

THE DIVORCE ACT AMENDMENTS

- › Bill C-78 – Now An Act to *amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act and to make consequential amendments to another Act*, 2019, c. 16
- › Received Royal Assent on June 21, 2019. Most amendments to the Divorce Act came into force on March 1, 2021.

The amendments have four **key objectives**:

1. Promoting children's best interests
2. Addressing family violence
3. Helping to reduce poverty
4. Making Canada's family justice system more accessible and efficient

CHANGES IN LANGUAGE

- › The amendments to the Divorce Act move away from the approach that was previously based on “custody” and “access.” The custody/access terminology has its roots in seeing children as property.
- › The amendments adopt a child-focused approach that emphasizes the responsibilities that parents have for their children.

New	Old
“Parenting order” : s. 16.1 Allocate parenting time, decision-making responsibility	“Custody”/ “Access”
“Decision-making responsibility” : ss. 2(1), 16.3 “significant decisions about a child’s well-being” Includes: health; education; culture, language, religion and spirituality	
“Parenting time” : s. 16.2 Time “in care” of parent No need for physical presence during entire time	
“Contact orders” : non-spouses, with leave: s.16.5 (e.g. grandparents)	“Access” by non-spouse
“Parenting plans” encouraged, not mandatory: s. 16.6	

ENHANCED FOCUS ON BEST INTERESTS OF CHILD

1.

Still consider “only the best interests”: s. 16(1)

2.

Introduces a list of best interests of the child factors

3.

Non-exhaustive, 11 factors, s. 16(3), including: Child’s views and preferences (cl. (e))

4.

“Primary consideration” – “the child’s physical, emotional and psychological safety, security and well-being” (s.16(2))

5.

No presumptions re: best parenting arrangements (i.e. no presumptions about how decision-making or parenting time will be allocated between parents)

WAYS THE CHILDREN'S VOICES CAN BE HEARD

- › Recent amendments to the Divorce Act will help parents, family justice professionals and judges consider a child's views and preferences when making decisions about parenting responsibilities.
 - The Divorce Act requires that judges consider a child's views and preferences when making decisions about parenting responsibilities.
- › The views of the child may be brought to the attention of the court in various ways. For example, through representation of the child by counsel, an assessment of the child's situation by a mental health professional, a voice of the child report or a judicial interview.

› The Government of Canada also developed resources for parents and children, including:

1. A fact sheet on why a child's views and preferences are important
2. An updated booklet for children on separation and divorce that includes new content on how children's views and preferences could be considered:
 - › <https://www.justice.gc.ca/eng/fl-df/pdf/fscvp-fipvpe-eng.pdf>
 - › <https://www.justice.gc.ca/eng/rp-pr/fl-lf/famil/book-livre/pdf/what-happens-next-eng.pdf>

FAMILY VIOLENCE EVIDENCE-BASED DEFINITION: S. 2(1)

Family violence means any conduct, whether or not the conduct constitutes a criminal offence, by a family member towards another family member, that is violent or threatening or that constitutes a pattern of coercive and controlling behaviour or that causes that other family member to fear for their own safety or for that of another person — and in the case of a child, the direct or indirect exposure to such conduct — and includes (...)

- › physical abuse (...); (b) sexual abuse;
- › threats to kill or cause bodily harm to any person;
- › harassment, including stalking; (e) the failure to provide the necessities of life;
- › psychological abuse; (g) financial abuse;
- › threats to kill or harm an animal or damage property; and
- › the killing or harming of an animal or the damaging of property

FAMILY VIOLENCE PROVISIONS

- › Primary consideration: child's safety, security and well-being
 - Enhanced focus on child, including impact of family violence on child
- › Best interests of the child criteria specific to family violence cases (ss. 16(3)(j),(k) and 16(4)) – court required to consider family violence and its impact
- › Provisions on supervised parenting time and transfers (ss. 16.1(8) and 16.5(7))
- › Provisions to allow prohibition on the removal of a child from a geographic area without the written consent of any specified person or without a court order authorizing the removal (s. 16.1(9))
- › A provision to promote coordination between criminal, child protection and family cases (s. 7.8)

YOUTH IN CONFLICT WITH THE LAW

THE YOUTH CRIMINAL JUSTICE ACT (YCJA)

The YCJA aims to achieve a fairer and more effective youth criminal justice system through:

- › increased use of community responses at front-end
- › reduced reliance on the formal youth justice system (charging, courts, etc.) and on custody
- › improved rehabilitation and reintegration of young people

The preamble to the YCJA refers to the need for community, families, parents, and others to play a role in finding solutions to youth crime.

There has been a 77% decrease in youth incarceration rate since the YCJA came into force.

At the same time, youth crime rate remains down.

AGE OF CRIMINAL RESPONSIBILITY IN CANADA

1. The YCJA currently applies to young persons aged 12-17 who are alleged to have committed a criminal offence.

 - › A separate adult system of justice applies to those 18 and older.
2. Young persons under the age of 12 are not subject to criminal responsibility in Canada due to their diminished maturity.

 - › In serious cases, youth under 12 can be referred to provincial child welfare authorities, and in appropriate cases child offending may also be addressed through mental health authorities.
3. There are several factors to consider when determining an age at which children acquire sufficient moral and legal knowledge, and understanding, to be held criminally liable for their acts.

THE YCJA AND RESTORATIVE JUSTICE

1. The YCJA does not explicitly use the phrase “restorative justice” (RJ).
2. But the legislative provisions do go a long way towards enabling and supporting RJ possibilities.
3. Although not all of the possibilities under the YCJA envision a classically restorative response, with victim inclusion, all responses are seen as part of a continuum of options that includes RJ models.

EXTRAJUDICIAL MEASURES

Principles	Objectives
<ul style="list-style-type: none">› Often the most appropriate and effective way to address youth crime› Allow for effective and timely intervention focussed on correcting offending behaviour› Presumed adequate to hold a young person accountable for first-time, non-violent offences› Should be used whenever adequate to hold a young person accountable... and can be used despite prior offending	<ul style="list-style-type: none">› Provide an effective and timely response to offending behaviour› Encourage young persons to acknowledge and repair the harm caused to the victim and the community› Encourage families and community to be involved in the design and implementation of the measures› Provide an opportunity for victims to participate in decisions related to the measures› Respect the rights and freedoms of young persons and be proportionate to the seriousness of the offence

EXTRAJUDICIAL MEASURES (DIVERSION)

Definition — section 2(1): **extrajudicial measures** means measures other than judicial proceedings under this Act used to deal with a young person alleged to have committed an offence and includes extrajudicial sanctions.

