

CHILD-FRIENDLY JUSTICE ASSESSMENT TOOL



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Child-friendly Justice Project

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CHILD-FRIENDLY JUSTICE ASSESSMENT TOOL

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Introduction

This Child-Friendly Justice (CFJ) Assessment Tool aims to support member states in meeting the standards for child-friendly justice in all situations in which children are likely to be brought into contact with the justice system, for whatever reason and in whatever capacity – as offenders, victims, witnesses or parties – in judicial proceedings (criminal, civil or administrative law) or non-judicial proceedings. The Assessment Tool is intended to assist member states in best implementing the [Guidelines of the Committee of Ministers of the Council of Europe on Child-friendly Justice](#) (hereinafter referred to as ‘the Guidelines’) and in best self-assessing their progress in doing so.

■ The Guidelines define child-friendly justice as: *“justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity.”*

■ The Guidelines are meant to support Council of Europe member states in making their justice systems more child-friendly and respectful of children’s rights in line with the United Nations Convention on the Rights of the Child (UNCRC) and related international and European standards as well as with the case law of the European Court of Human Rights, notably through: *“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”*. All relevant standards appear in the annex to the Tool.

■ The CFJ Assessment Tool takes into account the key concerns expressed by children in consultations and research with and for children conducted during and since the drafting of the Guidelines, namely:

- ▶ Quality training of professionals working for and with children;
- ▶ Implementation and effectiveness of child-friendly justice mechanisms;
- ▶ The right of children to be heard and participate; and
- ▶ Children’s participation in the assessment of child justice systems.

■ Across the diverse research projects covering children in different types of proceedings (mainly criminal and civil, less in administrative proceedings) and roles (victims, witnesses, parties, suspects, accused persons), we have consistently seen that their concerns relate to:

- ▶ not being properly informed and their understanding not being checked;
- ▶ not being adequately prepared;
- ▶ their particular needs not being considered;
- ▶ and, most of all, disrespectful or insensitive or unempathetic behaviour by professionals.

■ This CFJ Assessment Tool is designed to help member states:

- ▶ best implement the Guidelines;
- ▶ understand and assess to what extent their justice system is child-friendly (identify what works well and what should be improved in the country);
- ▶ evaluate to what extent the various parties and professionals involved in the justice system are aware of and understand the principles of child-friendly justice and access to justice for children;
- ▶ identify their capacity-building needs and seek tailored solutions;
- ▶ ensure that the availability of information and data is improved and that data are collected regularly on child-friendly justice for sound policy making;
- ▶ establish a baseline as well as concrete and feasible national objectives to overcome existing gaps and challenges and measure progress over time;
- ▶ highlight, promote and share good practices.

Using the Child-Friendly Justice Assessment Tool

Rationale. The CFJ Assessment Tool is a direct means to implement Part VI of the Guidelines, which reads:

VI. Monitoring and assessment

Member states are also encouraged to:

- a. review domestic legislation, policies and practices to ensure the necessary reforms to implement these guidelines;*
- b. to speedily ratify, if [they have] not yet done so, relevant Council of Europe conventions concerning children's rights;*
- c. periodically review and evaluate their working methods within the child-friendly justice setting;*
- d. maintain or establish a framework, including one or more independent mechanisms, as appropriate, to promote and monitor implementation of the present guidelines, in accordance with their judicial and administrative systems;*
- e. ensure that civil society, in particular organisations, institutions and bodies which aim to promote and to protect the rights of the child, participate fully in the monitoring process.*

Purpose. The CFJ Assessment Tool aims to help member states build or strengthen child-friendly justice systems. They can use it to establish a baseline, measure progress, identify gaps and develop strategies to overcome challenges and achieve child-friendly justice for all children.

Targeted users. The CFJ Assessment Tool is designed to be used across the member state's government ministries, throughout national and local administrations, within and outside the courts and judicial systems, by relevant professionals working for and with children in the administration of justice, including law enforcement authorities, by academic and civil society partners, by training centres providing basic and continuing training for all professionals involved in child justice and by organisations working with and for children and young people. The more transparent and open the dissemination of the Assessment Tool, the more effective it will be in ensuring that children have access to child-friendly justice whenever they are brought into contact with justice systems.

Multistakeholder participation. Enhancing child-friendly justice requires a collaborative effort and inter-sectoral collaboration. It is thus strongly recommended that member states' governments follow a human rights-based approach and work closely with other relevant stakeholders, including healthcare professionals, legal professionals, social services, civil society organisations, national human rights/child rights institutions, academic institutions, as well as children themselves and their parents/guardians.

Child participation. All children must be provided with an opportunity to participate in such assessment, including children in vulnerable situations such as children with disabilities (mental or physical), or those belonging to minority groups, LGBTQI+, etc. This may include obtaining feedback on their experience relating to indicators or consulting with children, or involve research with and for children during the reporting process, as outlined in the Appendix.

Template or Country profile. Like the Child Participation Assessment Tool, the CFJ Assessment Tool includes a Template or Country Profile¹ for reporting the results of the assessment by indicator. The completed Template provides a Country Profile of the member state. This Profile can be used at a later stage to monitor and review the implementation of the agreed follow-up proposals and action plans.

1. Note: The Template / Country Profile will need to be developed in later versions of the CFJ Assessment Tool.

Periodic reviews. Using the CFJ Assessment Tool to conduct an assessment is intended to start a discussion about child-friendly justice in a Council of Europe member state and collect information that can be used to establish a baseline of relevant policy and practice. In addition, either the entire tool or certain parts of it may be used: for example, a member state might decide to assess a targeted aspect of the child-friendly justice process. Further assessments should be conducted periodically to review progress.

CFJ content. The CFJ Assessment Tool provides a standard format for understanding each indicator and includes guidance on how to measure progress in the achievement of child-friendly justice. It is designed to help member states to conduct self-assessments. States' self-assessments of their current systems will assist in identifying shortcomings and ways to progress towards the actual achievement of child-friendly justice.

Indicators. It is recognised that the indicators will require the collection of data that may not currently be readily available. Part of the progress to be made is establishing relevant data collection mechanisms so that data will become available. The indicators may also require additional analysis of existing data, including surveys among children. It is essential, therefore, to understand progress towards meeting the indicators as an incremental process.

This CFJ Assessment Tool consists of **18 indicators** over **three separate sections** identifying core elements of child-friendly justice in law, mechanisms and institutions, and at all stages of the proceedings (before, during and after). **They are not meant to be exhaustive** but rather to highlight key areas and core elements to be considered when monitoring the Guidelines and assessing their effective implementation at country level.

Definitions. Each indicator is described by a short paragraph defining how it is meant to be understood and what it covers (i.e. definition). For some indicators, for example, Indicator No. 6 on children in conflict with the law, subsections may be used to adequately address the full extent of the indicator.

The indicators are categorised as structural, process and outcome indicators.

- ▶ *Structural indicators* provide an indication of a commitment to take action. They refer to the existence of institutions and policies aligned with the UNCRC and Council of Europe standards and the realisation of children's right to child-friendly justice and access to justice.
- ▶ *Process indicators* refer to efforts made and steps taken, following on from a commitment. They generally focus on specific activities, resources or initiatives to ensure child-friendly justice and access to justice for children.
- ▶ *Outcome (or impact) indicators* refer to a resulting and measurable change in the achievement of child-friendly justice.

Data sources. Data collection mechanisms should be set up to address the need for quantitative data. To enhance the quality of data, qualitative research should be conducted through the involvement of key actors, such as children, professionals, authorities, experts. Under each indicator, some potential sources of data are provided, although the availability of data will vary from country to country. The evidence will also be easier to locate for some of the indicators than for others. For example, it should be relatively straightforward to determine whether or not specific legislation or a policy is in place. It is more challenging to assess whether competency-based training for professionals on child-friendly justice exists or whether proceedings meet child-friendly standards. It is important to recognise that lack of information is itself a form of information. When no data is available, it is worthwhile to report this absence as a finding, as it can lead to actionable recommendations for addressing data gaps. In addition, for some indicators, it will be necessary to undertake qualitative research in order to gather comprehensive knowledge on whether the indicator is being met. Through partnerships with key stakeholders, however, it should be possible over time to gather the relevant information with which to determine the extent to which the indicator is achieved.

Thematic approach. One of the key strengths of the Guidelines on Child-Friendly Justice is their applicability across all branches of law. It is therefore recommended that data in civil, criminal and administrative justice (including migration-related procedures) be collected, analysed and reported.

Assessment criteria. Each indicator is accompanied by suggested criteria for assessment. It is important to emphasise that the value of states using this CFJ Assessment Tool is to help establish a baseline and measure their progress in meeting obligations towards children in conflict with the law. It is not a mechanism for comparing or rating member states. Being open and rigorous about the findings is essential in achieving that goal and enabling areas that require greater attention to be identified. Furthermore, the criteria for assessing member states are subject to change over time as children's rights develop and evolve.

Analysis notes. To assist member states in analysing the data collected for the indicator, each indicator requires them to consider three points which should be reflected in the analysis notes:

- ▶ Data available, collected or referred to by the state (including, for instance, through surveys responded to by judges, prosecutors, attorneys) to evaluate the indicator;
- ▶ Measures taken by the state to collect data on children's experience regarding the indicator;
- ▶ Feedback on how children experience the indicator in the state, should state resources so permit;
- ▶ This is meant to provide states with additional insights into children's experience of the indicator, given the data available to the state.

Comments. States are invited to indicate whether the proposed indicators are completed, partially completed or not completed. Comments should mention planned activities even if their implementation has not yet started. In addition, states are invited to use this space to describe any positive examples that they have identified in their country in relation to the indicator, as well as any areas that they have identified as requiring improvement.

Action points. States are invited to use this space to indicate any action that they will take following this assessment to strengthen progress on the relevant indicator.

Setting child-friendly justice in stone

A. Child-friendly justice for all children in contact with the justice system

The following elements are relevant to all children involved with the justice system, whether they are victims, witnesses or parties in any kind of proceedings, including criminal, civil and administrative law cases, and migration matters.

	<div>1</div> Child-friendly justice is enshrined in domestic law
Definition	<p>The CFJ Guidelines build on the UNCRC, which all European Union and Council of Europe member states have ratified, as well as on relevant Council of Europe conventions and recommendations, and EU legal instruments on child-friendly justice. They specify that justice for children should be accessible, age-appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child. Furthermore, the principles of legality and proportionality require children to be guaranteed the same rights as adults, including the presumption of innocence and the right to a fair trial.</p> <p>Member states should explicitly commit to child-friendly justice in their national legislation and policies and require child-friendly justice to be applied whenever children are likely to be brought into contact with all competent bodies and services involved in implementing criminal, civil or administrative law, whether as (alleged or recognised) perpetrators, victims or witnesses.</p> <p>To this end, member states should:</p> <ul style="list-style-type: none"> ▶ speedily ratify, if they have not yet done so, the UNCRC Protocols and relevant Council of Europe conventions concerning children's rights; ▶ review and update their national law – including the constitution, statutory legislation and case law – and ensure that the UNCRC, relevant Council of Europe and EU child-friendly justice legal instruments and the CFJ Guidelines are fully incorporated in them and complied with in practice.
Data sources (indicative only)	<ul style="list-style-type: none"> ▶ National constitution ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations ▶ Key national legal and policy instruments in the field of: <ul style="list-style-type: none"> – Substantive and procedural criminal law, in particular for children in conflict with the law and victims and witnesses of crime; – Substantive and procedural civil law, in particular for child victims and witnesses and in the area of family law (notably custody, access rights, parental separation and maintenance); – Administrative, care and protection matters (including nationality, child protection, placement and care or migration procedures, name, identity, parentage); – Other legal proceedings where children may be involved as offenders, victims, witnesses or parties. ▶ EU and international legislation, international, national, ECHR and CJEU case law ▶ Secondary regulations ▶ Binding and non-binding administrative instructions to competent authorities (such as ministerial instructions, guidelines, codes of conduct, etc., for law enforcement authorities, prosecution services, staff of penitentiary institutions, etc.)

Assessment criteria	<ul style="list-style-type: none"> ▶ States can measure progress towards the indicator using the following criteria: <ul style="list-style-type: none"> – The UNCRC and the relevant Council of Europe and EU instruments² have been ratified but are not incorporated into domestic law; – Some sections of the UNCRC on child-friendly justice and of the relevant Council of Europe and EU instruments are incorporated into domestic law; – The UNCRC and the relevant Council of Europe and EU instruments are fully incorporated into domestic law and apply to all children in the state's jurisdiction, but effective implementation remains a challenge; – The UNCRC, all three Optional Protocols and the relevant Council of Europe and EU instruments are fully incorporated into domestic law and apply to all children in the state's jurisdiction.
Analysis notes	<ul style="list-style-type: none"> ▶ States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ▶ For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children's experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).
Comments	<ul style="list-style-type: none"> ▶ Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ▶ Examples of good practice: ▶ Points to address: ▶ Recommendation(s):
Action points (follow up)	<ul style="list-style-type: none"> ▶ Please indicate any action you will take following this Assessment to strengthen progress on this indicator.



