



Child participation in the preparation and drafting of the Slovenian Law on Barnahus

Concept Note

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**Developed in the framework of the joint EU SRSS – Council of Europe project to
Support the implementation of Barnahus (Children's House) in Slovenia**

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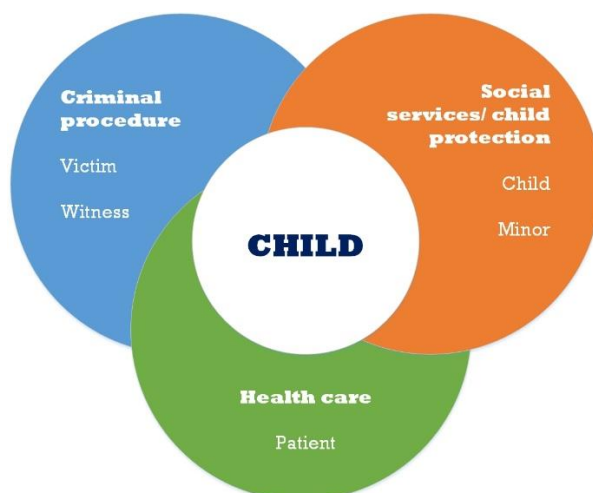
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1. Context

The project [Supporting implementation of Barnahus in Slovenia](https://www.coe.int/en/web/children/barnahus-project-in-slovenia) (2019-2021)², implemented by the Council of Europe Children's Rights Division and co-financed by the EU DG Reform and the Council of Europe, aims to contribute towards improving the quality of the justice system in order to support institutional and administrative structural reform in Slovenia. More specifically, the action aims to support the Slovenian authorities to set up and implement the Barnahus (Children's House) response model for child victims and witnesses of violence. Barnahus is a leading European model responding to child sexual abuse. In one child-friendly premise, it facilitates coordination of parallel criminal investigation and child welfare assessment processes and provides child victims and their families the necessary supporting services.

Both criminal justice and child protection proceedings, including medical examination and the provision of necessary treatment, are meant to address violence against children but still, they operate within distinct frameworks involving different actors, procedures and timelines.³ Accordingly, while the child is in the centre of the Barnahus model, he/she is seen as having a particular status by the different professionals who work as a multidisciplinary team in the Barnahus. Formal interagency agreement(s), harmonization of parallel procedures and operative protocols as well as interagency case management should be in place to guarantee that the best interests of the individual child is determined and implemented. By mainstreaming child participation throughout the model, children will be enabled to voice their feedback from different perspectives and contribute towards the process of ensuring that Barnahus is a truly child-friendly institution.



1. Figure 1: Perspectives of the Child in the Barnahus model

¹ Child protection in criminal proceedings and comprehensive treatment of children in the Children's House Act (1 June 2020), available at: <https://www.coe.int/en/web/children/strengthened-legal-policy-and-institutional-framework>

² <https://www.coe.int/en/web/children/barnahus-project-in-slovenia>

³ Rebecca O'Donnell: At the Crossroads – Exploring changes to criminal justice proceedings when they intersect with child protection proceedings in cases involving child victims of violence. Promise project. 2020. pp. 6.

A draft **Law on Barnahus** was launched for public consultation on 4 June 2020 by the Ministry of Justice of the Republic of Slovenia and it is expected to be presented for the National Assembly during autumn 2020. The joint EU DG Reform - Council of Europe project supports the public consultation process, including through provision of independent expert and/or peer review of the draft Law, facilitation of child consultations and organisation of a public consultation event before the draft Law is submitted for the National Assembly.

The purpose of this concept note is to define **the framework within which child participation can be facilitated to contribute towards further improving the draft Law on Barnahus in Slovenia**. The draft Law contains elements on organisational and operational aspects of Barnahus and provides details on the comprehensive treatment procedure to be implemented, including hearing, physical examinations, crisis support and psychosocial assistance for child victims and witnesses of sexual and eventually also other forms of violence.