- › Section 6 – least formal
 - Directs police to consider, before charging or taking other measures:
 - taking no further action;
 - warning the young person;
 - cautioning;
 - referring young person to community programs or agencies that may offer assistance in preventing further offences.
- › Section 10 – Sanctions:
 - More formal and subject to several conditions;
 - Can be imposed pre- or post-charge.

PROVEN EFFECTIVENESS OF EXTRAJUDICIAL MEASURES

Charging has decreased significantly under the YCJA:

- › Police diversion of cases through extrajudicial measures has increased significantly.

Significant reduction in the use of the court under the YCJA:

- › Youth court cases declined by roughly 70% between 2002–03 and 2019–20.

Young Offenders Act	Youth Criminal Justice Act
1999: <ul style="list-style-type: none">› 63% of youths accused of a crime were charged;› 37% were not charged.	2020: <ul style="list-style-type: none">› 46% of youths accused of a crime were charged;› 54% were not charged.

CHILD VICTIMS AND THE CRIMINAL JUSTICE SYSTEM

INTRODUCTION

- › Canada's Criminal Code includes a wide range of criminal procedures that prioritize the best interests of child victims and witnesses in criminal proceedings through measures including testimonial aids, publication bans, and alternative ways of providing testimony.
- › Specialised services for child and youth victims in the criminal justice system are provided by the provinces and territories and non-governmental organizations to ensure that children's interests are prioritized.
- › Canada undertakes a range of policy and program activities to support children and youth that have been victims of crime and their families.
- › Canada provides funding for Child Advocacy Centres (CACs) across the country that are grounded in a child-focused, trauma-informed and culturally responsive approach to cases involving child abuse allegations.

SECTION 16.1 OF THE EVIDENCE ACT

A person under 14 years of age is presumed to have the capacity to testify. There is no requirement to take an oath or make a statutory declaration. Instead, a child will be required to promise to tell the truth:

- › No inquiry is permitted into a child's understanding of the nature of such a promise.
- › The evidence given by the child shall have the same effect as if it were taken under oath.

Since 1988 the Criminal Code has provided for testimonial aids for children when they have to testify in court. The provisions have been expanded over the years.

The Canadian Victims Bill of Rights outlines rights for victims of crime, including child victims.

- › Section 13 - recognizes the right to testimonial aids.

Further information: <https://www.justice.gc.ca/eng/cj-jp/victims-victimes/factsheets-fiches/aids-aides.html>

Alternative way to provide testimony:

1. Testifying can be particularly traumatic for child victims.
2. The Criminal Code contains provisions allowing victims and witnesses under the age eighteen to provide a videotape of their evidence in order to spare them from providing live testimony in court.
3. The video must have been made within a reasonable time after the alleged offence and they adopt the contents of their video recording at trial (section 715.1).

Testimonial aids include:

1. Allowing a support person to be present while victims and witnesses testify in order to make them more comfortable (section 486.1).
2. Allowing victims and witnesses to testify outside the courtroom by closed-circuit television or inside the courtroom but behind a screen which would allow them not to see the accused (section 486.2).
3. Appointing counsel to conduct the cross-examination of a victim or witness when the accused is self-represented (section 486.3).

For further information:

<https://www.justice.gc.ca/eng/cj-jp/victims-victimes/factsheets-fiches/aids-aides.html>

PUBLICATION BANS

- › In Canada, one of the fundamental principles of our justice system is that the court process is open and information is publicly available. While the names of victims, witnesses and accused persons are usually made public, the law does allow publication bans to be ordered in certain circumstances.
- › The Criminal Code contains provisions allowing judges to impose publication bans on the names of victims and witnesses in order to protect their privacy and encourage the reporting of crimes.
- › The publication ban applies to dissemination of information that can identify the person subject to the publication ban to the general public, for example, in a newspaper, broadcast, or by internet.

Publication bans are including:

- › Informing victims of crime who are under the age of 18 of enumerated sexual and other offences of their right to seek a publication ban and, if they request one, the Court must order it (section 486.4).
- › Protecting the identify of witnesses under the age of 18 or any person who is depicted in child pornography (section 486.4).
- › Protecting the identify of any other victim over the age of 18, any other witness and, for certain offences, justice system participants, if the Court believes that the order is “in the interest of the proper administration of justice” (section 486.5).

For further information:

<https://www.justice.gc.ca/eng/cj-jp/victims-victimes/factsheets-fiches/publication.html>

CHILD ADVOCACY CENTRES IN CANADA

Since 2010, Canada provides funding for Child Advocacy Centres (CACs) across the country that are grounded in a child-focused, trauma-informed and culturally responsive approach to cases involving child abuse allegations.

A CAC is a collaboration with law enforcement, child protection, medical and mental health professionals, and victim advocates in a child-friendly facility.

Together, they provide an individualized response for children and youth who have experienced child abuse and their families.

Services include prevention, intervention, prosecution, treatment and support services.

CACs seek to minimize system-induced trauma and support longer-term well-being of young victims and their families.

A CAC is a community-based program, designed to meet the unique needs of the particular community in which it is located.

[CAC-CYAC-National-Guidelines-October-2021-FINAL.pdf \(cac-cae.ca\)](#)

- › Child and family-friendly facilities;
- › Forensic interviewing services;
- › Victim advocacy and support, including court preparation and support;
- › Specialised medical support and treatment; and,
- › Specialised mental health services.

Training and education for professionals working with child abuse victims and community education and outreach are also considered to be important activities that are undertaken by CACs.

OVERVIEW OF THE FRENCH SYSTEM

Children benefit from an adapted justice system given their age. This specialization is provided for in French law and in international treaties that France has signed and committed to respect, such as the UNCRC.