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to consider:

- ▶ recognition of children's different roles in the child-friendly justice system, including but not limited to child suspects and accused children, convicted children, victims, witnesses and interested parties;
- ▶ broader rights for all children than those guaranteed for adults in legal proceedings;
- ▶ domestic law must provide for the comprehensive implementation of the UNCRC and child-friendly justice for all children within the state's jurisdiction, irrespective of issues related to decentralisation, federalisation or delegation.

² See compendium in Appendix.

2	Information and advice: all children receive information and advice in a language they understand
Definition	<p>Children have a right to information in all proceedings involving them, which includes the right to free translation and interpretation. In addition, to enable children to effectively understand and participate in proceedings involving them, the proceedings are conducted in a language that they fully understand.</p> <p>Mechanisms are in place to ensure that children are informed in a child-sensitive manner of the following at the start of the proceedings: the reason for the proceedings, the child's rights during the proceedings, the procedure for the proceedings, including the role of the different parties involved, and the possible outcomes or remedies.</p> <p>National law or state policies and procedures provide that:</p> <ul style="list-style-type: none"> ▶ The child has a right to translation of essential documents (e.g. statement of rights, important materials from the case file that form the basis for detention, any judicial decisions); ▶ Language used throughout all stages of the proceedings should be appropriate for the child's age, development and maturity, level of understanding and potential vulnerability; ▶ Professionals who interact with children should be trained in communication and the use of child-friendly language; ▶ The child must be assisted free of charge by an interpreter who can communicate with them in a language they understand. Furthermore, the interpreter must be trained in communicating with children.
Data sources (indicative only)	<ul style="list-style-type: none"> ▶ National law ▶ Key national legal and policy instruments ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations ▶ Council of Europe Recommendation CM/Rec(2012)2 of the Committee of Ministers on the participation of children and young people under the age of 18
Assessment criteria	<ul style="list-style-type: none"> ▶ States can measure progress towards the indicator using the following criteria: <ul style="list-style-type: none"> – National law or state policies and procedures do not require that information presented during proceedings be in a language that the child understands; – National law or state policies and procedures require that an interpreter be provided if needed. However, interpreters are not trained or specialised in working with children and there are no additional mechanisms to ensure that the child understands the proceedings; – National law or state policies and procedures require that information be provided to children in a language that they understand. However, this requirement does not apply to all proceedings involving children or all stages of proceedings; – National law or state policies and procedures include comprehensive mechanisms to require that children be able to understand all aspects of all proceedings involving them. This includes mechanisms to ensure the right to a child-friendly interpreter, the right to information in a language the child understands and the training of professionals who interact with children on child-friendly language.

Analysis notes	<ul style="list-style-type: none"> ▶ States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ▶ For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children's experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).
Comments	<ul style="list-style-type: none"> ▶ Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ▶ Examples of good practice: ▶ Points to address: ▶ Recommendation(s):
Action points (follow up)	<ul style="list-style-type: none"> ▶ Please indicate any action you will take following this Assessment to strengthen progress on this indicator.



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to consider:

- ▶ With regard to the use of language adapted to children and access to free interpreters, special attention should be paid to groups in particularly vulnerable situations, including children with disabilities, ethnic minority background, refugee and migrant children and children from minority groups. This includes making use of sign language interpreters and Augmentative and Alternative Communication experts.

	3	Protection of private and family life: Laws protecting the identity of children and laying down confidentiality rules are enacted and implemented
Definition	<p>Children’s right to privacy and their personal data must be protected at all stages of the proceedings. To fulfil this right, states should:</p> <ul style="list-style-type: none"> ▶ enact laws that provide anonymity and protect the identity, privacy and personal data of children in proceedings, in particular any recordings of questioning; ▶ establish rules and provide training on confidentiality and data protection for professionals working for and with children; ▶ make it possible preferable for children, especially child victims, to be heard and to provide evidence by audiovisual means³; ▶ make it possible for all children, especially children in conflict with the law, to be heard and to provide evidence <i>in camera</i>, rather than publicly, i.e. in the presence only of those directly involved, provided that they do not obstruct children in giving evidence⁴; ▶ prevent the release of personal information or data on children involved in proceedings; and ▶ establish laws to ensure that even when information and data are shared about the child among professionals, the child’s right to privacy is still protected. 	
Data sources (indicative only)	<ul style="list-style-type: none"> ▶ National law ▶ EU legislation ▶ General Data Protection Regulation ▶ Law Enforcement Directive ▶ Child Sexual Abuse Directive ▶ Key national legal and policy instruments ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations ▶ The European Union General Data Protection Regulation ▶ The Council of Europe Convention on Cybercrime (Budapest Convention) ▶ The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) ▶ The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) ▶ Council of Europe Recommendation CM/Rec(2018)7 of the Committee of Ministers on Guidelines to respect, protect and fulfil the rights of the child in the digital environment 	

3. See DIRECTIVE 2012/29/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, Article 24.1.a): ‘in criminal investigations, all interviews with the child victim may be audiovisually recorded and such recorded interviews may be used as evidence in criminal proceedings;’

4. See Council of Europe Child-friendly guidelines, paragraph 9.

Assessment criteria	<ul style="list-style-type: none"> ▶ States can measure progress towards the indicator using the following criteria: <ul style="list-style-type: none"> – There are no laws protecting a child’s right to privacy or data protection in proceedings; – National law provides for children to be able to give testimony or to be heard by audiovisual means and <i>in camera</i>, in all matters involving them. However, there are no laws or rules governing confidentiality, data sharing or media coverage of cases involving children; – National law provides for children to be able to give testimony or to be heard by audiovisual means and <i>in camera</i>, in all matters involving them, and there are specific laws or rules for the media and professionals on protecting the privacy of children; – National law makes comprehensive provision for protecting children’s privacy in proceedings and the confidentiality of information pertaining to children, which applies whenever children come into contact with the justice system.
Analysis notes	<ul style="list-style-type: none"> ▶ States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ▶ For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children’s experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).
Comments	<ul style="list-style-type: none"> ▶ Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ▶ Examples of good practice: ▶ Points to address: ▶ Recommendation(s):
Action points (follow up)	<ul style="list-style-type: none"> ▶ Please indicate any action you will take following this Assessment to strengthen progress on this indicator.



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to consider:

- ▶ The requirement to protect children’s identity does not end when a child reaches the age of majority. The Guidelines provide that children’s criminal records may not be disclosed outside the justice system when they reach the age of majority. Exceptions to this rule may be made in limited circumstances, including on public safety grounds and where there is the possibility of working with children during employment.

	4	Safety and training: All professionals working for and with children in proceedings are appropriately vetted and trained
Definition	<p>All relevant professionals are appropriately vetted and authorised and proficiently trained to ensure their suitability to work with and for children, especially children in vulnerable situations.</p> <p>Domestic law, policies and procedures ensure that:</p> <ul style="list-style-type: none"> ▶ all professionals working in direct contact with children in proceedings are appropriately vetted and authorised to work with children; ▶ competency-based training on child-friendly justice is embedded in pre-service training programmes for professionals working for and directly with children involved in legal proceedings; ▶ professionals receive necessary interdisciplinary training on the rights and needs of children of different age groups and on proceedings that are appropriate for them; ▶ professionals are trained in communicating with them at all ages and stages of development and with children in situations of particular vulnerability; ▶ there is continuity in the professionals providing support to children throughout and after the proceedings. 	
Data sources (indicative only)	<ul style="list-style-type: none"> ▶ National law ▶ Key national legal and policy instruments ▶ EU legislation ▶ Nationally accredited professional training programmes for all of the disciplines specified ▶ Government departments, universities and other training institutions ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations 	
Assessment criteria	<ul style="list-style-type: none"> ▶ States can measure progress towards the indicator using the following criteria: <ul style="list-style-type: none"> – Very limited or no training is available on child-friendly justice procedures for professionals working for and with children involved in legal proceedings. Vetting is not nationally consistent or regularly reviewed; – Competency-based training on child-friendly justice procedures is required for professionals who work for and with children as a consequence of them being involved in legal proceedings. National vetting takes place; – Competency-based training on child-friendly justice procedures is required for professionals who work for and with children, and professionals are required to undergo continuous training. National vetting takes place; – All professionals who work for and with children must be specialised in working with children, which includes the requirement to be continuously trained on child-friendly justice procedures. Vetting takes place to national standards and is regularly reviewed and updated. 	

Analysis notes	<ul style="list-style-type: none"> ▶ States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ▶ For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children’s experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).
Comments	<ul style="list-style-type: none"> ▶ Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ▶ Examples of good practice: ▶ Points to address: ▶ Recommendation(s):
Action points (follow up)	<ul style="list-style-type: none"> ▶ Please indicate any action you will take following this Assessment to strengthen progress on this indicator.



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to consider:

- ▶ Professionals working for or with children during proceedings involving children include (non-exhaustive list): lawyers; judiciary; law enforcement authorities; social workers; central authorities; health care professionals; immigration officials; interpreters; mediators; notaries; bailiffs; caregivers and residential workers; prison officers; children and youth leaders/workers; and civil servants and public officials.

	5	National law provides alternatives to judicial, administrative and other legal proceedings, such as diversion and alternative dispute resolution
Definition	<p>Alternatives to proceedings are recommended for children in legal proceedings. This includes children who are suspects or accused persons in criminal proceedings, children in administrative proceedings (e.g. in the context of migration, children should not be detained but referred to specialised institutions) and children in other legal proceedings (including civil).</p> <p>Regarding children who are suspects or accused persons in criminal proceedings, states are required to promote the establishment of measures to avoid criminal prosecution, whenever appropriate.⁵ In practice, the measures generally fall into two categories:</p> <ul style="list-style-type: none"> (a) Measures referring children away from the judicial system, any time prior to or during the relevant proceedings (diversion); (b) Measures in the context of judicial proceedings. <p>In applying measures in both categories, utmost care should be taken to ensure that the child's human rights and procedural safeguards are fully respected and protected.⁶</p> <p>Diversion involves the referral of matters away from the formal criminal justice system, usually to mediation mechanisms or restorative justice programmes or activities.⁷ In addition, a variety of arrangements, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care should be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and to the offence. Alternative dispute resolution should also be encouraged in all proceedings involving children whenever it best serves the child's best interests.</p> <p>NB: Diversion to avoid judicial proceedings and alternatives to judicial mechanisms/pre-trial detention are to be given due attention before and during proceedings (see Part III/B/1 and 2).</p>	
Data sources (indicative only)	<ul style="list-style-type: none"> ▶ National laws and rules of procedure ▶ National, ECHR and CJEU case law ▶ Recommendation CM/Rec(2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures ▶ EU legislation (including DIR 2016/800, Brussels IIb Regulation) ▶ Mediation legislation ▶ United Nations Convention on the Rights of the Child ▶ United Nations Standard Minimum Rules for the Administration of Juvenile Justice ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations 	

5. UNCRC, Article 40(3)(b)

6. CRC Committee, General Comment No. 24, supra note 16 at paragraph 22.

7. Idem at paragraph 15-17.

Assessment criteria	<ul style="list-style-type: none"> ▶ States can measure progress towards the indicator using the following criteria: <ul style="list-style-type: none"> – There are no alternatives to judicial, administrative or other legal proceedings in place in law; – There are some alternatives to judicial, administrative or other legal proceedings in place in law, but they are very limited and only used in minor cases that would have been discontinued; – There are alternatives to judicial, administrative or other legal proceedings in place in law that are applicable to a large range of situations involving children, but children do not have much say in matters and are unable to make any effective personal choices; – There are alternatives to judicial, administrative or other legal proceedings in place in law that respect the principle of the best interests of the child and are applicable to a large range of situations involving children, and children are able to make choices with the support of a lawyer and/or legal advice.
Analysis notes	<ul style="list-style-type: none"> ▶ States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ▶ For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children's experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).
Comments	<ul style="list-style-type: none"> ▶ Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ▶ Examples of good practice: ▶ Points to address: ▶ Recommendation(s):
Action points (follow up)	<ul style="list-style-type: none"> ▶ Please indicate any action you will take following this Assessment to strengthen progress on this indicator.

B. Child-friendly justice for children in conflict with the law

Children in conflict with the law are not the majority of those who come into contact with the justice system. However, for those in this situation, the stakes are particularly high, as they potentially face severe consequences for their fundamental rights, such as loss of liberty. As provided for in the Council of Europe Guidelines, a child-friendly justice system must therefore include specific provisions to address the needs of this particular group of children.

