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Guidelines on interviewing children in civil proceedings in Slovenia

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TABLE OF CONTENTS

SUMMARY	5
1. INTRODUCTION.....	6
1.1. TASK AND MAIN OBJECTIVE	6
1.2. PLAN AND METHODOLOGY	9
2. ANALYSIS OF THE ONLINE SURVEY AMONG SLOVENIAN FAMILY COURT JUDGES.....	13
2.1. SURVEY RESULTS	13
3. LEGAL DEFINITION OF THE SIGNIFICANCE OF A CHILD’S OPINION	20
3.1. SLOVENIAN LAW	20
3.1.1. Substantive law.....	20
3.1.2. Procedural aspects	22
3.1.3. The position of a child who has reached the age of 15.....	28
3.2. INTERNATIONAL CONVENTIONS, SELECTED ECtHR JUDGMENTS AND FOREIGN SCHOLARLY LITERATURE	28
4. PSYCHOLOGICAL ASPECTS OF TALKING TO A CHILD.....	36
4.1. DEVELOPMENTAL PSYCHOLOGY AND CHILDREN’S MATURITY IN COURT PROCEEDINGS	36
4.2. MENTAL PROCESSES AND THEIR DISTINCTIONS: EMOTIONS, MOTIVATION (WILL), DESIRES, THINKING (OPINION)	37
4.3. A CHILD’S TEMPERAMENT AND INDIVIDUAL DIFFERENCES	38
4.4. CHILDREN WITH SPECIAL NEEDS IN LEGAL PROCEEDINGS	38
4.4.1. Specific groups of children with special needs.....	39
4.4.2. General guidelines for talking to a child or young person with special needs.....	39
4.5. CHILDREN FROM DIFFERENT CULTURES IN LEGAL PROCEEDINGS	40
4.6. FAMILY DYNAMICS, ATTACHMENT AND LOYALTY	41
4.7. THE IMPACT OF TRAUMATIC EXPERIENCES, STRESSFUL FAMILY CIRCUMSTANCES AND TRAUMA ON A CHILD’S PSYCHOSOCIAL FUNCTIONING	42
4.8. INTERVIEWING A CHILD IN COURT PROCEEDINGS: MOTIVATION, VERBAL AND NON-VERBAL COMMUNICATION.....	43
4.8.1. The child’s motivation to talk.....	43
4.8.2. Specific features of verbal communication	43
4.8.3. Features of non-verbal communication (body language)	44
4.9. THE CHILD’S WISHES AND THEIR BEST INTERESTS.....	44

5.	INFORMAL DISCUSSION WITH THE CHILD – PROTOCOL FOR THE JUDGE	46
5.1.	PURPOSE OF THE PROTOCOL	46
5.2.	PREPARATIONS FOR CONDUCTING THE INTERVIEW	46
5.2.1.	Preparing to conduct the interview with the child	46
5.2.2.	Method of invitation and content of the invitation to the child	46
5.3.	CONDUCTING THE INTERVIEW – STAGES	47
5.3.1.	Establishing contact with the child	47
5.3.2.	Checking the child’s knowledge and informing the child	48
5.3.3.	Discussion about the family, current issues and the child’s well-being.....	50
5.3.4.	Discussing wishes and seeking the child’s opinion	50
5.3.5.	Concluding the conversation, easing the tension.....	52
6.	TRIAL APPLICATION OF THE PROTOCOL IN PRACTICE	52
7.	FINAL PROPOSALS OF THE WORKING GROUP	52
7.1.	Who should conduct interviews with children in court.....	52
7.2.	Proposed training content for those conducting interviews with children in court.....	53
7.3.	Preparation of standardised invitations	55
7.4.	Production of a leaflet and short film.....	55
7.5.	Consideration of providing a psychologist at the court.....	55
8.	CONCLUSION	56
9.	SOURCES.....	57
9.1.	LITERATURE	57
9.2.	ONLINE SOURCES.....	58
9.3.	CASE LAW.....	59
9.4.	ADDITIONAL USEFUL RESOURCES	60
10.	ANNEXES TO THE PROTOCOL.....	61
	ANNEXES 1.1 AND 1.2: INVITATIONS (for parents of children up to 15 years of age and for children over 15 years of age)	61
	ANNEX 2: PSYCHOLOGICAL AND ETHICAL GUIDELINES AND PRACTICAL ADVICE FOR TALKING TO A CHILD.....	67
	ANNEX 3: MAP OF THE COURT PROCESS (diagram)	82
	ANNEX 4: MAP OF THE COURT PROCESS (description).....	85
	ANNEX 5: REPORT ON INFORMAL DISCUSSIONS HELD WITH MINOR CHILDREN.....	86

SUMMARY

This report presents the development and implementation of the Protocol for Informal Interviews with Children in Civil Proceedings in Slovenia, prepared as part of a joint project between the European Union and the Council of Europe.

The project supports the establishment of a child-friendly justice system, aligned with European and international standards, in particular with the principle of the best interests of the child.

Key findings include:

- a marked need for judges to receive specialised training in conducting interviews with children,
- the importance of combining legal and psychological expertise,
- the necessity of standardised yet flexible procedures to ensure consistent practice.

The report concludes with recommendations for training, institutional support and the development of practical tools to improve children's participation in court proceedings.