The French Juvenile system is composed of specialised judges and specialised courts that deal with children in civil and criminal matters. On the one hand, the specialised judge protects minors and children at risk and helps parents with the education of their child. On the other hand, he or she judge, in the office, minors prosecuted for less serious offences and can order educational measures in response to their actions. The specialised courts tried the most serious offences committed by minors and crimes committed by minors under the age of 16. It is composed of a juvenile judge and 2 counsellors. Minors above the age of 16 who have committed crimes are tried by a juvenile assize court (composed of three professional magistrates, 2 of whom are juvenile judges, and a popular jury of citizens.²

² http://www.justice.gouv.fr/art_pix/Guide_justice_mineurs.pdf

In case of civil matters, the procedures differ from children risk of danger or children in danger. In case of children at risk of danger, administrative protection is applied while for children in danger, judicial protection is applied.

In case of criminal matters, the process starts with a hearing for conditions review then a sentencing hearing.

The competent court depends on the gravity of the offense: a juvenile who has committed an offense will either be heard by a professional juvenile judge (minor offense), in front of a juvenile court with 1 professional juvenile judge and 2 assessors (citizens) (for ordinary offenses and serious offenses) or in front of a special criminal court with 3 professional judges among which 2 juvenile judges and 6 jurors (citizens) (for serious offenses). The French law resorts to educative measures rather than repressive measures or sentences.

France also proposes a national special number available for children and specialists. The call reports are sent to a special department unit, CRIP (Cellule départementale de Recueil des Informations Préoccupantes). The CRIP is a departmental service and present in each French Department. It is composed of child protection professional and is responsible for assessing the situation of the minor and determining the protection and assistance from which the minor and his family can benefit. A report is established and must encompass specific and precise objective, specifying the context in which the facts were revealed.

France has adopted a new law for juvenile justice³ on 30 September 2021 which applies reforms related to the specialisation of child justice, in particular, the rehabilitation and specialisation. It also aimed at accelerating the judgement.

³ https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000039086952/2021-09-30/

PEER PRESENTATION

Presentation of the French System during the workshop (15 February 2022):
Judge Véronique Isart, First Vice President in charge of the children's judge
function, Judicial Court of Lille.



**MINISTÈRE
DE LA JUSTICE**

*Liberté
Égalité
Fraternité*

FRENCH JUVENILE JUSTICE JUSTICE SPECIALISED JUSTICE AND SPECIALISED ACTORS

Juvenile Judge (Specialised Judge for children)

- › Civil matters: protects from danger (malnutrition, violence, school drop out) and helps parents
- › Juvenile criminal matters: Judges offenders in minor criminal matters

Juvenile Court

- › Competence:
 - Ordinary offenses: violent robbery, violence, drugs dealing
 - Serious Offenses: «Crimes» (murders, rapes...) only children <16 years old
≥16 special criminal court (juvenile assize court)
- › Composition: 1 juvenile judge + 2 assessors

PJJ

Social, educative and medical professionals working in a state level organization within the Ministry of Justice. They are commissioned by the judge to implement his decisions and help children and their parents.

CIVIL MATTERS – CHILD PROTECTION

CONDITION: DANGER OR RISK OF DANGER

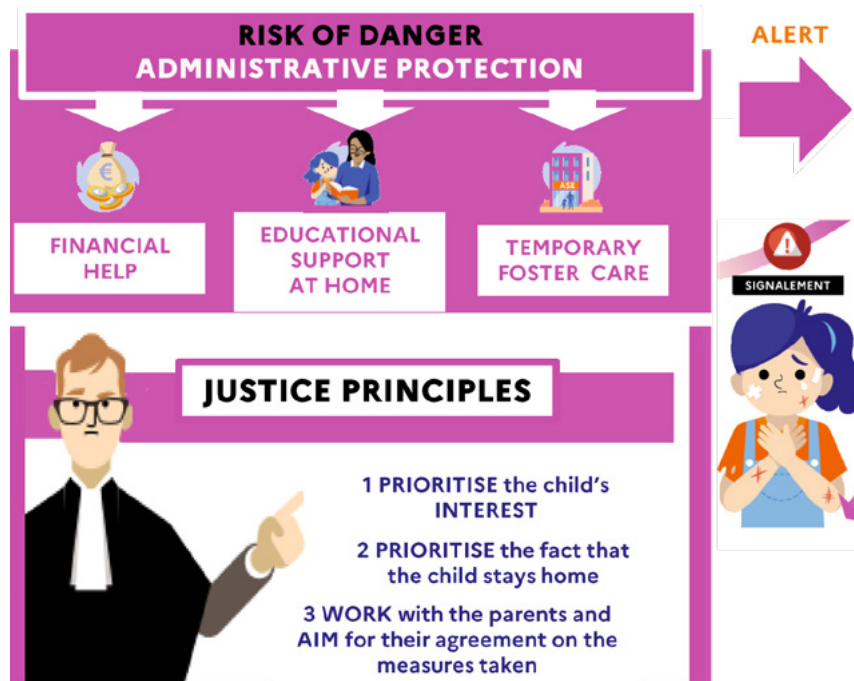
-  **Physical abuses**
-  **Sexual abuses**
-  **Psychological violence**
-  **Psychological violence**



ALERT : WHO AND HOW?



