



Strasbourg, 7 July 2014

REGIONAL ACTIVITY IN THE BALTIC SEA REGION

“CHILD EVIDENCE”

Introduction

The Council of Europe is undertaking, in collaboration with the Council of Baltic Sea States, a regional activity on child evidence within the framework of a child-friendly justice system. The activity will exchange recent best initiatives and practices in the Baltic Sea Region on the gathering, taking and testing of evidence from children in criminal, civil and administrative proceedings with an aim to facilitating their transposition from one legal system to another. The activity will be carried out in two stages.

As a first step, a comparative analysis will be undertaken on recent best initiatives and practices in the field within the region and their functioning in the State. The result of the analysis will be presented at a meeting to take place in the Baltic States in the course of 2015 (date and place to be identified). It is expected that the meeting will encourage national authorities in the Baltic region to transpose good initiatives and practices in their rules of legal procedure.

Subsequent to this first meeting, a feasibility analysis will be undertaken on the potential of identified good initiatives and practices to be successfully developed in States in the region wishing to introduce them in their rules of legal procedure. The focus of the analysis will be to identify the possible obstacles as well as positive factors that might facilitate their transposition and suggest ways on how to develop them. The result of the analysis will be presented at a second meeting to take place in the course of 2015 with the aim of providing concrete guidance to those States.

Representatives from ministries of justice and ministries dealing with child protection will take part in both meetings, together with other relevant government ministries and professional bodies in the justice sector.

Child evidence

The Council of Europe Child-Friendly Justice Guidelines, prepared by the European Committee on Legal Co-operation (CDCJ), contain a number of guidelines on gathering and taking evidence from children (see below). Children are to be treated with care, sensitivity, fairness and respect throughout the proceedings and they are to be protected from intimidation, reprisals

and secondary victimisation. Professionals having direct contact with children should be trained in communicating with children of different ages and stages of development. Importantly, ensuring the respect of children's rights - the rights of the other parties involved should not be jeopardised.

At all stages of the judicial proceedings (investigation/pre-trial, examination/cross examination of witness, protection of witnesses) it is important to ensure that evidence given by children has a high probative value.

Progress in applying the child-friendly justice guidelines in the Baltic Sea Region

The Baltic Sea Region consists of Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, Russian Federation and Sweden. The aim of the meeting is to encourage the application of the child friendly justice guidelines.

What initiatives have been taken by the countries in the Baltic Sea Region to implement the guidelines? What existing good practice is there? What has made these initiatives successful and how might they be transposed to other states?

Examples of best practice are not always entirely transferrable as such, yet they can be successfully used as a source of inspiration and be adapted to the legal culture and capacities of the member state.

Government ministries and justice sector professionals will be invited to identify relevant initiatives and/or indicate those on which they would like to learn more.

One such initiative is the Children's House.

Example of good practice: the "children's houses" system

The "Children's House" is a child friendly environment designed to make the child feel secure and comfortable, with the overt aim of preventing repetitive interviews and of avoiding a second victimisation of the child. The core of the concept of the Children's House is the joint investigative interview of the child victim, executed by a trained professional interviewer under the formal authority of a Court Judge, observed by representatives of the police and prosecution, the defence lawyer, the child's legal advocate and the child's social worker. The interview is videotaped for multiple purposes, including medical examination and therapeutic services that are also provided in the Children's House.

Children's Houses have been identified as a good practice by children, their families and by relevant international organisations. Today, children's houses are established in Iceland, Norway, Sweden and Denmark.

Child-Friendly Justice Guidelines on evidence and statements by children

- *Interviews of and the gathering of statements from children should, as far as possible, be carried out by trained professionals. Every effort should be made for children to give evidence in the most favourable settings and under the most suitable conditions, having regard to their age, maturity and level of understanding and any communication difficulties they may have.*

- *Audiovisual statements from children who are victims or witnesses should be encouraged, while respecting the right of other parties to contest the content of such statements.*
- *When more than one interview is necessary, they should preferably be carried out by the same person, in order to ensure coherence of approach in the best interests of the child.*
- *The number of interviews should be as limited as possible and their length should be adapted to the child's age and attention span.*
- *Direct contact, confrontation or interaction between a child victim or witness with alleged perpetrators should, as far as possible, be avoided unless at the request of the child victim.*
- *Children should have the opportunity to give evidence in criminal cases without the presence of the alleged perpetrator.*
- *The existence of less strict rules on giving evidence such as absence of the requirement for oath or other similar declarations, or other child-friendly procedural measures, should not in itself diminish the value given to a child's testimony or evidence.*
- *Interview protocols that take into account different stages of the child's development should be designed and implemented to underpin the validity of children's evidence. These should avoid leading questions and thereby enhance reliability.*
- *With regard to the best interests and well-being of children, it should be possible for a judge to allow a child not to testify.*
- *A child's statements and evidence should never be presumed invalid or untrustworthy by reason only of the child's age.*
- *The possibility of taking statements of child victims and witnesses in specially designed child-friendly facilities and a child-friendly environment should be examined.*