Child participation activities and consultations supported by the project will be carried out in line with the Council of Europe and other international standards relevant for child participation, in particular [Recommendation \(2012\)2 of the Committee of Ministers of the Council of Europe on the participation of children and young people under the age of 18](#) (CM Recommendation 2012), and building on the relevant expertise and experiences already in place in Slovenia. The objective is to support children to form and express their opinion on how the draft Law should be further adjusted and/or revised. Children's recommendations will be submitted within the framework of the public consultation process and therefore taken into account before submitting the final draft Law to the National Assembly.

In addition, it is envisaged that this concept would provide a basis for developing a wider strategy for child participation in setting up the physical and operational structure of Barnahus in Slovenia and its implementation in an efficient and child-friendly manner.

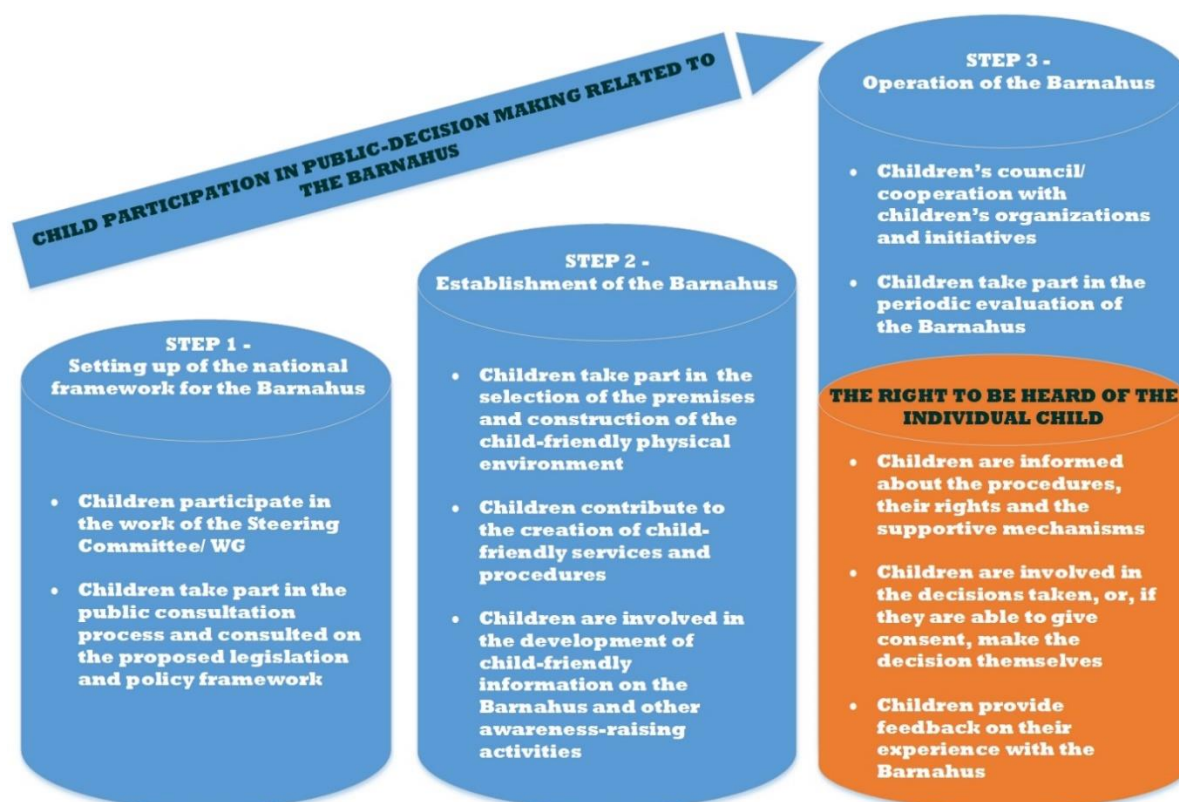


Figure 2: Possibilities to mainstream child participation in the Barnahus model

2. Framework for child participation to contribute towards the draft Law on Barnahus

The Council of Europe [Child Participation Assessment Tool](#) (CPAT)⁴ has been recently implemented in Slovenia in cooperation with a wide range of stakeholders and with participation of children. According to the outcomes of the assessment, Slovenian children have the potential for developing participatory behaviour, but they are rarely involved in the process of designing and monitoring children's rights instruments at governmental level. Access to child-friendly information about children's participation in judicial and criminal proceedings – including health care and criminal procedure – is limited. At the same time, multi-level structure for child participation as a civil society initiative is in place since 1990: the Children's Parliament enables the involvement of children in decision-making from local to national level. There is a momentum to involve children in decision-making at the highest level, including on-going preparations of the Programme for Children and Youth 2020-2025 as well as the public consultation process of the draft Slovenian Law on Barnahus, which is the focus of this concept.