	6	Domestic law lays down specific provisions for children in conflict with the law
	6a	National law establishes standards on the child justice system, including a Minimum Age of Criminal Responsibility (MACR) for all cases, which meets European and international standards
Definition		<p>The MACR is the minimum age below which the law determines that children do not have the capacity to infringe the criminal law.⁸ In accordance with the UNCRC, states should establish an MACR below which children shall be presumed not to have the capacity to infringe the penal law.⁹</p> <p>(i) The state's legal framework guarantees that children who commit an offence while under the specified MACR cannot be formally charged or held responsible in a penal procedure</p> <p>Children below the MACR should be provided with assistance and services according to their needs by the appropriate authorities. Children below the MACR should not be viewed as children who have committed criminal offences.</p> <p>Early intervention for children who are below the MACR requires child-friendly and integrated multidisciplinary responses to the first signs of behaviour that would be considered an offence if the child were above the MACR.</p> <p>Evidence-based intervention programmes should be developed that reflect not only the multiple psychosocial causes of such behaviour, but also the protective factors that may strengthen resilience. Interventions must be preceded by a comprehensive and interdisciplinary assessment of the child's needs. As an absolute priority, children should be supported within their families and communities. In exceptional cases that require out-of-home placement, such alternative care should preferably be in a family setting. However, placement in residential care may be appropriate in some instances to provide the necessary range of professional services. It should, however, be used only as a measure of last resort and for the shortest appropriate period of time and should be subject to judicial review.</p> <p>A systemic approach to prevention also includes closing pathways into the child justice system through the decriminalisation of minor offences such as truancy, running away, begging or trespassing, which often are the result of poverty, homelessness or family violence.</p> <p>In accordance with the UNCRC, states should establish an MACR below which children shall be presumed not to have the capacity to infringe the penal law.¹⁰</p> <p>An MACR below 14 is not internationally acceptable. The CRC recommends that state parties regard 14 as the absolute minimum age for criminal responsibility.¹¹ Furthermore, once an MACR has been set, no exceptions should apply, not even when serious offences are committed.¹²</p>

8. CRC Committee, General Comment No. 24, supra. note 16 at paragraphs 6 and 30.

9. Idem at paragraph 40(3)(a).

10. Idem at paragraph 40(3)(a).

11. Idem at paragraph 33.

12. Idem at paragraph 35.

Definition	<p>If there is no reliable proof of age, the benefit of the doubt should apply. A child who does not have a birth certificate should be provided with one promptly and free of charge by the state, whenever their age has to be proven. States should also accept other documentation and evidence (including the testimony of teachers and religious leaders) to establish the age of a child who cannot produce a birth certificate. Documents should be considered genuine unless there is proof to the contrary.¹³</p> <p>(ii) The state's legal framework should guarantee that children who commit an offence:</p> <ul style="list-style-type: none"> – while under the specified MACR, cannot be formally charged or held criminally responsible (i.e. cannot be subject to criminal proceedings). Children below the MACR should be provided with assistance and services according to their needs by the appropriate authorities; – between the MACR and the age of legal majority, without exception, benefit from a specialised child justice system.
Data sources (indicative only)	<ul style="list-style-type: none"> ▶ National constitution ▶ National laws and rules of procedure ▶ National, ECHR and CJEU case law ▶ European Union legislation (e.g. Directive 2016/800) ▶ Recommendation CM/Rec (2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations ▶ United Nations Standard Minimum Rules for the Administration of Juvenile Justice
Assessment criteria	<ul style="list-style-type: none"> ▶ States can measure progress towards sub-indicator (i) using the following assessment criteria: <ul style="list-style-type: none"> – Children below the MACR are dealt with through a system that resembles a judicial/penal system that considers children as if they were responsible for their actions; – There is, to some extent, a system based on a psycho-social approach, but children will still be punished for offences that they may have committed; – There is a system based on a psycho-social approach, giving absolute priority to supporting children in their family and respecting their rights, including the right to challenge the decisions taken for their education/protection. However, the system lacks a systemic approach to preventing entry into the child justice system and children may be criminalised for status offences; – There is a system based on a psycho-social approach, giving absolute priority to supporting children in their family and respecting their rights, including the right to challenge the decisions taken for their education/protection. The system takes a systemic approach to preventing entry into the child justice system and there is a focus on the decriminalisation of minor offences, including status offences. ▶ States can measure progress towards sub-indicator (ii) using the following assessment criteria: <ul style="list-style-type: none"> – There is no MACR established by law; – There is an MACR established by law, but there are exceptions that allow children to be prosecuted before that age; – There is an MACR established by law, without exception, but it is lower than 14; – There is an MACR established by law, without exception, at 14 or above.

13. Idem at paragraph 44.

	<ul style="list-style-type: none"> ▶ States can measure progress towards sub-indicator (iii) using the following assessment criteria: <ul style="list-style-type: none"> – The MACR is set at below 14 years of age for all cases. Criminal proceedings against children above the MACR are predominantly punitive in nature and mostly subject to the same rules as those against adults. Children below the MACR are also subject to a system that resembles a judicial/penal system, takes a punitive approach and includes few or no child-friendly features; – The MACR is set at below 14 years of age for some cases. For children above the MACR, proceedings are mostly punitive in nature and subject to the same rules as those against adults in many respects, although certain features have been introduced that are adapted to children. For children below the MACR, the justice system is, to some extent, based on a psycho-social approach, but retains a mainly punitive perspective; – The MACR is set at 14 years of age or above. For children above the MACR, proceedings are still punitive in nature overall, but a restorative justice and child protection/educational perspective has been mainstreamed and children mostly benefit from robust child-friendly justice features. For children below the MACR, the justice system is based on a psycho-social approach, giving priority to supporting the children in their family and respecting their rights, including the right to challenge the decisions taken for their education/protection. However, there is no systemic approach to preventing entry into the child justice system and children may be criminalised for status offences; – The MACR is set at 14 years of age or above. For children above the MACR, proceedings are predominantly characterised by a restorative justice and child protection/educational perspective and children always benefit from robust child-friendly justice features. For children below the MACR, the justice system is based on a psycho-social approach, giving absolute priority to supporting the children in their family and respecting their rights, including the right to challenge the decisions taken for their education/protection. A systemic approach is taken to preventing entry into the child justice system and there is a focus on the decriminalisation of minor offences, including status offences.
Analysis notes	<ul style="list-style-type: none"> ▶ States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ▶ For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children’s experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).

Comments	<ul style="list-style-type: none"> ▶ Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ▶ Examples of good practice: ▶ Points to address: ▶ Recommendation(s):
Action points (follow up)	<ul style="list-style-type: none"> ▶ Please indicate any action you will take following this Assessment to strengthen progress on this indicator.



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to consider:

- ▶ **Early intervention** for children who are below the MACR requires child-friendly and integrated multidisciplinary responses to the first signs of behaviour that would be considered an offence if the child were above the MACR.
- ▶ **A systemic approach to prevention** also includes closing pathways into the child justice system through the **decriminalisation of minor offences** such as truancy, running away, begging or trespassing, which often are the result of poverty, homelessness or family violence.
- ▶ Child victims of sexual exploitation and adolescents who engage in consensual sexual acts with one another are also sometimes criminalised. States should remove these acts, also known as **status offences**, from their statutes.
- ▶ Child justice systems should also extend protection to children who were below the age of 18 at the time of the commission of the offence **but who turn 18** during the trial or sentencing process.

	6b National law, policy or rules include guidance for law enforcement authorities on the use of force and means of constraint against children to avoid illegal or disproportionate use of force
Definition	<p>Police should respect the personal rights and dignity of all children and have regard to their vulnerability, i.e., take account of their age and maturity and any special needs, including those resulting from a physical or mental disability or communication difficulties. There should be clear rules on avoiding force, coercion or violence in the implementation of decisions, for example, visitation arrangements, to avoid further traumatising.</p>
Data sources (indicative only)	<ul style="list-style-type: none"> ▶ National rules and protocols on children's rights ▶ National, ECHR and CJEU case law ▶ EU legislation (e.g. Directive 2016/800, Victims' Rights Directive), migration legislation ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations ▶ United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")
Assessment criteria	<ul style="list-style-type: none"> ▶ States can measure progress towards the indicator using the following criteria: <ul style="list-style-type: none"> – There are no laws, policies or rules at all on the use of force and means of constraint against children; – There is some guidance, policies or rules on the use of force and means of constraint against children, but the relevant provisions are not applied properly or do not differentiate between children and adults; – There are policies, guidance or rules on the use of force and means of constraint against children and they are usually applied by most law enforcement authorities, who adequately adapt these rules to children; – National law, policies and rules provide guidance on the use of force and means of constraint against children, they are usually applied by most law enforcement authorities AND a monitoring/supervision mechanism and complaint mechanisms are in place that are independent and child-friendly.
Analysis notes	<ul style="list-style-type: none"> ▶ States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ▶ For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children's experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).

Comments	<ul style="list-style-type: none"> ▶ Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ▶ Examples of good practice: ▶ Points to address: ▶ Recommendation(s):
Action points (follow up)	<ul style="list-style-type: none"> ▶ Please indicate any action you will take following this Assessment to strengthen progress on this indicator.

	6c	National law and the state's legal system recognise and regulate all forms of deprivation of liberty of children
Definition	<p>Deprivation of liberty or restriction of movement may occur in many contexts before, during and at the outcome of the proceedings:</p> <ul style="list-style-type: none"> ▶ arrest / police custody; ▶ pre-trial and post-trial detention or facilities and their child-specific equivalents; ▶ children held in custody or detained for reasons related to immigration; ▶ children held in custody or detained for engagement in armed conflict; ▶ curfew orders or other restrictions on movement prior to the proceedings; ▶ children who are placed in institutions by their parents or legal guardian and are not permitted to leave of their own free will although they are not there as a result of an order of a public authority. <p>National law and measures exist to ensure that:</p> <ul style="list-style-type: none"> ▶ deprivation of liberty of children in any context is a measure of last resort and applies for the shortest appropriate period of time; ▶ detention of children in the context of immigration is prevented; ▶ the rights of children who are deprived of their liberty are adequately protected; ▶ children's rights are respected during any period that they are deprived of their liberty. <p>To ensure the required procedural rights and safeguards concerning deprivation of liberty of children are in place, national law should mandate that:</p> <ul style="list-style-type: none"> ▶ deprivation of liberty of children is the exception, rather than the general rule; ▶ specific non-custodial measures and other alternatives to arrest, detention, imprisonment or any other form of institutional placement exist and are used in preference to deprivation of liberty; ▶ pre-trial detention is permitted only under certain circumstances which are consistent with the standards established under the UNCRC and the ECHR, EU legislatio; and ▶ children have the right to challenge the legality of the deprivation of liberty (initial and continued) and/or have their placement reviewed periodically, in accordance with rules and procedures under international and national law (see Article 37 (d) CRC, Article 25 CRC and Article 5 ECHR). 	

	<p>Accordingly, member states should ensure that where children are deprived of their liberty, their national law provides (non-exhaustive):</p> <ul style="list-style-type: none"> ▶ that children are detained separately from adults, other than in exceptional situations shown to be in the best interests of the child; ▶ that boys are detained separately from girls, except in situations shown to be in the best interests of the child; ▶ for continued and meaningful contact with family and friends for any child deprived of their liberty; ▶ for safe and appropriate conditions to meet the needs of children; ▶ for access to bail for every child who is held in custody; ▶ for an independent national prevention mechanism in accordance with the rules set up by the OPCAT (Optional Protocol under the UN Convention against Torture); and ▶ for an effective complaint mechanism, with children being informed of its existence and able to access it.
Data sources (indicative only)	<ul style="list-style-type: none"> ▶ National rules and protocols on children's rights ▶ National, ECHR and CJEU case law ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations ▶ EU legislation (e.g. Directive 2016/800) ▶ EU migration acquis ▶ United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")
Assessment criteria	<ul style="list-style-type: none"> ▶ States can measure progress towards the indicator using the following assessment criteria: <ul style="list-style-type: none"> – There are no provisions in law to prevent the deprivation of liberty or restriction of movement of children before proceedings, and there are no safeguards in place to protect the rights of children who have been detained, including in immigration cases; – There are some provisions in law to prevent the deprivation of liberty or restriction of movement of children prior to proceedings, including in immigration cases. These may include limiting the ability of the law enforcement authorities to arrest and deprive children of their liberty or limiting the length of detention in police stations. However, these measures are not regularly applied; there is some sporadic control over the detention of children in police custody and there are some safeguards in place to protect the rights of children who are deprived of their liberty, including the required separation of girls and boys; – There are provisions in law to prevent the deprivation of liberty or restriction of movement of children prior to proceedings, including in immigration cases. These include limiting the ability of the law enforcement authorities to arrest and deprive children of their liberty and limiting the length of detention in police stations. These measures are regularly applied, but pre-trial detention is still the preferred practice. Furthermore, there is independent control of the detention of children before proceedings and safeguards are in place to protect most of the rights of children who are deprived of their liberty. A complaint mechanism also exists for children who have been deprived of their liberty or had their movement restricted;

Assessment criteria	<ul style="list-style-type: none"> – There are very strict provisions in law to prevent the deprivation of liberty or restriction of movement for children prior to proceedings, including in immigration cases. Children are rarely deprived of their liberty other than in exceptional cases, where it has been demonstrated that deprivation is a measure of last resort and for the shortest appropriate period of time. There is independent control of the detention of children before proceedings and safeguards are in place to protect the rights of children who are deprived of their liberty or who have had their movement restricted. A complaint mechanism also exists for children who have been deprived of their liberty or have had their movement restricted.
Analysis notes	<ul style="list-style-type: none"> ► States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures).
	<ul style="list-style-type: none"> ► For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children’s experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).
Comments	<ul style="list-style-type: none"> ► Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ► Examples of good practice: ► Points to address: ► Recommendation(s):
Action points (follow up)	<ul style="list-style-type: none"> ► Please indicate any action you will take following this Assessment to strengthen progress on this indicator.