CIVIL MATTERS – PROTECTION OF THE CHILD IN DANGER



CONFIRMED DANGER JUDICIAL PROTECTION



PROSECUTOR

Decides TEMPORARY (2weeks) FOSTER CARE

Requires juvenile judge for Mandatory Intervention within the family

OR
CHILDREN
PARENTS
HIMSELF
GUARDIAN
SERVICE

JUVENILE JUDGE

COURT HEARING



DISMISSAL

FOSTER CARE



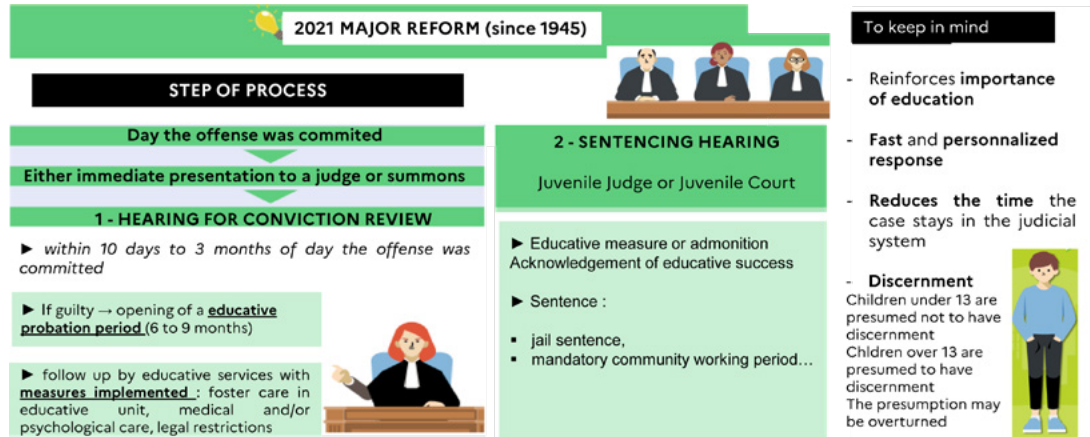
MJIE



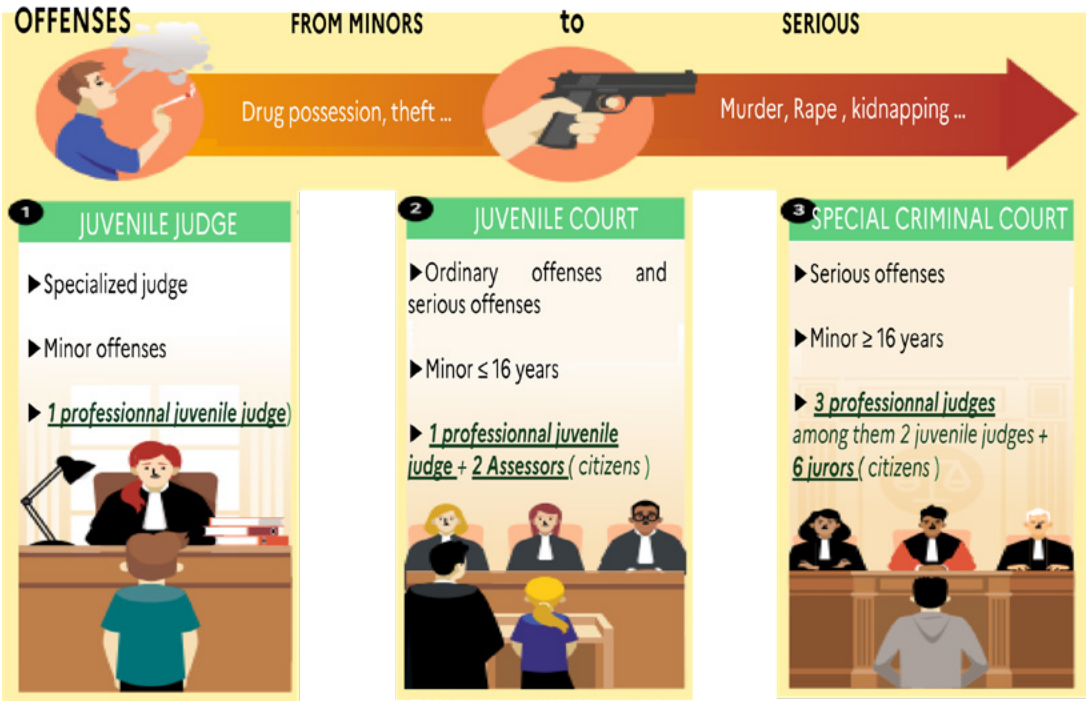
AEMO



CRIMINAL MATTERS



CRIMINAL MATTERS - COMPETENT'S COURTS



OVERVIEW ON THE SPANISH SYSTEM⁴

⁴ For more info <https://diazcappajose.files.wordpress.com/2015/09/2013-the-spanish-law-on-juvenile-justice-alternative-measures.pdf>

According to the law, juvenile justice in Spain must be administered by a specific system within the Spanish legal system: civil and family matters are currently dealt with by non-specialised judges and courts, while criminal matters are dealt with by specialised juvenile judges in non-specialised courts.

In both cases they are supported by technical teams including social and psychological experts who support the judge in making his or her decision.

All decisions concerning children must be made in the best interests of the child, in accordance with the law. In criminal matters, there is a special procedure for applying educational measures to minors who have committed an offence. The principle of opportunity applies to minor offences, and the right to a lawyer is recognised as mandatory in all cases.

In case of second instance, the criminal court is composed of 3 non-specialised judges. Some of the challenges compared to the Spanish system are to expressly recognise the right to be heard and answered, the right to a real and effective defence and the availability of more resources to comply with educational measures.

PEER PRESENTATION

Presentation of the Spanish System during the workshop (15 February 2022):
Judge Jorge Jiménez Martín, Director of the Judicial School.



SPANISH JUVENILE JUSTICE

Civil / Family matters	Criminal Matters
<ul style="list-style-type: none">› Not Specialised Judge› Not Specialised Court› Witness / party	<ul style="list-style-type: none">› Specialised judge for children› Not Specialised Court› Victim / investigated / accused
<p>Technical teams</p> <ul style="list-style-type: none">› Psychologists› Sociologist› Educators› Support for the judge's decision	

Law on legal protection of minors 15 January 1996

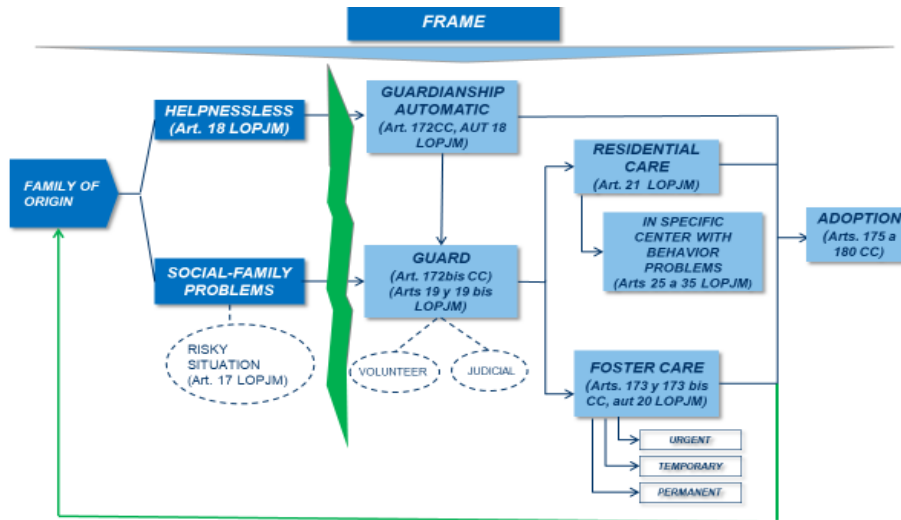
Juvenil criminal responsibility Law 12 January 2000