According to the CM recommendation 2012, **child participation** means that children and young people under the age of 18, individually and in a group, have the **right**, the **means**, the **space**, the **opportunity** and, where necessary, the **support** to freely express their views, to be heard and to contribute to decision making on matters affecting them, while their views are given due weight in accordance with their age and maturity.

This concept note builds on these different elements of child participation as follows:

- The section 2.1 on the **right to participation** gives an overview of the relevant legal framework as a basis for conducting child consultations on the draft law on Barnahus;
- The section 2.2 on the **opportunity for participation** explores the possible models of participation taking into account the structure already in place in Slovenia and identifies the target group of the consultations;
- The section 2.3 on **means of participation** provides further information of supporting information and tools needed for implementing child participation in a meaningful manner;
- The section 2.4 on **space for participation** provides further information on how the process should be carried out in order to avoid manipulation and influence from adults facilitating the process.
- The section 2.5 on **support for participation** provides an overview of the necessary resources, including human resources to support and carry out the child participation activities and/or consultations related to the drafting process of the Barnahus law in Slovenia.

Section 3 provides a brief summary of the proposed timeline, deliverables of the process and steps to be taken.

⁴ For more details on the CoE CPAT, please see: <https://www.coe.int/en/web/children/child-participation-assessment-tool>

2.1. The right to participation

Child participation in the drafting of the Slovenian Law on Barnahus is firmly based on international legal standards accepted by Slovenia and the domestic legislation in Slovenia.

Article 12 of the [UN Convention on the Rights of the Child](#)⁵ (CRC) stipulates that children have the right to express their views freely on all matters affecting their life and their views should be given due weight in accordance with their age and maturity. In accordance with Article 13 CRC, the right to freedom of expression incorporates the right to information, furthermore, Article 17 CRC prescribes that children shall have “access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health”. Article 9 of the [Council of Europe Convention Protection of Children against Sexual Exploitation and Sexual Abuse](#) (Lanzarote Convention/LC)⁶ provides that each Party shall encourage the participation of children, according to their evolving capacity, in the development and the implementation of state policies, programmes or others initiatives concerning the fight against sexual exploitation and sexual abuse of children. When referring to the best interests of the child, Article 19(3) of the [EU Directive on Combating child sexual abuse, sexual exploitation and child pornography \(2011/92/EU\)](#)⁷ emphasises the need to take into account the child’s views, needs and concerns.

Slovenia is a State Party both to the CRC and Lanzarote Convention and in accordance with Article 8 of its Constitution, the ratified international treaties must apply directly and the domestic legislation must comply with them. This is of crucial importance as the Constitution does not stipulate the children’s right to participation, but the right to protection and special care.

2.2. Opportunity for participation

Setting up a legal and policy framework for Barnahus that will provide services for children is a matter that directly affects the lives of children. As a result, children should be given the opportunity to consult the draft Law on Barnahus, express their opinions and have their views taken into consideration in accordance with their age and maturity. Children should also be provided with a follow-up feedback on the final decision and the opportunities to get involved in the implementation of Barnahus.

Although the scope of child participation covered by the present concept is to express opinions on and provide recommendations to the draft Law on Barnahus, the consultations also provide an occasion to identify further entry points for children related to the setting up and operation of Barnahus. The joint EU DG Reform-Council of Europe project foresees a development of a specific Child Participation Strategy for Barnahus, which would cover the evaluation of services as well as wider awareness-raising activities on sexual violence against children to be implemented in cooperation with children.

The following two models were considered to carry out child consultations of the draft Law on Barnahus and further explored given the time and resources available.