Establishing child-friendly justice: core institutions & mechanisms

1	Existence and use of specialised law enforcement units, especially trained officers and safeguards
Definition	<p>Law enforcement authorities should include special units of officers and members specially trained to deal with situations involving children (alleged or recognised offenders, victims, witnesses, complainants). Creating specialised law enforcement units, preferably of an interdisciplinary nature, is an efficient way to guarantee the child-sensitive treatment of child victims and witnesses and prevent secondary victimisation. In actual practice – depending on the context in the country – specialised units and services may be designed either for child victims and witnesses or for all children in contact with the law, i.e., child victims, child witnesses as well as alleged or recognised child offenders.</p> <p>Safeguards exist for child victims and witnesses to prevent secondary victimisation, including measures to prevent repeated interviewing.</p> <p>Mechanisms exist to ensure children in contact with the law enforcement authorities are informed of their rights in a child-friendly way. Safeguards are in place to ensure that children in contact with the law enforcement authorities are able to receive a visit from their parents or legal guardians and have access to legal aid and legal advice, support and representation.</p>
Data sources (indicative only)	<ul style="list-style-type: none"> ▶ National rules and protocols on children’s rights ▶ National, ECHR and CJEU case law ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations ▶ EU legislation ▶ Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims ▶ Directive on combating violence against women and domestic violence ▶ Procedural Safeguards Directive ▶ Victims’ Rights Directive ▶ United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”).

Assessment criteria	<ul style="list-style-type: none"> ▶ States can measure progress towards the indicator using the following assessment criteria: <ul style="list-style-type: none"> – There are no specialised units to deal with the situation of children, whether in conflict with the law or victims or witnesses; – There are units to deal with the situation of children, whether in conflict with the law or victims or witnesses, but they exist only in some parts of the country/cities and are not specialised. There are no safeguards in place to prevent secondary victimisation or re-interviewing of children in contact with the law; – There are specialised units to deal with the situation of children, whether in conflict with the law or victims or witnesses in most cities, and they receive some specific training in children's rights; – There are specialised units to deal with the situation of children, whether in conflict with the law or victims or witnesses, throughout the country and in all cities, and they receive regular training in children's rights. There are comprehensive safeguards in place to prevent secondary victimisation or re-interviewing of children in contact with the law.
Analysis notes	<ul style="list-style-type: none"> ▶ States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ▶ For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children's experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).
Comments	<ul style="list-style-type: none"> ▶ Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ▶ Examples of good practice: ▶ Points to address: ▶ Recommendation(s):
Action points (follow up)	Please indicate any action you will take following this Assessment to strengthen progress on this indicator.



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to consider:

- ▶ Law enforcement authorities should respect the personal rights and dignity of all children and have regard to their vulnerability, i.e., take account of their age and maturity and any special needs of those who may have a physical or mental disability or communication difficulties.

2	Existence and use of specialised children's courts and specially trained judges and court officials
Definition	<p>Specialised courts (or separate specialised chambers of ordinary courts) for children in conflict with the law are a necessary minimum.</p> <p>Specialised courts (or separate specialised chambers of ordinary courts) should be established for all other cases that concern children's rights either <i>inherently</i> (such as child protection or family matters) or <i>regularly</i> (such as immigration and asylum, disability provision, child mental health or children's special educational needs).</p> <p>Where specialised courts have not yet been established, all judges and court officials should have received special training on child law, including child-friendly justice, before they are allocated cases addressing child matters, including child justice, child protection, public and private family law and immigration and asylum cases.</p>
Data sources (indicative only)	<ul style="list-style-type: none"> ▶ National laws ▶ Structure of the judicial system, including any specialised courts ▶ National rules on judicial training ▶ EU legislation and policies (e.g. judicial training strategy, Brussels IIb Regulation, EU legislation mandating training: e.g. Victims' Rights Directive, Directive on combating violence against women and domestic violence, CSA, Directive 2016/800 on procedural safeguards, Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims) ▶ National, ECHR and CJEU case law ▶ Reports of national bar associations on provision for children ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations ▶ Council of Europe Resolutions, Recommendations and guidelines
Assessment criteria	<ul style="list-style-type: none"> ▶ States can measure progress towards the indicator using the following assessment criteria: <ul style="list-style-type: none"> – No specialised children's court exists. Judges who hear other cases involving children do not have to undergo any special training; – Specialised courts (or court chambers) are provided only for children "in conflict with the law". Officials and the judiciary are specially trained in child law and child-friendly techniques; – Specialised Courts (or court chambers) are provided for children in conflict with the law and in public family law proceedings where children can be removed by the state from their families or their contact with their families is restricted. Officials and the judiciary are specially trained in child law and child-friendly techniques; – Specialised courts (or court chambers) are provided in all proceedings and for all situations (alleged or recognised offenders, victims, witnesses, parties) where children either (i) find themselves confronted with the authority of the state such as in relation to immigration and asylum, child disability provision, child mental health or children's special educational needs or (ii) are affected by family law proceedings. Officials and the judiciary are specially trained in child law and child-friendly techniques; – In addition to the foregoing, rules, procedures and personnel are in place to ensure feedback on these matters is sought and obtained from the children and taken into account in revision procedures.

Analysis notes	<ul style="list-style-type: none"> ▶ States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ▶ For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children’s experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).
Comments	<ul style="list-style-type: none"> ▶ Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ▶ Examples of good practice: ▶ Points to address: ▶ Recommendation(s):
Action points (follow up)	<ul style="list-style-type: none"> ▶ Please indicate any action you will take following this Assessment to strengthen progress on this indicator.

3	Child participation mechanisms and spaces enabling children to exercise their right to access justice are in place
	<p>Children's right to participate effectively and meaningfully is central to child-friendly justice and children's access to justice.</p> <p>All stages of the proceedings should meet child-friendly standards, including the treatment of children and the design of interview rooms and courtrooms in a child-friendly layout.</p> <p>These standards should apply to all proceedings involving children, including:</p> <ul style="list-style-type: none"> ▶ criminal justice proceedings, regardless of whether they are involved as (alleged or recognised) perpetrators of criminal activity, victims or witnesses of crime; ▶ family law proceedings; ▶ care and protection proceedings; ▶ immigration proceeding; ▶ other civil or administrative proceeding; and ▶ all other legal proceedings, including those that are permitted by law but are non-judicial.
	3a Children's rights to access to justice and to information are guaranteed
Definition	<p>Mechanisms are in place to ensure that children are informed of the following in a child-sensitive manner at the start of the proceedings: the reason for the proceedings, their rights during the proceedings, the procedure for the proceedings, including the role of the different parties involved, and the possible outcomes or remedies.</p> <p>Children should have access to courts and to the judicial process. Obstacles to said access, such as the cost of the proceedings or lack of legal counsel, should be removed.</p> <p>This includes ensuring that children:</p> <ul style="list-style-type: none"> ▶ are proactively informed of their rights and procedures, including the right of access to justice; ▶ have access to legal and other relevant information; ▶ are provided with appropriate means to access justice, including access to a free lawyer in their own name; ▶ are not excluded from accessing justice because of state-imposed age limits in criminal, civil or administrative proceedings; ▶ have decisions affecting them explained in a way that they can understand; ▶ are able to make informed decisions about procedural safeguards in place; ▶ have access to procedures adapted to their individual needs based on an assessment; ▶ are prepared for a hearing; ▶ have the opportunity to give and receive feedback after a hearing.

	<p>The above should be available to children in the following judicial and administrative proceedings:</p> <ul style="list-style-type: none"> ▶ criminal justice proceedings, regardless of whether they are involved as alleged perpetrators of criminal activity, victims or witnesses of crime; ▶ private family law proceedings, including custody, contact, relocation, adoption and relations with biological, legal and social parents and siblings; ▶ public family law proceedings such as protection, care, foster placements or placements for adoption; ▶ immigration and asylum proceedings, regardless of whether the children themselves are the subjects of the proceedings or are affected by proceedings in which, e.g., their parents are the main subjects; ▶ any proceedings involving key life decisions for the child, such as education, major medical treatment or change of name; ▶ any proceedings involving transfer of jurisdiction.
Data sources (indicative only)	<ul style="list-style-type: none"> ▶ National constitution ▶ National laws, rules and protocols for the conduct of all relevant judicial procedures ▶ National and European case law ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations ▶ Council of Europe Resolutions, Recommendations and guidelines ▶ European Commission for the Efficiency of Justice (CEPEJ) Monitoring Reports on efficiency and quality of justice ▶ FRA and European Commission data on Child-Friendly Justice, as applicable
Assessment criteria	<ul style="list-style-type: none"> – No general rules or procedures are in place (in relation to judicial proceedings affecting them) requiring the provision to children of information on the nature of and reason for the proceedings, their access to court, their rights during the proceedings and the possible outcomes; – Rules and procedures are in place in certain proceedings (please specify) to require the provision to the affected children of information on the nature of and reason for the proceedings, their access to courts, their rights during the proceedings and the possible outcomes; – Rules and procedures are in place to ensure ongoing information and explanations are provided to the children as the proceedings progress, along with information as to what rights they have to respond to developments. Rules and procedures are in place to ensure that the outcome of the proceedings and its implications are conveyed to the affected children in a meaningful, child-sensitive way and that answers to any related questions are provided, including what rights the children have to respond or object to the outcome or to appeal against it; – In addition to the foregoing, rules, procedures and personnel are in place to ensure feedback on these matters is sought and obtained from the children and taken into account in revision procedures.

Analysis notes	<ul style="list-style-type: none"> ▶ States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ▶ For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator ; – Measures taken by the state to collect data on children’s experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).
Comments	<ul style="list-style-type: none"> ▶ Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ▶ Examples of good practice: ▶ Points to address: ▶ Recommendation(s):
Action points (follow up)	<ul style="list-style-type: none"> ▶ Please indicate any action you will take following this Assessment to strengthen progress on this indicator.

	3b	Children are heard in a child-friendly environment
Definition	<p>Children are heard during proceedings affecting them, with due weight being given to their views bearing in mind their maturity and any communication difficulties they may have in order to make participation meaningful.</p> <p>This means that the environment should not be intimidating, hostile, insensitive or inappropriate so as to foster the effective and meaningful participation of the child.¹⁴</p> <p>To achieve this:</p> <ul style="list-style-type: none"> ▶ interview rooms and courtrooms are designed and arranged in a child-friendly layout and are used in practice; ▶ those present in the different stages of the proceedings, including law enforcement officers, lawyers and judges, should dress in a manner that does not intimidate children; ▶ police stations, courthouses and other locations where children are heard should be equipped with functioning recording technology to prevent repeated interviews and professionals should receive training on child rights and child-friendly interviewing techniques and on how to use the technology. 	

14. CRC Committee, General Comment No. 12: The right of the child to be heard (2009), CRC/C/GC/12, at paragraph 34.

Data sources (indicative only)	<ul style="list-style-type: none"> ▶ National law ▶ EU legislation and policies ▶ Brussels IIb Regulation ▶ Victim's Rights Directive ▶ Procedural Safeguards ▶ Directive on combating violence against women and domestic violence ▶ The Istanbul Convention ▶ CSA ▶ Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims ▶ Migration acquis ▶ Key national legal and policy instruments in respect of judicial, legal and administrative proceedings ▶ National, ECHR and CJEU case law ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations
Assessment criteria	<ul style="list-style-type: none"> ▶ States can measure progress towards the indicator using the following criteria: <ul style="list-style-type: none"> – Child-friendly standards are not present in the process or procedures at any stage of the proceedings; – Child-friendly standards are required in some but not all proceedings involving children (i.e., required in child justice settings but not in civil, administrative or other legal proceedings); – Child-friendly standards are required during criminal, civil, administrative and other legal proceedings involving children, but are not required at all stages of the proceedings; – Comprehensive child-friendly standards are required during all proceedings involving children, and whenever children are involved in the proceedings (at all stages of the proceedings).
Analysis notes	<ul style="list-style-type: none"> ▶ States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ▶ For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children's experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).
Comments	<ul style="list-style-type: none"> ▶ Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ▶ Examples of good practice: ▶ Points to address: ▶ Recommendation(s):

**Action points
(follow up)**

- ▶ Please indicate any action you will take following this Assessment to strengthen progress on this indicator.



ISSUES

to consider:

- ▶ Facilitate the participation of children through evolving understanding to enable them to give evidence in the most favourable settings and under the most suitable conditions, having regard to their age, maturity and level of understanding.