CHILD PROTECTION

1. New legislation 2015
2. The best interest of the child
3. The right of every child to be heard and listened to

Helplessness

- › Abandonment of the child
- › The expiry of the period of voluntary guardianship
- › Risk to the life, health and physical integrity of the child.
- › Repeated use of substances with addictive potential.
- › Serious harm to the newborn caused by prenatal abuse.
- › Continuous psychological abuse or serious and chronic lack of attention to affective or educational needs. Severe mental disorder.
- › Absence from school or repeated and inadequately justified lack of attendance at the educational centre.



Sistema de protección de la Infancia y la Adolescencia

3

Public Administration

Prosecutor

Civil Judge (not necessary
Specialised)

FAMILY MATTERS

- › No specialist judge
- › Minor's hearing

ECHR Iglesias v. Spain case, dated October 11, 2006

Competence: offenses 14-18 years old



- › Only educational measures can be imposed
- › The measure can be replaced if it evolves well
- › Minor crimes: principle of opportunity
- › Right to a lawyer
- › Second instance: 3 judges, but not Specialised

Victims

- › New legislation: 2021
- › Reduce statement minor: one time
- › Advance proof
- › Assistance

CHALLENGES

- › Right to be heard and to have an answer.
- › Right of defence.
- › Right to information in an appropriate language.
- › More resources to comply with the educative measures

OVERVIEW OF THE SWISS SYSTEM

The Swiss Juvenile Justice system is governed by the Federal law governing the criminal liability of minors came into force in 2007, as well as the Federal law on Criminal procedures applicable to minors entered into force in 2011. The system is based on two pillars: **protection** and **education**.⁵

The two pillars put particular emphasis on the personal situation (age, stage of development, ect) and personality of the child; these elements are crucial for any decision taken regarding the child. The Swiss system applies different protection measures depending on the matter, age of the child and his/her needs of protection. Protection measures can last until the child has reached the age of 25 years.

⁵ https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/CHE/INT_CRC_NGO_CHE_18020_E.pdf

The Magistrate in Juvenile Matters in Switzerland is required to assess the personality of the young offender to implement adequate measures. The assessment takes place in close coordination with the school teachers, legal guardians or social workers who have been in close contact with the child and who are able to offer a clearer picture of the personality of the young offender. In addition to any protection measure the child will be sentenced with a reprimand, community work or a fine. Only a child above 15 years can be sanctioned with imprisonment for a maximum duration of one year and if the child is above 16 years old, the maximum duration is 4 years.

Protection measures encompass the supervision of the parents in their education of the child, personal care and assistance provided by a social worker to the parents and the child, an outpatient treatment in the case of addiction or psychological matters. Lastly, the juvenile could be placed in an institution. An observation institution can be either open or closed depending on the crime committed and the behavior of the child, where he or she lives among a group of 6 to 8.

Placing a juvenile in an institution or any decision regarding a prison sentence of more than 3 months has to be taken by a juvenile court. All other types of sanctions are pronounced by the Magistrate. The magistrate, the social worker and the medical assessors follow up the case of the juvenile and decide what measure is to be applied by the Magistrate. It is to be noted that only few cases end up on Juvenile Court.

One of the strengths of the Swiss system is that the case is handled by a single Magistrate. That makes it very efficient, as they last usually only between 2 to 6 months. Another point worth mentioning is that hearings are held in the Magistrates' office and not in a court room, which makes the environment less intimidating and informal for the juvenile.

PEER PRESENTATION

Presentation of the Swiss System during the workshop (15 February 2022):
Judge Anne-Catherine Hatt, Swiss Juvenile Court.



LEGAL FRAMEWORK OF CHILD PROTECTION

- › **Civil Matters** (age 0 – 18 years) > Civil Law > Guardianship Authorities
- › **Criminal matters**
 - Juvenile Witnesses (age 0 – 18 years) > Criminal Procedure Law
 - Juvenile Offender (age 10 - 18 years)
 - ◆ Juvenile Criminal Law: January 1st, 2007 (37 articles)
 - ◆ Juvenile Procedural Law: January 1st, 2011 (45 articles)

MAIN PILLARS

- › Protection (measures)
- › Education (sanctions)
- › **Special Focus on development and personality of the Juvenile**
- › **Assessment of the personality**

Measures

- › Supervision of the parents
- › Personal Care (social worker or third)
- › Outpatient treatment (psychological problems, drug or alcohol abuse)
- › Placement in an open or closed institution

Sanctions

- › Reprimand
- › Social Working hours: Community Service or courses (<15y max. 10 days, >15y max. 3 months)
- › Fine (>15y max. CHF 2'000.00 equal 34'000 Egyp. Pounds)
- › Prison Sentence (>15y max. 1 year, > 16y max. 4 years if serious crime)

KEY PLAYERS

Police (specialisation)	Magistrate in Juvenile Matters
Social Worker (working at the Magistrates office)	Juvenile Court (3 judges) Placements Fine > CHF 1000.00 Prison sentence > 3 months

CHILD-JUSTICE PATHWAYS

1.

Police arrest > interrogation and information of the MiJM

2.

Within 48 hours > hearing by the MiJM > provisional detention

3.

Social worker starts with assessment (parents, juvenile, school, guardianship authorities)

4.

Take over the case from the guardianship authorities due to the severness of the offense

5.

Placement in a closed observation institution for 3 months

6.

Medical Assessment while in observation instituion

7.

Decision of the MiJM about the measure (precautionary)

8.