⁵ <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

⁶ <https://www.coe.int/en/web/children/lanzarote-convention>

⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0093>

- **Child-led initiative**

In the case of a child-led initiative, children are provided with all necessary support by adult professionals, but they lead the process themselves and make the final decisions with regards to the outcome of the consultation process. With a child-led initiative, a small group of children (an advisory group) would be generally selected to lead the process and be introduced relevant information. With support of adults, children themselves would design, plan and implement activities aiming to collect opinions and feedback from a wider group of Slovenian children. This could be done through a variety of actions aimed to reach out to their peers and collect views and opinions, including questionnaires, organisation of discussions and school visits. Information collected would be analysed by the advisory group which would prepare a compiled report of the opinions of Slovenian children on the draft Law.

It would be recommended, time and resources permitting, to build on the already existing child participation structures in Slovenia, such as the Children's Parliaments mentioned above, and further strengthen these capacities for mainstreaming child participation in the context of the wider development of Barnahus (see figure 2 above). However, the short timeline of the public consultation process on the draft Law on Barnahus in Slovenia would not seem to enable a meaningful facilitation of a child-led initiative in this context.

- **Collaborative initiative**

In the case of a collaborative initiative, consultations with different groups of children are organized (e.g. age groups, diverse groups, vulnerable children) and the process of the consultation is designed and led by adult professionals; however, it is flexible to adapt to the needs, interests and ideas of the children consulted. The aim of the consultation is to support children in forming and expressing their views on the draft Law without influencing it. In this case, children are actively engaged, and the decision-making is shared with adults.

For the purposes of the draft Law on Barnahus, a collaborative model is proposed to consult children between the age of 13 and 18 years.

Consultations will be carried out both at local and national levels reaching out to children at urban and more remote/rural areas of the country. Given the short and challenging timeframe during the holiday period, it is recommended to focus on quality of the child consultations rather than insisting on the quantity and the overall number of children consulted. **Up to 7-10 groups of approximately 5-15 children each will be selected according to their interest, age, gender as well as vulnerability.**

It is vital to target specifically those children, whose voices are not always heard in mainstream discussions, including children who are at risk or particularly vulnerable to sexual abuse, such as children in care, children with disabilities, children living in rural areas or children with minority or migration background. Although diversity and equal opportunities should be endorsed, the unique experience of vulnerable children with regard to protection measures, social and other services may justify separate consultations with them. The collaborative initiative is well suited for this purpose.

Child consultations are a common initiative implemented by children and adults together, where both are proactively developing and nurturing the relationship. Section 3 proposes the timeline and the actions taken with regard to the organization of the consultations.

2.3. Means for participation

Children should be provided with the means necessary for their meaningful participation, in particular through providing child-friendly information on the following topics:

- the right to be protected from all forms of violence, including sexual violence, victim protection and assistance;
- child-friendly justice;
- the concept and purpose of Barnahus;
- Barnahus in the Slovenian context: relevant sections of the draft Law on Barnahus.

Accordingly, the package of child-friendly information materials should include all necessary information children need to know in order to understand and form their views on the draft Law on Barnahus, and be adapted to the particular age group of 13-18 year old children. Child-friendly information developed and tested at the consultations can be further adapted and developed based on needs and used later for wider awareness-raising activities on Barnahus in Slovenia.

The environment, where the child participation activities takes place, should be child-friendly and accessible for every participant, including children with disabilities and children from rural areas. The adult professionals supporting or facilitating the process should be trained and able to keep the environment safe and be prepared to deal with eventual disclosure of sexual violence.

It is recommended the consultations are done in collaboration with a local partner NGO and/or local experts with proven track records in organising child participation activities in Slovenia.

2.4. Space for participation

The aim, the framework and limitations of child participation should be clearly defined and communicated to children involved so that they are aware of their role from the beginning and can work on their own ideas and proposals related to the draft Law on Barnahus.