	4	An independent children's rights institution is in place and protected by law
Definition		<p>Children's rights institutions play a critical role in monitoring, protecting and promoting children's rights and supporting children's access to remedies.</p> <ul style="list-style-type: none"> ▶ An independent children's rights institution (i.e. a specific NHRI for children) is in place and protected by law as laid down in the Paris Principles, and has a broad mandate based on international children's rights law. ▶ An ombudsperson or commissioner for children is established and protected in law with a child-specific mandate and the necessary resources (office, staff, budget) to pursue campaigns or address concerns on behalf of children on national and international levels. The ombudsperson for children may be a stand-alone institution or part of a broader human rights institution. However, the office should be independent of government and not be constrained or influenced by any specific political agenda but, rather, be able to respond to the key concerns and issues as identified by children.
Data sources (indicative only)		<ul style="list-style-type: none"> ▶ National law ▶ Office of National Ombudsman/Commissioner ▶ European Network of Ombudspersons for Children (ENOC) ▶ Qualitative research ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations
Assessment criteria		<ul style="list-style-type: none"> ▶ States can measure progress towards the indicator using the following criteria: <ul style="list-style-type: none"> – No ombudsperson or Commissioner for children; – Ombudsperson/Commissioner established but does not have a child-specific mandate; – Ombudsperson/Commissioner established and has a limited mandate (for example, does not have the power to receive complaints); – Ombudsperson/Commissioner established, with a mandate, and is fully compliant with Paris Principles¹⁵.
Analysis notes		<ul style="list-style-type: none"> ▶ States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ▶ For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children's experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).

15. The "Paris Principles" are available in the Annex to UNGA Resolution A/RES/48/134, 85th plenary meeting, 20 December 1993: <https://undocs.org/en/A/RES/48/134>

Comments	<ul style="list-style-type: none"> ▶ Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ▶ Examples of good practice: ▶ Points to address: ▶ Recommendation(s):
Action points (follow up)	<ul style="list-style-type: none"> ▶ Please indicate any action you will take following this Assessment to strengthen progress on this indicator.

	5	Child-friendly complaints procedures are in place together with child-friendly remedies
Definition	<p>Complaints procedures laid down by law are child-friendly and easily accessible to all children in a range of contexts, notably:</p> <ul style="list-style-type: none"> ▶ schools and educational settings; ▶ care and protection (including social services and institutional care); ▶ health; ▶ criminal proceedings; ▶ children in detention facilities; ▶ family law and juvenile proceedings; ▶ immigration proceedings. <p>To be child-friendly, a complaints procedure must include the following elements:</p> <ul style="list-style-type: none"> ▶ it is safe and accessible; ▶ children receive appropriate information and assistance to enable them to lodge and pursue complaints; ▶ information is made available in age and disability-appropriate formats, including leaflets, brochures, posters for schools and dedicated websites, and are disseminated in locations where children are able to find them; ▶ follow up, referral and response mechanisms are well-established and effective and can demonstrate that changes are implemented in response to legitimate complaints; ▶ feedback to such complaints is communicated directly to children within a reasonable period of time in a manner that is adapted to their age and understanding. 	
Data sources (indicative only)	<ul style="list-style-type: none"> ▶ National law ▶ Key national legal and policy instruments in the field of family law, education, health care, child justice, social welfare, housing, immigration ▶ EU legislation ▶ Qualitative research in academic/NGO sectors ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations 	
Assessment criteria	<ul style="list-style-type: none"> ▶ States can measure progress towards the indicator using the following criteria: <ul style="list-style-type: none"> – No complaints or feedback mechanisms are in place in any of the areas specified in the above definition; – Child-friendly complaints procedures are in place in two of the areas specified in the above definition; – Child-friendly complaints procedures are in place in four of the areas specified in the above definition; – Child-friendly complaints procedures are laid down by law and easily accessible to all children across all of the areas specified in the above definition. Children are provided with information about their right to complain and receive help and support to pursue complaints in accordance with their age and capacity. 	

Analysis notes	<ul style="list-style-type: none"> ▶ States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ▶ For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children’s experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).
Comments	<ul style="list-style-type: none"> ▶ Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ▶ Good practice: ▶ Points to address: ▶ Recommendation(s):
Action points (follow up)	<ul style="list-style-type: none"> ▶ Please indicate any action you will take following this Assessment to strengthen progress on this indicator.

Putting child-friendly justice into practice

A. Child-friendly approaches for all children in all proceedings and at all times

	1	Children's right to legal assistance and legal aid is guaranteed
Definition	<p>Children have a right to legal support, legal assistance, legal aid and legal representation from those trained in advising and representing children, who have a duty to make sure that children's views are taken into account and that their best interests are established as a primary consideration throughout the proceedings. Where a child or their holder of parental responsibility does not appoint a lawyer, one must, in principle, be appointed <i>ex officio</i> by the competent authorities. A special representative shall be appointed to a child victim in cases where the holders of parental responsibility are precluded from representing the child victim as a result of a conflict of interest between them and the child victim, or where the child victim is unaccompanied or separated from their family.</p> <p>Legal assistance is advice and support to assist children in understanding the proceedings, the decisions they can make and the implications of any decisions they may make. It involves access to an individual who is able to explain the proceedings to the child, including possible outcomes. It also includes legal representation, i.e. the provision of a lawyer tasked with representing the child in the written and oral proceedings. Children should have the right to their own legal counsel and representation, in their own name, in proceedings where there is, or could be, a conflict of interest between them and their parents or the other parties involved.</p> <p>Legal aid is the free provision, funded by the public purse, of legal support, assistance and representation. Children should have access to free legal aid under the same or less strict conditions as adults.</p> <p>Children must have trust and confidence in those appointed to support, assist, advise or represent them. Changes in those individuals should be avoided unless absolutely necessary.</p>	
Data sources (indicative only)	<ul style="list-style-type: none"> ▶ National rules and protocols on children's rights to legal support, legal assistance, legal aid and legal representation ▶ National, ECHR and CJEU case law ▶ EU legislation ▶ Victim's Rights Directive ▶ Directive on combating violence against women and domestic violence ▶ Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims ▶ Procedural Safeguards Directive (2016/800) ▶ Brussels IIb Regulation, Maintenance Regulation ▶ Reports of national bar associations on provision for children ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations ▶ Council of Europe Resolutions, Recommendations and guidelines 	

Assessment criteria	<ul style="list-style-type: none"> ▶ States can measure progress towards the indicator using the following assessment criteria: <ul style="list-style-type: none"> – No general rules or procedures are in place to ensure the provision of legal support, legal assistance, legal aid or legal representation to children affected by judicial proceedings; – Rules and procedures are in place in certain proceedings (please specify) to ensure that (i) legal support, (ii) legal assistance, (iii) legal aid and (iv) legal representation are available to children affected by judicial proceedings. Children have free access to a <i>guardian ad litem</i> and/or a lawyer tasked with acting on their behalf and putting forward their perspective as they would that of an adult client. Lawyers representing children must be fully independent of the other private or public parties; – Rules and procedures are in place in all proceedings to ensure that (i) legal support, (ii) legal assistance, (iii) legal aid and (iv) legal representation are available to all children affected by judicial proceedings. Children have free access to a <i>guardian ad litem</i> and/or a lawyer tasked with acting on their behalf and putting forward their perspective and views as they would those of an adult client. Lawyers representing children are always fully independent of the other private or public parties. Before the actual proceedings commence, children must have the opportunity to meet their counsel and discuss the proceedings with them. Protocols are in place to ensure continuity of legal support, assistance and representation. Children have access to a procedure to change their publicly funded counsel if they make a reasoned request to do so; – In addition to the foregoing, rules, procedures and personnel are in place to ensure feedback on these matters is sought and obtained from the children and taken into account in revision procedures.
Analysis notes	<ul style="list-style-type: none"> ▶ States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ▶ For each branch of the law, States should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children’s experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).
Comments	<ul style="list-style-type: none"> ▶ Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ▶ Good practice: ▶ Points to address: ▶ Recommendation(s):
Action points (follow up)	<ul style="list-style-type: none"> ▶ Please indicate any action you will take following this Assessment to strengthen progress on this indicator.

	2 Children's interests are assessed under an integrated multidisciplinary approach
Definition	<p>Multistakeholder collaboration through co-ordination and co-operation protocols is in place to ensure clarity on respective roles and responsibilities and conduct individual assessments of children. Member states shall ensure effectively that the principle of action in the best interests of the child is implemented through an integrated multidisciplinary approach to determine the best interests of the child in all proceedings involving children. The individual assessments should therefore consider several factors, including the views and opinions of the child (to be given due weight), the child's right to dignity, liberty and equal treatment, and the psychological and physical well-being and legal, social educational and economic interests, vulnerabilities and needs of the child.</p>
Data sources (indicative only)	<ul style="list-style-type: none"> ▶ National legislation ▶ Key national legal and policy instruments in respect of judicial, legal and administrative proceedings ▶ EU legislation in general: Brussels IIb, Victims' Rights Directive, Directive on combating violence against women and domestic violence, CSA, THB, Directive 2016/800 on procedural safeguards for children in criminal proceedings, migration acquis ▶ Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations ▶ Barnahus model
Assessment criteria	<ul style="list-style-type: none"> ▶ States can measure progress towards the indicator using the following criteria: <ul style="list-style-type: none"> – There is no mandate in national law and no policies or procedures in place to determine the best interests of the child when children are involved in criminal, civil or administrative proceedings; – There is a mandate in national law or state policies and procedures require an assessment of the best interests of the child when children are involved in criminal, civil or administrative proceedings. However, there is no requirement to include the views of the child or use an integrated multidisciplinary approach to make the assessment; – There is a mandate in national law or state policies, and procedures require an assessment of the best interests of the child when children are involved in criminal, civil or administrative proceedings. However, while the views of the child are considered in accordance with the child's age and maturity, determination of the best interests of the child is not performed on the basis of an integrated multidisciplinary approach; – There is a mandate in national law or state policies, and procedures require that the best interests of the child are a primary consideration whenever children are involved in criminal, civil or administrative proceedings. An integrated multidisciplinary approach is used to conduct a complete best interests assessment based on the views and opinions of the child, the child's right to dignity, liberty and equal treatment, and the psychological and physical well-being and legal, social and economic interests of the child.

Analysis notes	<ul style="list-style-type: none"> ▶ States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ▶ For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children’s experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).
Comments	<ul style="list-style-type: none"> ▶ Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ▶ Good practice: ▶ Points to address: ▶ Recommendation(s):
Action points (follow up)	<ul style="list-style-type: none"> ▶ Please indicate any action you will take following this Assessment to strengthen progress on this indicator.

	3 Children participate effectively and meaningfully throughout the proceedings
Definition	<p>Measures are in place to ensure children participate effectively and meaningfully before, during and after the proceedings and that their views, opinions and perspectives are given <i>due weight</i> in accordance with their age and maturity.</p> <p>Procedures provide for the possibility of appointing a <i>guardian ad litem</i> or similar representative to ensure the rights of the child, including that the child's views and perspective are heard and that their best interests are a primary consideration during the proceedings. Procedures also regulate the right of holders of parental responsibility or, in cases where the latter's presence would not be appropriate for important reasons,¹⁶ the right of another appropriate adult appointed by the child to accompany them during the trial as well as, where appropriate, other procedural stages.</p> <p>Children should be consulted on the manner in which they wish to be heard in the proceedings, bearing in mind that they have the right to be heard, but this is not a duty.</p> <p>Where the child's views are contrary to what may be perceived as their best interests, these conflicting positions are given due weight and consideration.</p> <p>For infants and very young children unable to articulate views, their perspective must be presented by an independent person representing their interests.</p>
Data sources (indicative only)	<ul style="list-style-type: none"> ▶ National rules and protocols on child participation; ▶ National, ECHR and CJEU case law; ▶ EU and international legislation in general: Brussels IIb, Victims' Rights Directive, Directive on combating violence against women and domestic violence, CSA, THB, Directive 2016/800 on procedural safeguards, migration acquis ▶ Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations ▶ Council of Europe Resolutions, Recommendations and guidelines
Assessment criteria	<ul style="list-style-type: none"> ▶ States can measure progress towards the indicator using the following criteria: <ul style="list-style-type: none"> – No general rules or procedures are in place to ensure that children can participate effectively and meaningfully in judicial proceedings affecting them; – Rules and procedures are in place in certain proceedings (please specify the nature of the proceedings) to ensure that children can participate effectively and meaningfully, including ensuring that (i) their <i>perspective</i> is always presented to the court; (ii) children's views are determined independently from their parents or others in authority and, if the child so chooses on their own accord, are presented in the proceedings; (iii) due weight is given to their perspective and views in addition to the consideration given to the best interests assessment and the determination of any professionals whose views have been sought (even where the child's views depart from those of the professionals);

16. See Article 15 of DIR 2016/800 on such reasons.

	<ul style="list-style-type: none"> – Rules and procedures are in place in all proceedings affecting children to ensure that children can participate effectively and meaningfully, including ensuring that (i) their <i>perspective</i> is always presented to the court; (ii) children's views are determined independently from their parents or others in authority and, if the child so chooses on their own accord, are presented in the proceedings; (iii) due weight is given to their perspective and views in addition to the consideration given to the best interests assessment and the determination of any professionals whose views have been sought (even where the child's views depart from those of the professionals). Where the language of the courtroom is not the child's language, independent interpreters with child-sensitive skills are employed. Procedures require children to be treated with respect for their age, special needs, maturity, level of understanding and ability to concentrate and proceedings to be conducted in non-intimidating and child-sensitive settings; – In addition to the foregoing, rules are in place that permit children to be accompanied by a parent or another adult of their choice unless a reasoned decision has been made to the contrary in respect of that person. Children of sufficient age and maturity may choose not to avail themselves of this option; – In addition to the foregoing, rules, procedures and personnel are in place to ensure feedback on these matters is sought and obtained from the children and taken into account in revision procedures.
Analysis notes	<ul style="list-style-type: none"> ▶ States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ▶ For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children's experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).
Comments	<ul style="list-style-type: none"> ▶ Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ▶ Good practice: ▶ Points to address: ▶ Recommendation(s):
Action points (follow up)	<ul style="list-style-type: none"> ▶ Please indicate any action you will take following this Assessment to strengthen progress on this indicator.