Decision of the Juvenile Court
(ex. placement in institution) or
Summary penalty order by the
MiJM

9.

Accompaniment by MiJM and
Social worker during the time
of the measure (max. age of
25 years)

10.

If goal of the measure
is achieved (ex. learnt a
profession, no other crimes)
release at home

11.

If goal of the measure not
achieved > change of measure
(ex. closed institution) or
execution of the sanction

STRENGTH & WEAKNESS

Strength	Weakness
<ul style="list-style-type: none">› Efficient – short procedures (average 3 mths to 1 year, max. 3 years)› No intimidation by court > informal› Good case knowledge and follow up on development of the juvenile› Control of efficacy of the measures taken (same MiJM)› Very creative reactions on offense	<ul style="list-style-type: none">› Power of the MiJM > Juvenile is delivered› Official defense only in few cases (placements, prison >3mths)› Lack of closed institutions for observation or placement > placement in prison in the meantime› Lack of psychological institutions

OVERVIEW OF THE
CONVENTION ON THE
RIGHTS OF THE CHILD,
THE COMMITTEE AND
JUSTICE FOR CHILDREN

Several declarations and guidelines have been adopted by international and regional bodies in the past decade to promote access to justice and child-friendly justice. These frameworks cover children in all aspects of the justice systems.

Children are exposed to the criminal justice system either as witnesses, victims or perpetrators of crimes. They may also be parties of civil and administrative proceedings. Particular attention is needed to ensure that effective child sensitive procedures are available to children and their representatives.

Objectives and scope of the Convention on the Rights of the Child (CRC):

- › A holistic implementation of child justice systems that promote and protect children's rights.
- › The importance of prevention and early intervention.
- › Key strategies for reducing the harmful effects of contact with the criminal justice system.

The Convention on the Rights of the Child emphasises that the competent authorities should continuously explore the possibilities of avoiding a court process or conviction through diversion and other measures.

Some key aspects of the Convention on the Rights of the Child's substantive guidance and commitments include:

- › A comprehensive child justice system requires the establishment of **specialised personnel** within the police, the judiciary, the court system and the prosecutor's office, as well as specialised defenders or other representatives who provide legal or other appropriate assistance to the child, that applies to all proceedings, including civil and administrative.

- › Individual assessments of children and a **multidisciplinary approach and specialised community-based services** are relevant pillars of an effective child justice system.
- › It is important to ensure **regular data collection and evaluations** of the child justice systems and researches where children are involved.
- › An effective child justice system is based on **effective coordination among central government departments**, among different provinces and regions, between central and other levels of government and between Government and civil society. There are many ways of achieving it, including for example inter-ministerial and interdepartmental committees for children.

PEER PRESENTATION

Presentation of the UN Committee on Rights of the Child System during the workshop (15 February 2022): Dr. Nevena Vučković Šahović, Professor of international Child Law and former member and general rapporteur of the UN Committee on the Rights of the Child.



THE SCOPE

Children come into contact with the judicial and administrative system, either as:

- › Witnesses
- › Victims (injured parties) or as
- › Perpetrators of crimes
- › Prosecutors and complainants in:
 - Civil
 - Administrative proceedings and
 - Proceedings before independent bodies

TOWARDS A COMPREHENSIVE APPROACH TO CHILD FRIENDLY JUSTICE

In the past decade, several declarations and guidelines that promote access to justice and child-friendly justice have been adopted by international and regional bodies. These frameworks cover children in all aspects of the justice systems, including **child victims and witnesses of crime, children in welfare proceedings and children before administrative tribunals.**

- › Victims of violence (all forms)
- › Perpetrators
- › Asylum seekers
- › Children with disabilities
- › Breach of rights in health, education...any other area

JUSTICIABILITY OF RIGHTS

For rights to have meaning, effective remedies must be available to redress violations.

Implicit in the Convention and consistently referred to in the other six major international human rights treaties.

Children's special and dependent status creates real difficulties for them in pursuing remedies for breaches of their rights, so particular attention needed to ensuring that there are **effective, child-sensitive procedures available to children and their representatives**. These should include the provision of **child-friendly information, advice, advocacy, including support for self-advocacy, and access to independent complaints procedures and to the courts with necessary legal and other assistance**.

Where rights are found to have been breached, there should be appropriate reparation, including compensation, and, where needed, measures to promote physical and psychological recovery, rehabilitation and reintegration, as required by article 39.

OBJECTIVES AND THE SCOPE OF THE CRC C'S MESSAGES

- 1.** To provide a contemporary consideration of the relevant articles and principles in the Convention on the Rights of the Child, and to guide States towards a holistic implementation of child justice systems that promote and protect children's rights;
- 2.** To reiterate the importance of prevention and early intervention, and of protecting children's rights at all stages of the system;
- 3.** To promote key strategies for reducing the especially harmful effects of contact with the criminal justice system, in line with increased knowledge about children's development

STARTING POINT: PREVENTION

State parties should undertake **their own research** to inform the development of a prevention strategy.

Prevention and early intervention programmes should be focused on **support for families, in particular those in vulnerable situations** or where violence occurs.

Support should be provided to **children at risk**, particularly children who stop attending school, are excluded or otherwise do not complete their education.

Peer group support and a strong involvement of parents are recommended.

States parties should also develop **community-based services** and programmes that respond to the specific needs, problems, concerns and interests of children, and that provide appropriate counselling and guidance to their families.

INTERVENTION

- › Fair trial guarantees: systematic training of professionals in the child justice system is crucial to uphold those guarantees
- › Safeguards against discrimination
- › legislation and ensure practices that safeguard children's rights from the moment of contact with the system
- › Basic principles: BiT, Respect for the views of the child, Rights to life, survival and development

DIVERSION

The decision to bring a child into the justice system does not mean the child must go through a formal justice process.

The Committee emphasizes that the competent authorities should continuously explore the possibilities of avoiding a court process or conviction, through diversion and other measures, from the earliest point of contact and be available throughout the proceedings.

In the process of offering diversion, the child's human rights and legal safeguards should be fully respected.