Children should be able to express their views freely, without manipulation or influence, also in terms of format and content. In line with the practice of the UN Committee on the Rights of the Child and the CoE Lanzarote Committee, children should be able to prepare their proposals in any form which reflects their views and recommendations. The freedom to choose the format ensures that the content rightly reflects the messages children would like to convey about the draft Law on Barnahus. This may include written feedback, videos, drawings, etc. The choice of formats will be further explored for the purposes of the public consultation procedure. To ensure the opinions of children can be taken into account in the drafting process in a meaningful way, the Council of Europe will develop tools to help analyse and extract the information and results contained in different formats produced by children. This may include a reporting template and additional support in analysing the results in the context of the draft Law on Barnahus.

2.5. Support for participation

Children must be prepared to take part in the consultations and supported throughout the process, including the chance to evaluate and debrief their experience at the end. The support required includes:

- **Facilitator(s):** professional(s) who facilitate(s) children's discussion to form and express their views without influencing the outcomes.

- **NGO/civil society partner(s):** partner(s) with capacity and experience to reach out to children who would be interested to take part in child consultations and to organise practical arrangements for the consultations. The profile of the partner is characterized by proven experience in child participation, preferably at national level.
- **International Council of Europe consultant:** coordinator who helps to identify suitable civil society partner(s), provides support and guidance for the selected partner(s) and facilitator(s), including by developing a methodology to carry out the consultations and other supporting materials. Required child-friendly information will be developed in collaboration with the local partner(s) and facilitator(s).
- **State authorities:** if necessary and appropriate, relevant authorities provide support for the selected civil society partner(s) and closely follow the child participation activities.

The professionals should treat children with respect as well as to provide a safe and accessible environment for the consultations. In order to ensure that, the child safeguarding policy of the Children's Rights Division of the Council of Europe must be applied, and concrete steps and guidance put in place and observed by the facilitator(s) and professional(s) supporting the process.

3. Proposed step-by-step implementation

The following timeline incorporates the different activities with tentative dates for key milestones for child participation in the preparation and drafting the Law on Barnahus in Slovenia. It may be further adjusted to the covid-19 pandemic health emergency situation in Slovenia and the availability of the partners and the children themselves in this context.

Steps	Tentative dates	Responsible
Preparation phase		
1. The concept note for child participation for the draft Law on Barnahus in Slovenia prepared and approach jointly agreed upon by project partners.	May-June 2020	CoE consultant Project partners (MoJ, EU, CoE)
2. The civil society partner is selected and contracted. 3. If/as appropriate, a technical group (CoE representative, civil society representative, child representative, government representative) is set up to prepare the consultations.	June-July 2020	CoE
4. Methodology of the child consultations and child-friendly information are developed and finalized. 5. All practical arrangements, including negotiation with schools and other institutions as well as organizational matters, are prepared and implemented.	July 2020	CoE consultant Local NGO partner(s)

Implementation phase		
6. The child consultations are carried out.	July – August and early September 2020	Local NGO partner(s) and facilitator(s) with support of the CoE consultant
7. Representatives of the groups of children consulted take part in the Children's Meeting in order to discuss and finalize the Slovenian children's contribution and prepare for the public consultation meeting.	Week of 21 September 2020	Local NGO partner and facilitators, CoE consultant, CoE, MoJ
8. Children take part in the public consultation meeting, present their views to the authorities and other stakeholders and engage in discussions with them. By respecting the deadline for public consultation, the children submit their opinion officially as well.	Week of 21 September 2020	Local NGO partner and facilitators, CoE consultant, CoE, MoJ
Analysis and follow-up phase		
9. Comprehensive report about the child participation process is prepared.	October 2020	CoE consultant Local NGO partner and facilitators
10. Once the Law on Barnahus is adopted by the Parliament and promulgated, children are informed on the final text and receive feedback on how their views were taken into account.	2021	Local NGO partner and facilitators, CoE consultant, CoE

4. Concluding summary

Children will visit Barnahus in Slovenia mainly because they would have been victims or witnesses of sexual violence. In Barnahus children will be interviewed and examined for the criminal investigation process, their protection needs assessed and crisis support and therapy provided based on needs. Slovenian children can provide valuable contributions to further improving the draft Law on Barnahus and ensuring that once established, the Barnahus is a child-friendly institution in Slovenia.