	<div>4</div> Measures are taken to avoid undue delay in proceedings involving children
Definition	<p>In all proceedings involving children, there is a need to strike the right balance between the principle of urgency and lengthy or expeditious procedures. The judicial system should provide a speedy response, adjusting its pace to the best interests of the child, while respecting the rule of law. Proceedings should be reasonably speedy, avoiding undue delay, taking into account children's perception of time (also very important to allow victims to be able to start their recovery). Procedures that take too long can cause anxiety for children, who may wonder what is going on and whether their requests have been taken into account. Lengthy proceedings may also lead to children being held in pre-trial detention for unreasonable amounts of time and should therefore be avoided.</p> <p>It should be borne in mind that children have a different perception of time from adults and that the time element is very important for them: for example, one year of proceedings in a custody case may seem much longer to a 10-year-old than to an adult. The rules governing procedures should allow for a system of prioritising in serious and urgent cases, or where potentially irreversible consequences could arise if no immediate action is taken. Furthermore, respecting the best interests of the child may require flexibility on the part of judicial authorities.</p> <p>States should take measures to avoid undue delay in proceedings involving children, ensure that such proceedings are dealt with speedily and that national legislation provides, where appropriate, specific time limits for children.</p> <p>A system of prioritising cases involving children could be encouraged.</p>
Data sources (indicative only)	<ul style="list-style-type: none"> ▶ National rules and protocols on children's rights ▶ National, ECHR and CJEU case law ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations ▶ Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse ▶ Council of Europe Committee of Ministers Recommendation No. R (87) 20 on social reactions to juvenile delinquency ▶ EU legislation, such as Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, Directive on combating violence against women and domestic violence
Assessment criteria	<ul style="list-style-type: none"> ▶ States can measure progress towards the indicator using the following criteria: <ul style="list-style-type: none"> – Proceedings involving children progress at the same pace as any other proceedings and often take a long time; – Proceedings involving children sometimes progress at a slightly different pace and may be treated with some level of priority; – Certain proceedings involving children, such as child justice proceedings are assessed through the principle of the best interests of the child and avoid undue delay, receiving speedy but not too expeditious treatment; – All proceedings involving children, including but not limited to child justice, public and private family law, migration, child abduction and child protection, are assessed through the principle of the best interests of the child and avoid undue delay, receiving speedy but not too expeditious treatment.

Analysis notes	<ul style="list-style-type: none"> ▶ States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ▶ For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children’s experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).
Comments	<ul style="list-style-type: none"> ▶ Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ▶ Good practice: ▶ Points to address: ▶ Recommendation(s):
Action points (follow up)	<ul style="list-style-type: none"> ▶ Please indicate any action you will take following this Assessment to strengthen progress on this indicator.

B. Child-friendly approaches for all children at different stages of the procedures

	1 Before proceedings: the rights of all children are safeguarded as of the first contact with the justice system
Definition	<p>NB: The core normative elements mentioned in Part I apply, including Part I/A/5 on alternatives to judicial, administrative and other legal proceedings, such as diversion and alternative dispute resolution.</p> <p>Whenever children are apprehended by the law enforcement authorities, or whenever they first come into contact with the law enforcement authorities, states should ensure the following measures are taken to safeguard the rights of the child:</p> <ul style="list-style-type: none"> ▶ inform children in a manner and in language that is appropriate to their age and level of understanding of the reason for which they have been taken into custody or are in contact with the law enforcement authorities; ▶ other than in exceptional circumstances, inform children's parent(s) or legal guardian(s) of their being held in a police station and ask the parent(s) or legal guardian(s) to come to the police station; ▶ provide children with an opportunity to contact their parent(s), legal guardian(s) or a person whom they trust; ▶ provide children with access to a lawyer, and if necessary, legal aid and ensure that any statements made by the child are made in the presence of their legal representation, parent, legal guardian or other person they trust; ▶ ensure the layout of the interview room and the dress and demeanour of the law enforcement authorities do not create an intimidating or hostile environment. <p>As law enforcement professionals are often the first responders child victims and witnesses come into contact with, they have the prime responsibility to inform the children and their families about the available financial, legal, counselling, health, social and educational services, physical and psychological recovery services and all other services necessary for the child's reintegration. In order to be able to provide adequate information about available services, law enforcement professionals need to be aware of the support services that exist in their district. It is therefore recommended that all information on services and assistance available be kept in all police stations and specialised law enforcement units.</p> <p>The law enforcement authorities should establish specific organisational procedures if these are not already in place. The procedures and protocols may make reference to the principle of the best interests of the child, informing children and their parents or legal guardians, and the need-to-know principle, and may also be used to standardise forms for recording information about child victims and witnesses.</p>
Data sources (indicative only)	<ul style="list-style-type: none"> ▶ National rules and protocols on children's rights ▶ National, ECHR and CJEU case law ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations ▶ United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") ▶ Treatment of Child Victims and Child Witnesses of Crime for Law Enforcement Officials (UNODC)

Assessment criteria	<ul style="list-style-type: none"> – There are no rules on the need to provide information to children in a way they will understand or to contact the parents, guardians and/or close relatives of a child who is in custody or is in contact with law enforcement authorities. Furthermore, there is no access to legal aid for children in police custody; – There are some rules: (i) on the need to provide information to children in a way they will understand, but they are not systematically applied by, and not well known to, the law enforcement authorities; (ii) which require the law enforcement authorities to contact the parents, guardians and/or close relatives of a child who is in custody or in contact with the law enforcement authorities, but they are not systematically applied by, or well known to, the law enforcement authorities; (iii) providing limited access to legal aid for children in police custody; – There are rules: (i) on the need to provide information to children in a way they will understand and they are regularly applied by, and reasonably well known to, the police; (ii) which require the law enforcement authorities to contact the parents, guardians and/or close relatives and inform them that a child has been arrested or is under the supervision of the law enforcement authorities and they are usually applied by, and well known to, the law enforcement authorities (iii) providing access to legal aid in some circumstances; – There are comprehensive rules on the need to provide information to children in a way they will understand and they are generally applied by, and well known to, the law enforcement authorities. There is special material to provide this information and the law enforcement authorities receive training to ensure that information is provided in a child-friendly manner. Rules also exist that require the law enforcement authorities to contact parents, guardians and/or close relatives and inform them that a child is in custody or in contact with the law enforcement authorities, they are usually applied by, and well known to, the law enforcement authorities AND information is provided in a child-sensitive way, without exception. Each and every child receives legal aid, free of charge, without any possibility of exceptions. Other safeguards also exist to protect children's rights, including the presence of child-friendly interview rooms.
Analysis notes	<ul style="list-style-type: none"> ► States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ► For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children's experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).
Comments	<ul style="list-style-type: none"> ► Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ► Good practice: ► Points to address: ► Recommendation(s):
Action points (follow up)	<ul style="list-style-type: none"> ► Please indicate any action you will take following this Assessment to strengthen progress on this indicator.

	2	During proceedings: all children are protected from secondary victimisation.
Definition	<p>NB: The core normative elements mentioned in Part I apply, including Part I/A/5 on alternatives to judicial, administrative and other legal proceedings, such as diversion and alternative dispute resolution.</p> <p>Safeguards exist for child victims, witnesses and (alleged or recognised) offenders to prevent secondary victimisation, including measures to prevent repeated interviewing.</p> <p>Evidence/statements by children should be given appropriate weight.</p> <p>There is individual assessment for children that consists of determining which protection measures need to be put in place for each individual child. Measures to protect children shall be adopted in their best interests.</p> <p>Interviewing of and gathering of statements from children should be carried out by trained professionals. If more than one interview is required, any subsequent interview should be carried out by the same person. Interviews should be carried out in premises suited to the purpose. There should be as few interviews as possible and the length of the interviews should be adapted to the child's age and attention span.</p> <p>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. Interviews with children may be recorded audiovisually and used as evidence in criminal proceedings. Children's statements and evidence should never be presumed invalid or untrustworthy by reason only of their age.</p> <p>Such measures should apply in all types of proceedings, including criminal, migration or civil law cases.</p> <p>NB: The core normative elements mentioned in Part I apply.</p>	
Data sources (indicative only)	<ul style="list-style-type: none"> ▶ National laws ▶ Structure of the judicial system, including any specialised courts ▶ National rules on judicial training ▶ National, ECHR and CJEU case law ▶ EU legislation, such as Victim's Rights Directive, Child Sexual Abuse Directive, Directive on combating violence against women and domestic violence, Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims ▶ The Istanbul Convention ▶ Reports of national bar associations on provision for children ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations ▶ Council of Europe Resolutions, Recommendations and guidelines 	

Assessment criteria	<ul style="list-style-type: none"> ▶ States can measure progress towards the indicator using the following criteria: <ul style="list-style-type: none"> – No rules or procedures are in place to prohibit or minimise the re-interviewing of children; – Rules, procedures and protocols are in place to prohibit or minimise the re-interviewing of children generally; – Rules, procedures and protocols are in place to prohibit or minimise the re-interviewing of children generally and specifically when they have been victims, witnesses or (alleged) perpetrators of abuse. All interviews with children are conducted by professionals trained in understanding trauma and re-traumatisation. Protocols are in place to ensure that interviews are recorded so that they can be consulted again without re-interviewing. Questioning in a court setting is conducted in a child-sensitive manner; – Rules and procedures are in place to prohibit or minimise the re-interviewing of children generally and specifically when they have been victims or witnesses of abuse and also when they are (alleged or recognised) offenders. If re-interviewing is essential, it is, if at all possible, carried out by the same person. All interviews with children are conducted by professionals trained in understanding trauma and re-traumatisation. Protocols are in place to ensure that (i) interviews are recorded so that they can be consulted again without re-interviewing, (ii) if re-interviewing is essential, it is, if at all possible, carried out by the same person and (iii) questioning in a court setting is conducted in a child-sensitive manner. Children giving evidence about abuse are heard by audiovisual means. Measures are in place to avoid both confrontation and contact with alleged perpetrators (for example, by providing separate court entrances and waiting rooms), unless at the voluntary request of the child. Protocols are in place ensuring that proper weight is given to the testimony of all child witnesses; – In addition to the foregoing, rules, procedures and personnel are in place to ensure feedback on these matters is sought and obtained from the children and taken into account in revision procedures.
Analysis notes	<ul style="list-style-type: none"> ▶ States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ▶ For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children's experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).
Comments	<ul style="list-style-type: none"> ▶ Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ▶ Good practice: ▶ Points to address: ▶ Recommendation(s):
Action points (follow up)	<ul style="list-style-type: none"> ▶ Please indicate any action you will take following this Assessment to strengthen progress on this indicator.