ORGANIZATION OF CHILD JUSTICE SYSTEM 1

- 1.** In order to ensure the full implementation of the principles and rights, it is necessary to establish an effective organization for the administration of child justice.
- 2.** A comprehensive child justice system requires the establishment of Specialised units within the police, the judiciary, the court system and the prosecutor's office, as well as Specialised defenders or other representatives who provide legal or other appropriate assistance to the child.
- 3.** That applies to all proceedings, including civil and administrative.

ORGANIZATION OF CHILD JUSTICE SYSTEM 2

- 1.** Individual assessments of children and a multidisciplinary approach are encouraged
- 2.** Particular attention should be paid to Specialised community-based services for children who are below the age of criminal responsibility, but who are assessed to be in need of support.
- 3.** Non-governmental organizations can and do play an important role in child justice.

AWARENESS RAISING AND TRAININGS

- › Active and positive involvement of Members of Parliament, non-governmental organizations and the media to promote and support education and other campaigns
- › It is crucial for children, in particular those who have experience with the child justice system, to be involved
- › All the professionals involved to receive appropriate systematic and continuous, multidisciplinary training on the content and meaning of the Convention.
- › Consideration should also be given to the possible use of new technologies such as video “court appearances”, while noting the risks of others, such as DNA profiling. There should be a constant reappraisal of what works.

DATA COLLECTION, EVALUATION AND RESEARCH

The Committee recommends that States parties ensure **regular evaluations of their child justice systems**, in particular of the effectiveness of the measures taken, and in relation to matters such as discrimination, reintegration and patterns of offending, preferably carried out by independent academic institutions.

It is important that **children are involved in this evaluation and research**, in particular those who are or who have previously had contact with the system, and that the evaluation and research are undertaken in line with existing international guidelines on the involvement of children in research.

The Committee believes a comprehensive review of all domestic legislation and related administrative guidance to ensure full compliance with the Convention is an obligation.

Its experience in examining not only initial but any periodic reports under the Convention suggests that the review process at the national level has, in most cases, been started, but needs to be more rigorous.

The review needs to consider the Convention not only article by article, but also holistically, recognizing the interdependence and indivisibility of human rights.

COORDINATION AND COOPERATION BETWEEN SECTORS

In examining States parties' reports the Committee has almost invariably found it necessary to encourage further coordination of government to ensure effective implementation: coordination among central government departments, among different provinces and regions, between central and other levels of government and between Government and civil society.

There are many formal and informal ways of achieving effective coordination, including for example inter-ministerial and interdepartmental committees for children.

Many States parties have with advantage developed a specific department or unit close to the heart of Government, in some cases in the President's or Prime Minister's or Cabinet office, with the objective of coordinating implementation and children's policy.

STATE PARTIES TO THE CRC EVALUATED AND PROGRESS NOTED

- › Albania
- › Armenia
- › Azerbaijan
- › Georgia
- › Kazakhstan
- › Kosovo (UNSCR 1244)
- › Kyrgyzstan
- › Moldova
- › Montenegro
- › Tajikistan
- › Ukraine

PROVEN STRATEGIES IN CHILD-FRIENDLY JUSTICE

- ▶ National legislative and regulatory frameworks and practices were brought in line with international and European standards;
- ▶ Alternatives to detention and services to support reintegration of children in conflict with the law have been expanded;
- ▶ Capacity-building on child rights has been institutionalized for judges, prosecutors, social workers and police officers;
- ▶ Probation services have been established where they did not exist and some countries are showing promising practices (for example Albania, Kosovo (UNSCR 1244), Moldova);
- ▶ Quality of services of children in conflict with the law has improved;
- ▶ Monitoring by National Human Rights Institutions has increased. For example, in Azerbaijan, the EU and UNICEF supported the Ombudsman's National Preventive Group to strengthen monitoring capacity for child rights protection and prevention of violations in closed facilities, including detention places
- ▶ Understanding and recognition of reintegration as the appropriate approach to deal with young offenders has increased among juvenile justice professionals due to concerted efforts in many countries to build capacities on child rights and child-friendly justice mechanisms.

Reforms in practice – Georgia

- › The reform of the juvenile justice system, under the umbrella of the wider criminal justice sector reform, demonstrates the commitment of the Government of Georgia to bring the juvenile justice system in line with CRC Recommendations. As a result, the country has a functioning diversion programme for first-time juvenile offenders that has been in operation since 2010.
- › Over 200 young people have been diverted from criminal proceedings. The number of the convicted children serving a jail sentence has reduced by over 50 percent from 180 to approximately 70. Individual sentence planning approach has been introduced in both probation and the penitentiary systems, along with the services of social workers and psychologists.

KEY INSTRUMENTS RATIFIED BY EGYPT, RELEVANT FOR JUSTICE FOR CHILDREN

Egypt has ratified the following child-specific international and regional instruments:

- › The UN Convention of the Rights of the Child
- › The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography
- › The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
- › The African Charter on the Rights and Welfare of the Child
- › The International Labour Organization Convention No. 182 (1999) concerning the Prohibition and Immediate Elimination of the Worst Forms of Child Labor
- › Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

PRAISES: COBs TO EGYPT 2011

The Committee commends the shift in the State party from a punitive to a child rights-oriented juvenile justice system pursuant to the amended Child Law (2008). It welcomes, as previously recommended by the Committee (CRC/C/15/Add.145, para. 23), the raising of the minimum age of criminal responsibility from 7 to 12 years. The Committee further notes as positive the strengthening of legal safeguards for children in conflict with the law and the provision on the establishment of Child Courts and Specialised Child Prosecution Offices in the Child Law (2008). It further appreciates the reassurance provided by the delegation that criminal sanctions against children under the age of fifteen are prohibited under domestic law (Child Law (2008)).

OVERVIEW OF THE BARNAHUS MODEL⁵

⁵ For more info <https://www.barnahus.eu/en/about-barnahus/>

Children at risk are one of the flagship priorities of the Council of the Baltic Sea States, an intergovernmental platform for regional cooperation in the Baltic Sea region that gathers 10 Member States and the EU. Children at Risk's main aim is to promote strong national child protection systems, child-friendly justice and international partnerships for non-violent childhoods.