	3 After proceedings: laws and measures exist to ensure that the rights of all children are safeguarded after proceedings
Definition	<p>To fully respect the rights of all children, including victims, witnesses and (alleged or convicted) offenders, states should also ensure the following:</p> <ul style="list-style-type: none"> ▶ children are informed by their lawyer, guardian ad litem or legal representative when a decision is not enforced and they are also informed of any available remedies; ▶ the child's lawyer, guardian or legal representative should be authorised to take all necessary steps to claim for damages for a child, with the costs of pursuing damages being covered by the state; and ▶ where children are involved, particularly in family law cases, enforcement of judgments should be a measure of last resort and steps should be taken to avoid secondary victimisation of children. <p>Children deprived of their liberty should have adequate protection against arbitrary and unlawful treatment during that time. Accordingly, member states should ensure that:</p> <ul style="list-style-type: none"> ▶ children are detained separately from adults, other than in exceptional situations shown to be in the best interests of the child; ▶ any children deprived of their liberty enjoy continued and meaningful contact with family and friends; ▶ any children deprived of their liberty continue to be able to exercise their economic, social and cultural rights (including education, health, play and leisure) and civil and political rights (freedom of thought and religion, privacy, protection against torture and other forms of ill-treatment or punishment, protection against solitary confinement, etc; and ▶ plans exist for the reintegration of children who have been deprived of their liberty. <p>Child victims and witnesses should be adequately informed and provided promptly with appropriate social and therapeutic support after proceedings. After judgments in highly conflictual proceedings, guidance and support from specialised services should be provided to children and their families, ideally free of charge. Support should include health, social or therapeutic programmes for victims. Child victims refers not only to those who are victims of crime but also to those who are victims of neglect.</p> <p>NB: The core normative elements mentioned in Part I apply, including Part I/A/5 on alternatives to judicial, administrative and other legal proceedings, such as diversion and alternative dispute resolution.</p>
Data sources (indicative only)	<ul style="list-style-type: none"> ▶ Constitution ▶ National law ▶ Regional law ▶ EU legislation, such as Directive 2016/800, Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims ▶ National and/or regional policy ▶ International (hard instruments) ▶ International (soft instruments) ▶ Academic NGO research ▶ Public authorities ▶ UNCRC and UNCRC General Comments, Decisions, Monitoring Reports and Concluding Observations ▶ Reports on the conditions of deprivation of liberty; reports by independent monitoring mechanisms; and reports on complaints mechanisms available to and exercised by children.

Assessment criteria	<ul style="list-style-type: none"> ▶ Regarding children deprived of their liberty, states can measure progress towards the indicator using the following criteria: <ul style="list-style-type: none"> – No laws exist which adequately protect the rights of children who have been deprived of their liberty; – Laws are in place to adequately protect the rights of children who have been deprived of their liberty in certain settings (i.e., child justice), but they do not apply to all settings in which children may be deprived of their liberty; – Laws are in place to adequately protect the rights of children who have been deprived of their liberty in settings in which this may occur; – There is comprehensive protection against deprivation of liberty of children and comprehensive national laws to protect the rights of children who have been deprived of their liberty. These laws function properly and are carefully monitored and evaluated on a regular basis by an independent body. Children have access to justice mechanisms that provide effective remedies against unlawful or arbitrary treatment and other rights violations. ▶ Regarding child victims and witnesses, states can measure progress towards the indicator using the following assessment criteria: <ul style="list-style-type: none"> – There is no support available free of charge to children to facilitate their recovery; – Health support is available to victims; – Social, therapeutic and health support is available to victims; – Free social, therapeutic and health support is available to all children who have been involved in judicial proceedings.
Analysis notes	<ul style="list-style-type: none"> ▶ States should provide information on each relevant branch of the law (should state resources so permit): <ul style="list-style-type: none"> – Civil justice; – Criminal justice; – Administrative justice (including migration-related procedures). ▶ For each branch of the law, states should provide information on the following factors to ensure they have adequately assessed their progress towards the indicator: <ul style="list-style-type: none"> – Data collected or referred to by the state to evaluate the indicator; – Measures taken by the state to collect data on children's experience regarding the indicator; – Feedback on how children experience the indicator in the state (should state resources so permit).
Comments	<ul style="list-style-type: none"> ▶ Overall assessment: <ul style="list-style-type: none"> – fully completed; – partially completed; – not completed (including planned actions not yet started). ▶ Good practice: ▶ Points to address: ▶ Recommendation(s):
Action points (follow up)	<ul style="list-style-type: none"> ▶ Please indicate any action you will take following this Assessment to strengthen progress on this indicator.



ISSUES

to consider:

- ▶ **Children should not encounter discrimination in any institutions where they are held or with any programmes they are required to engage with after legal proceedings.**

The right to non-discrimination is a General Principle of the UNCRC (Article 2) and is recognised in many human rights instruments, including the EU Charter of Fundamental Rights. Places where children are deprived of their liberty must be inclusive, as should community support programmes run by member states. This means that such institutions and programmes must not discriminate against children because of particular characteristics of the children or their parents. Furthermore, member states should provide specific protection and assistance for children deprived of their liberty or whose movement or autonomy is restricted,, including unaccompanied and migrant children, children with disabilities, street children, Roma children and children in residential institutions.

Appendix

Terminology

In drafting this Assessment Tool on child-friendly justice, account has been taken of the fact that the function of the terminology detailed below may vary from jurisdiction to jurisdiction.

For the purposes of this Assessment Tool on child-friendly justice:

- a. “access to justice” refers to the ability to obtain a ‘just and timely’ remedy and decision when children’s rights are violated, not respected or denied. This comprises the ability to engage with justice systems as well as access to ‘just and equitable’ decision-making procedures and legal outcomes. Access to justice may relate to criminal, administrative and/or civil matters. It requires a broader interpretation, allowing reviews or appeals regarding any procedural or substantive misdirection, and ensuring that effective remedies are available. It applies to children who are direct or indirect parties to legal proceedings concerning them such that it requires legal empowerment of all children: all should be enabled to claim their rights, through legal and other services such as child rights education or advice and support from knowledgeable adults;¹⁷
- b. “adolescence” has been referred to as “a period characterized by rapid physical, cognitive and social changes, including sexual and reproductive maturation; the gradual building up of the capacity to assume adult behaviours and roles involving new responsibilities requiring new knowledge and skills” in United Nations Committee on the Rights of the Child General Comment No. 4 on adolescent health and development in the context of the Convention on the Rights of the Child;
- c. “child” means any person under the age of 18;¹⁸
- d. “child-friendly justice” refers to justice systems which guarantee respect for and the effective implementation of all children’s rights at the highest attainable level, bearing in mind the principles listed in the Council of Europe guidelines and giving due consideration to the child’s level of maturity and understanding and the circumstances of the case. It is, in particular, justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child, including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity;¹⁹
- e. “child justice system” refers to the legislation, norms and standards, procedures, mechanisms and provisions specifically applicable to, and institutions and bodies set up to deal with, children considered as offenders. “Child justice” is preferred to “Juvenile justice” since the latter has stigmatising connotations and “Child justice” will therefore be used throughout this Assessment Tool.²⁰
- f. “child-sensitive” has been referred to as “an approach that balances the child’s right to protection and that takes into account the child’s individual needs and views” in the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime;²¹

17. This definition is based on the UNICEF definition of access to justice but has been adapted for the purpose of this Assessment Tool taking into account the United Nations Common Approach to Justice for Children, CRC Committee General Comment No. 24, the United Nations Development Programme Access to Justice Practice Note and the United Nations High Commission for Human Rights report on Access to justice for children; See, in particular, UN Common Approach to Justice for Children (2008), page 4; CRC Committee, General Comment No. 24 (2019) on children’s rights in the child justice system, CRC/C/GC/24, paragraph 62; UNICEF, Access to Justice, Definition, available at: <https://www.unicef.org/eca/child-protection/access-justice>; United Nations Development Programme, Access to Justice: Practice Note, UNDP, New York (2004), page 6; Report of the United Nations High Commissioner for Human Rights, Access to justice for children, supra note 6 at paragraph 8; See also UNICEF, Breaking Down Barriers: Equitable access to justice for children with disabilities (2020), page 11.

18. Council of Europe Guidelines on Child-Friendly Justice, supra note 1 at page 17 (paragraph II. a.). Definition in accordance with Article 1 of the United Nations Convention on the Rights of the Child and Article 1.1 of the European Convention on the Exercise of Children’s Rights (ETS No. 160), as noted in the Explanatory Memorandum of the Guidelines on child-friendly justice, page 49.

19. Council of Europe Guidelines on Child-Friendly Justice, supra note 1 at page 17.

20. CRC Committee, General Comment No. 24, supra note 16 at paragraph 6.

21. UN Economic and Social Council, Guidelines on justice in matters involving child victims and witnesses of crime (2005), E/CN.15/2005/L.2/Rev.1, paragraph 9(d); See also Council of Europe Guidelines on Child-Friendly Justice, supra note 1 at paragraph 109.

- g. “child victims and witnesses” has been referred to as “children and adolescents, under the age of 18, who are victims of crime or witnesses to crime regardless of their role in the offence or in the prosecution of the alleged offender or groups of offenders” in the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime;²²
- h. “court” refers to a body established by law to exercise the judicial power of the state in civil, administrative and criminal matters;²³
- i. “deprivation of liberty” occurs when there is any form of detention or imprisonment or the placement of a person in a public or private custodial setting, which that person is not permitted to leave at will, by order of any judicial, administrative or other public authority.²⁴ According to the European Court of Human Rights, there is a subtle difference between freedom of movement as protected under Article 2 of Protocol No. 4 to the ECHR, and deprivation of liberty as protected under Article 5 of the ECHR. European Court of Human Rights case law provides that it is important to acknowledge that children may be *de facto* deprived of their liberty if they are confined, by either the state or private persons, without having validly consented, in a particular restricted space for a not negligible length of time in circumstances where the individual is not, *de facto* or *de jure* able to leave;²⁵
- j. “diversion” refers to “measures for dealing with children in conflict with the law, taken by designated authorities, without resorting to judicial proceedings”, as noted in United Nations Committee on the Rights of the Child General Comment No. 24 on children’s rights in the child justice system;²⁶
- k. “guardian *ad litem*” refers to a person who is appointed or designated to support, assist and, where provided for by law, represent children in proceedings that affect them. Where an institution or organisation is appointed or designated as a guardian to support, assist and exercise legal capacity for a child, it should designate a natural person to carry out the duties of guardian as set out in this Assessment Tool. The guardian acts independently to ensure that the children’s rights, best interests and well-being are guaranteed. The guardian acts as a link between the children and all other stakeholders with responsibilities towards them. Guardians *ad litem* may be a role with inherent contradictions, as guardians are required to put forward (i) their opinion as to what is in the best interests of the child and (ii) the views of the child;²⁷
- l. “lawyer” refers to a person qualified and authorised according to national law to plead and act on behalf of their clients, to engage in the practice of law, to appear before the courts or advise and represent their clients in legal matters;²⁸
- m. “legal advice” refers to the provision of information by a lawyer or other appropriate representative on a child’s legal rights and/or responsibilities and on the manner of, and existing possibilities for, solving a particular legal issue;²⁹
- n. “legal aid” refers to the provision of legal advice, assistance and/or representation by a funded legal aid provider either at no cost or subject to a financial contribution;³⁰

22. UN Economic and Social Council, Guidelines on justice in matters involving child victims and witnesses of crime, supra note 20 at paragraph 9(a).

23. European Commission for the Efficiency of Justice (CEPEJ) Glossary, <https://rm.coe.int/cepej-2019-5final-glossaire-en-version-10-decembre-as/1680993c4c>

24. CRC Committee, General Comment No. 24, supra note 16 at paragraph 8. See also UN General Assembly, United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (1991), A/RES/45/113 (Havana Rules), Rule 11(b) and Council of Europe, European rules for juvenile offenders subject to sanctions or measures (2009), Rule 21.5.

25. See *Guzzardi v. Italy*, 6 November 1980, Series A no. 39; *Amuur v. France*, 25 June 1996, Reports of Judgments and Decisions 1996-III; *Austin and Others v. the United Kingdom* [GC], nos. 39692/09 and 2 others, ECHR 2012; *Storck v. Germany*, no. 61603/00, ECHR 2005-V; *Stanev v. Bulgaria* [GC], no. 36760/06, ECHR 2012; *H.L. v. the United Kingdom*, no. 45508/99, ECHR 2004-IX; *H.M. v. Switzerland*, no. 39187/98, ECHR 2002-II; *Riera Blume and Others v. Spain*, no. 37680/97, ECHR 1999-VII.

26. CRC Committee, General Comment No. 24, supra note 16 at paragraph 6.

27. This definition is based on the Council of Europe definition of “guardian” contained in Recommendation CM/Rec(2019)11 of the Committee of Ministers on effective guardianship for unaccompanied and separated children in the context of migration but has been adapted for the purpose of this Assessment Tool. See, in particular, Council of Europe, Recommendation CM/Rec(2019)11 of the Committee of Ministers on effective guardianship for unaccompanied and separated children in the context of migration, page 12.

28. Council of Europe, Guidelines of the Committee of Ministers on the efficiency and the effectiveness of legal aid schemes in the areas of civil and administrative law (2021), paragraph 2(a).