The Barnahus model was first established in Iceland almost 25 years ago. Today, the 10 Member States operate a Barnahus or a similar service. The Promise Barnahus Network was initiated in 2015 which has which has 40 members in over 20 countries. When a child has been exposed to violence, it is a shared responsibility as many different actors step in to play their respective regarding social welfare and child protection, law enforcement and medical and mental health services.

The Barnahus is sometimes described as a house with four different rooms, including child protection, medical interventions, therapeutic interventions and criminal investigation, the investigative child interview. The four rooms are embedded in a multidisciplinary architecture which is crucial to fulfil the rights of the child to protection, participation, support and assistance.

One of the main objectives of the Barnahus model is to build a protective and child-friendly environment where the child is placed at the centre of a comprehensive intervention to meet the child's rights and needs. This prevents children from being drawn into parallel and uncoordinated processes and reduces the number of times the child has to share their story. It also ensures that each child receives an individually adapted response.

For example, in some places, it is embedded as a function of the social services and child protection authorities and in other cases they fall under the health system or law enforcement. In Croatia and the UK, it is the health system. In Iceland and Denmark, it is the child protection system. In Norway, it is the law enforcement.

In all cases, a multidisciplinary and interagency collaboration is integrated in one child-friendly premise and enables important linkages between all relevant systems. Barnahus ensures that the person who interviews the child receives special training in forensic interviews with children. It is also crucial that all interviews are embedded in a multidisciplinary setting and contributes to the overall interagency response.

Lastly, it is important to highlight that the Barnahus model could be adapted to different national context, according to the international standards, core principles and evidence-based practice that are inherent to the model.

PEER PRESENTATION

Presentation of the Barnahus System during the workshop (15 February 2022):
Ms. Olivia Lind Haldorsson, Head of Children at Risk Unit, Council of the Baltic Sea States and President of the Promise Barnahus Network.



P R O M I S E
Barnahus Network

COUNCIL OF THE BALTIC SEA STATES - CHILDREN AT RISK

- › Political forum for regional inter-governmental cooperation through political dialogue and practical projects
- › 10 member states: Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland and Sweden + EU
- › Three long-term priorities:
 - Regional Identity
 - Sustainable & Prosperous Region
 - Safe & Secure Region
- › Children at Risk: Child protection systems, child-friendly justice and assistance, non-violent childhoods, Promise

PARALLEL INVESTIGATIONS, PROCEDURES & PROCESSES

SOME OF THE PROBLEMS THAT MIGHT ARISE

- › Delays in interviews, repeated interviews, in different locations, with different people, court room testimony sometimes years after the incident.
- › Stress to child, traumatisation & re-traumatisation of child: prevent and delay child's protection & recovery, evidence can become less accurate, less reliable, child discredited as witness.
- › Hamper criminal investigation, prevent & delay justice for child and/or perpetrator

What happened to me at court was worse than the abuse.

I felt like giving up because they had been messing me about for so long.

It was an open room for all the police officers... it was not very practical because everyone heard what I said ... it was not very suitable for children ...

BARNAHUS QUALITY STANDARDS

- › Ensuring best interests of each child is a primary consideration
- › Ensuring the right of each child to be heard without repetitive and intimidating interviews and hearings in full respect of the procedural rights of both the child and defendant
- › Ensuring that all children are heard and receive support and assistance by specialist and competent professionals without undue delay
- › Ensuring a comprehensive, accessible multidisciplinary and interagency response for each child in one child-friendly premise that meets the complex needs of the child

<https://www.barnahus.eu/en/the-barnahus-quality-standards/>

COLLABORATING FOR JUSTICE AND RECOVERY

- › Forensic interview takes place in the context of a comprehensive intervention, involving different sectors – “the four rooms”
- › Cross-cutting principles applicable to all practice in Barnahus (best interests, child participation, undue delay, rights of defence)
- › Standard 2: Multidisciplinary and interagency organisation
- › Standard 5: Interagency Case Management

BARNAHUS QUALITY STANDARDS #6

1. Evidence-based Practice and Protocols
2. Specialised Staff
3. Location and recording
4. Multidisciplinary and interagency presence:
5. Respecting defendant's right to a fair trial and "equality of arms"
6. Adapted to child

- 1. Best interests of the child**
- 2. Right to be heard and receive information**
- 3. Avoiding undue delay**
4. Multidisciplinary and interagency collaboration
5. Inclusive target group
6. Child-friendly environment
7. Interagency case management
8. Training of professionals



Observation room, Barnahus Iceland



Observation room, Barnahus Linköping



Interview room, Barnahus Linköping



Interview room, Barnahus Iceland

COLLABORATING FOR JUSTICE AND CARE

- › Child forensic interviews do not cause (re)traumatisation, but secures the best possible evidence, in full respect of the procedural rights of both the potential victim and defendant.
- › Child-friendly criminal and pre-trial investigations help produce admissible evidence of high evidential value.
- › The criminal investigation is carried out in the context of a multidisciplinary and interagency collaboration and comprehensive intervention that concerns both child friendly justice and a safe path to recovery.

ADAPTING BARNAHUS TO YOUR NATIONAL CONTEXT

- › A flexible model – what works in your country?
- › Understanding the context in which Barnahus will be established and operate helps generate a feasible and sustainable approach and model
- › Understanding the opportunities, barriers and enabling factors will help generate a successful approach and model
- › Coming together already at an initial stage to assess the situation as a whole and as individual agencies helps generate mutual interest, trust and commitment
- › First step towards creating a roadmap with clear and timed goals that everyone can commit to

For more Information

OECD (2021), OECD Framework and Good Practice Principles for People-Centred Justice, OECD Publishing, Paris, <https://doi.org/10.1787/cdc3bde7-en>.

OECD (2019), Equal Access to Justice for Inclusive Growth: Putting People at the Centre, OECD Publishing, Paris, <https://doi.org/10.1787/597f5b7f-en>.

Governance - Organisation for Economic Co-operation and Development (oecd.org)

Library - Organisation for Economic Co-operation and Development (oecd.org)

OECD/Open Society Foundations (2019), Legal Needs Surveys and Access to Justice, OECD Publishing, Paris.

Egyptian Law no. 12 of 1996 promulgating the Child Law amended by Law no. 126 of 2008

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Governance Organisation for Economic Co-operation and Development (oecd.org)

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