29. Idem at paragraph 2(d).

30. Idem at paragraph 2(b).

- o. “legal assistance” refers to assistance by a lawyer or other appropriate representative including, for example, assistance in drafting documents and court pleadings, support in mediation and help in navigating the rules and procedures of state administrative agencies;³¹
- p. “legal proceedings” refers to both the formal and informal procedures for carrying out a legal process resulting in a decision affecting a child being made by a competent body. This comprises judicial proceedings and alternatives to such proceedings in member states’ judicial and non-judicial systems. This requires co-operation between competent bodies and services involved in implementing criminal, civil or administrative law;³²
- q. “legal representation” refers to representation by a lawyer or other appropriate representative, including in courts or proceedings before other state tribunals;³³
- r. “parent” or “carer” refers to the person(s) with parental responsibility, according to national law. If the parent(s) is/are absent or no longer holding parental responsibility, this can be a guardian or an appointed legal representative;³⁴
- s. “professionals” refers to persons who, within the context of their work, have relevant academic or professional qualifications or training and are in contact with children in the justice system or are responsible for addressing the needs of children in the justice system and to whom this Assessment Tool is applicable. This Assessment Tool is applicable to all professionals from all fields of justice for children. This includes, but is not limited to, the following: social workers, lawyers, legal representatives, persons of trust, prosecutors, judges, medical and mental health professionals, child welfare agency staff, personnel in facilities for children, child protection officials, child and victim support persons, police officers or other law enforcement officials;³⁵
- t. “restorative justice” refers to any process in which the victim, the offender and/or any other individual or community member affected by a crime actively participates together in the resolution of matters arising from the crime, often with the help of a fair and impartial third party. Examples of restorative process include mediation, conferencing, conciliation and sentencing circles;³⁶
- u. “restriction on freedom of movement” refers to temporary restraint on an individual’s right to liberty of movement and freedom to choose their residence within the territory of a member state or to leave any country;³⁷
- v. “restriction on personal autonomy” concerns limitations of the child’s human rights and fundamental freedoms, which includes, but is not limited to the following: restrictions on the child’s private life, including privacy, mental and physical integrity, and family life, including restrictions on the right of a child to maintain regular and meaningful contact with their parents, family and friends through visits and correspondence. Such restrictions should never be used as a punishment and must respect the best interests of the child principle; restrictions on the right of a child to receive appropriate education, vocational guidance and training, medical care, and enjoy freedom of thought, conscience and religion and access to leisure, including physical education and sport; and restrictions on the right of a child to access programmes that prepare children in advance for their return to their communities, with full attention given to them in respect of their emotional and physical needs, their family relationships, housing, schooling and employment possibilities and socio-economic status.³⁸

31. Idem at paragraph 2(e).

32. Council of Europe Guidelines on Child-Friendly Justice, supra note 1 at page 16 (last preambular paragraph and paragraphs I.1. and I.2.)

33. Council of Europe, Guidelines of the Committee of Ministers on the efficiency and the effectiveness of legal aid schemes in the areas of civil and administrative law, supra note 27 at paragraph 2(c).

34. Council of Europe Guidelines on Child-Friendly Justice, supra note 1 at page 17 (paragraph II. b.); see also Council of Europe, Guidelines of the Committee of Ministers on child-friendly health care (2011), page 6.

35. This definition is based on the definition of “professionals” contained in the UN Guidelines on justice in matters involving child victims and witnesses of crime but has been adapted for the purpose of this Assessment Tool. See, in particular, UN Economic and Social Council, Guidelines on justice in matters involving child victims and witnesses of crime, supra note 20 at paragraph 9(b).

36. ECOSOC Resolution 2002/12, Basic principles on the use of restorative justice programmes in criminal matters, paragraph 2.

37. Council of Europe, Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto (1963), ETS No. 46, Article 2.

38. See Council of Europe Guidelines on Child-Friendly Justice, supra note 1 at paragraph 21.

Relevant Council of Europe reference material on Child-friendly justice

- ▶ Council of Europe Recommendation CM/Rec (2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures
- ▶ The Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice
- ▶ Council of Europe Recommendation CM/Rec(2012)2 of the Committee of Ministers on the participation of children and young people under the age of 18
- ▶ The Council of Europe Convention on Cybercrime (Budapest Convention)
- ▶ The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)
- ▶ The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention)
- ▶ Council of Europe Recommendation CM/Rec(2018)7 of the Committee of Ministers on Guidelines to respect, protect and fulfil the rights of the child in the digital environment
- ▶ Council of Europe Recommendation CM/Rec (2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures.
- ▶ The Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.
- ▶ The Council of Europe study on children as defenders of human rights.
- ▶ Council of Europe Committee of Ministers Recommendation No. R (87) 20 on social reactions to juvenile delinquency

Relevant EU reference material on Child-friendly justice

EU Legislation

Primary Law

[Treaty of the European Union](#) (2016/C202/13), particularly Article 3(3) and Article 3(5)

[Treaty on the Functioning of the European Union](#) (2016/C202/47)

[Charter of Fundamental Rights of the EU](#) (2016/C202/389), particularly Article 24 (the rights of the child)

Secondary Law (adopted and proposed)

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

[Proposal for a directive amending Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA]

[Directive on the right to information in criminal proceedings](#) (2012/13/EU)

[Directive on combating the sexual abuse and sexual exploitation of children and child pornography](#) (2011/93/EU)

[Regulation on a temporary derogation from certain provisions of Directive 2002/58/EC as regards the use of technologies by providers of number-independent interpersonal communications services for the processing of personal and other data for the purpose of combating online child sexual abuse](#) (2021/1232/EU)

[Proposal for a regulation laying down rules to prevent and combat child sexual abuse]

[Proposal for a directive on combating the sexual abuse and sexual exploitation of children and child sexual abuse material and replacing Council Framework Decision 2004/68/JHA (recast)]

[Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims](#)

[Proposal for a directive amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims provisionally politically agreed. The text is expected to be adopted on 27 May. This will amend the 2011 Directive.]

\ [Directive .../... of the European Parliament and of the Council on combating violence against women and domestic violence](#) (OJ, ELI:...).

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

[Directive on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA](#) (2016/680/EU)

[Regulation \(EU\) 2016/1191 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation \(EU\) No 1024/2012](#)

[Directive 2013/48/EU on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty](#)

[Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings](#)

[Directive 2012/13/EU on the right to information in criminal proceedings](#)

[Directive \(EU\) 2016/343 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings](#)

Directive 2016/1919 on legal aid in criminal proceedings

Council Regulation on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (2019/1111/EU)

Council Regulation on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (2009/4/EC)

Regulation on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (2020/1783/EU)

Regulation on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation (2023/2844)

Hague 1980 Child Abduction Convention

Hague 1996 Child Protection Convention

Hague 2007 Child Support Convention

Hague 2007 Maintenance Obligations Protocol

Regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) (2013/604/EU)

Council Directive to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes (2003/8/EC)

Regulation on the European Border and Coast Guard (2019/1896/ EU)

Regulation on the use of the Schengen Information System for the return of illegally staying third-country nationals (2018/1860/EU)

Regulation on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006 (2018/1861/EU)

Regulation on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 and Commission Decision 2010/261/EU (2018/1862/EU)

Directive on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (2004/38/EC)

Directive on laying down standards for the reception of applicants for international protection (2013/33/EU)

Directive on common procedures for granting and withdrawing international protection (recast) (2013/32/EU)

Directive on common standards and procedures in the Member States for returning illegally staying third-country nationals (2008/115/EC)

Directive on the right to family reunification (2003/86/EC)

Commission Communication on an Action plan on Integration and Inclusion 2021-2027 (COM/2020/758 final)

Commission Communication on a New Pact on Migration and Asylum (COM/2020/609 final)

Commission Communication on the protection of children in migration (COM/2017/211 Final)

Commission Communication on EU return policy (COM/2014/199 final)

Pact on Migration and Asylum (adopted by the European Parliament in April 2024)

Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, CETS No. 210, Istanbul, 11.5.2011, pp. 1–31 ('the Istanbul Convention'). (The Istanbul Convention was concluded by the Union by Council [Decision - 2023/1075 - EN - EUR-Lex \(europa.eu\)](#) with regard to institutions and public administration of the Union, and by Council [Decision - 2023/1076 - EN - EUR-Lex \(europa.eu\)](#) with regard to matters related to judicial cooperation in criminal matters, asylum and non-refoulement.)

[1] Council Decision (EU) 2023/1075 of 1 June 2023 on the conclusion, on behalf of the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic

violence with regard to institutions and public administration of the Union (OJ L 143 I, 2.6.2023, p. 1, ELI: <http://data.europa.eu/eli/dec/2023/1075/oj>).

- [2] Council Decision (EU) 2023/1076 of 1 June 2023 on the conclusion, on behalf of the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence with regard to matters related to judicial cooperation in criminal matters, asylum and non-refoulement (OJ L 143 I, 2.6.2023, p. 4, ELI: <http://data.europa.eu/eli/dec/2023/1076/oj>).

Non-binding acts (policy documents)

[Recommendation on integrated child protection systems](#)

[Commission Communication on the strategy on the rights of the child \(COM/2021/142 final\)](#)

[Council Conclusions on the EU Strategy on the Rights of the Child \(10024/22\)](#)

[European Parliament Resolution on children's rights in view of the EU Strategy on the rights of the child \(2021/2523\(RSP\)\)](#)

[Commission Communication on Ensuring justice in the EU – a European judicial training strategy for 2021-2024 \(COM/2020/713 final\)](#)

[Commission Communication on the EU Strategy on victims' rights \(2020-2025\) \(COM/2020/258 final\)](#)

[Commission Communication on the protection of children in migration \(COM/2017/211 Final\)](#)

[Commission communication on the Strategy to fight child sexual abuse \(COM/2020/607 final\)](#)

[EU Guidelines for the Promotion and Protection of the Rights of the Child \(2017\) – Leave no Child behind](#)

Other resources

[Mapping Child Protection Systems in the EU – 2023 update](#)

[Council of Europe /FRA Handbook on European law relating to the rights of the child – 2022 edition](#)

[Justice Programme^{\[1\]}](#) including the call to support transnational projects on judicial training covering civil law, criminal law or fundamental rights (JUST-JTRA)

FRA, [Child-friendly justice – Checklist for professionals](#)

FRA, *Children as suspects or accused persons in criminal proceedings – procedural safeguards*, 2022

FRA, *Child-friendly justice – perspectives and experiences of children and professionals*, 2017

[European e-Justice Portal](#)

[EU Justice Scoreboard](#)

[Practice Guide for the application of the Brussels IIb Regulation \(2022\)](#)

[Practice guide on the application of Regulation No 4/2009 on maintenance obligations](#) A compilation of training on CFJ made by the EC: [European e-Justice Portal – Rights of the child \(europa.eu\)](#)

FRA, [Videos on children and justice](#)

EC, [Child Friendly Justice and Integrated Child Protection Systems – Lessons learned from EU projects](#), Conference – Background paper, 2018

- [1] [Regulation establishing the Justice Programme \(2021/693/EU\)](#)

Reporting Guidelines for National Reports on the Council of Europe Child-Friendly Justice Assessment Tool

The following headings are suggested for the structure of the narrative report that would accompany the template and provide the details. The report should be a maximum of 50 pages (A4). The specific numbers of pages for each section are indicative rather than definitive and are intended to provide helpful guidance.

Executive summary: always helpful and welcome. 2-3 pages

Introduction: this section should provide an introduction – setting out what the report is about, what it covers, why the assessment was undertaken and what the overall objectives of the assessment are, along with some general points on the approach taken and the team undertaking the assessment. 2-3 pages

The assessment process: this section should briefly describe the assessment process, giving details of the timeline and the methods used for:

- ▶ The collection of national data, the consultations with professional (NGO and governmental) stakeholders and the consultations with children and young people;
- ▶ The data analysis and the process for producing the assessment for each indicator;
- ▶ The identification of follow-up proposals/plans of action.

The *Roadmap* in this *Guide* provides a useful guide to the process and therefore what should be covered. If things are done differently, it would be useful to say so (and the reasons why) and to reference any limitations of the methods used or any particular methodological difficulties encountered. 4-5 pages

Outcomes of the Child-Friendly Justice Assessment process: for each of the indicators, this section should include:

- ▶ The assessment, i.e., the state of play (establishment of a baseline) and/or measurement of progress in each branch of the law (civil, criminal, administrative, including migration-related procedures)
- ▶ Comments and observations – referencing the evidence for the assessment with analysis from each of the data sources (the national data, consultations with professional stakeholders and consultations with children and young people);
- ▶ Examples of good practice, ideally with links that can be shared;
- ▶ Follow-up proposals/plans of action.
- ▶ Practical recommendations, ideally adopting a “SMART” (Specific, Measurable, Achievable, Relevant and Time-Bound) approach. The wording may reflect different levels of urgency, indicated in order of priority by the following verbs: “urges”, “strongly encourages”, “encourages” and “invites”.

This *Guide* provides some useful advice on how to approach the analysis and reporting – for example, the importance of triangulating data from the range of different sources.

The section should conclude with a summary of the key outcomes – an overview of the ‘state of play’ of child-friendly justice and access to justice within the member state, indicating what is going well and the priorities for future action. 30-35 pages

The action plan: setting out who is doing what, by when, in response to the issues and priorities for action identified in the assessment. Should include planned action for feeding back the outcomes of the assessment to all the stakeholders that participated in the process. 3-4 pages

Conclusions: should include some concluding comments on the assessment and what it has highlighted (good and not so good), future plans to progress child-friendly justice and access to justice and some reflections on how useful the process has been. 1-2 pages

Appendices: should include a list of the stakeholders who have been involved (by category) and references for any documentation cited in the report. The appendices may also include any more detailed information on legislative data, summary examples of procedures and policies, etc.

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