1. INTRODUCTION

A joint project of the European Union and the Council of Europe on 'Ensuring the best interests of the child in civil court proceeding in Slovenia', is currently underway in Slovenia. The project is being implemented by the Council of Europe's Children's Rights Division in close cooperation with the Ministry of Justice of the Republic of Slovenia and the European Commission, specifically its Reform and Investment Task Force (SG REFORM).

As part of this joint project, Slovenia has adopted a Strategy with a vision for a child-friendly and child-centred civil justice system for the period 2025–2030, which includes an Action Plan (NAP) setting out the responsible bodies for implementation and specific measures for the realisation, implementation, monitoring and evaluation of the objectives set to improve the situation and ensure the best interests of children.

The fundamental objective pursued through the implementation of this project is to improve the protection of children's rights within the Slovenian civil justice system, namely to strengthen the protection of children's rights and ensure the realisation of the principle of the best interests of the child, as well as to confirm Slovenia's commitment to respecting this principle within its legal system. Within the framework of the Strategy, Slovenia also takes into account the Joint Project of the EU and the Council of Europe on child-friendly justice

Chapter Three of the Strategy concerns CHILD PARTICIPATION, which includes the child's right to be properly informed, to be heard, to have their own legal representation, and for civil proceedings to be appropriately adapted to the child's age and level of maturity, so that they are enabled to participate effectively. The Strategy is based on the idea that children should be encouraged and supported to participate directly in court proceedings in which decisions are made regarding their rights and best interests; in other words, the significance of the proceedings should be explained to them in a way they can understand, and they should be allowed to freely express their views in their own words. The Strategy recognises the need for training and support for Slovenian judges in conducting interviews with children, in assessing the child's statement, and in taking the content of the child's statement into account when making decisions.

The purpose of the NAP measures included in this chapter of the Strategy is to establish a system in which, in civil proceedings, the child's rights are systematically and consistently respected in order to achieve the best interests of the child, and to implement specific initiatives and measures to improve children's experiences in these proceedings.

1.1. TASK AND MAIN OBJECTIVE

The preparation of a protocol for conducting an interview¹ (hearing or interview – hereinafter 'interview') with a child in court is one of the priorities set out in the Strategy, and is defined within the framework of Action 18 of the NAP.

¹The second paragraph of Article 96 of the Non-Contentious Proceedings Act (ZNP-1) does indeed use the term 'interview', however, the drafters of the protocol consider that, given the informal nature of the judge's conversation with the child – which is otherwise structured and intended to elicit the child's opinion – the use of the term 'conversation' is more appropriate. Similarly, the term 'hearing', which is more appropriate for criminal proceedings, is not used in the protocol.

The task of the working group is to develop a **protocol for interviewing children** in *civil proceedings*, which includes clear guidelines on interviewing techniques and rules, who may conduct interviews, and the criteria they must meet.

In carrying out this task, our primary aim was to produce a practical tool for those conducting interviews with children. Through the protocol, we also sought to encourage judges to more frequently decide to conduct interviews with children in court and to carry these out in accordance with applicable Slovenian legislation and international regulations, as well as existing professional guidelines in the field of psychology, whereby, in addition to the aim of expediting and ensuring the efficiency of court proceedings, our key principle was to realise and ensure the protection of the child's best interests in their cooperation with the court in this regard.

Thus, within **the psychological framework** of the protocol, the child's emotional experience and psychological needs are highlighted, the importance of the child's motivation to speak is emphasised, their (verbal and non-verbal) messages are recognised, as well as the influence of parents and other significant figures on the child during court proceedings when assessing the authenticity of the child's opinion.

With the aim of protecting the child, procedures are also outlined to prevent their retraumatisation and to avoid secondary victimisation resulting from the interview taking place in court.

We have also touched upon the psychological impact of the environment and focused specifically on the characteristics and qualifications of the person conducting the interview with the child. To this end, this material also defines certain basic knowledge that family judges, as legal professionals, do not usually possess, relating to developmental psychology, with a presentation of the basic characteristics of individual developmental stages and the child's maturity (cognitive, social and emotional), which are important for assessing the child's ability to participate in court proceedings. We also highlighted the mental processes (emotions, motivation/will, desires, thinking/opinion) relevant to distinguishing the child's wishes and recognising their opinion, as well as the influence of the child's temperament and other personality traits, and individual differences among children.

We paid particular attention to conducting interviews with children with special needs (mental development disorders, emotional and behavioural disorders, hearing-impaired, visually impaired and other groups of children with special needs), children who are victims of violence, children over the age of 15 who act independently as participants in the proceedings, and children from different cultural backgrounds (national, linguistic and religious characteristics).

In addition to the techniques for conducting the interview itself, the protocol for interviewing a child also contains specific organisational suggestions, all with the aim of ensuring that the child is as little burdened as possible by their active participation in court.

For the purposes of this task – preparing a protocol for interviewing a child in court – we have focused exclusively on **the child's role in family court proceedings**; however, provided they are adequately represented, children can undoubtedly various procedural roles in other civil court proceedings (litigation, e.g. compensation claims, property law disputes, etc.), as well as in other types of non-contentious proceedings (e.g. probate). However, this does not preclude the possibility that the fundamental provisions of the protocol might also be applied *mutatis mutandis* in other civil matters where information is obtained directly from the child.

In addition to legal and psychological sources, we, the authors, have drawn on our own professional experience in conducting interviews with children and young people in family court proceedings when drafting the protocol. The final version incorporates the comments and suggestions provided by the draft reviewers.

A longer-term objective of our project is also to advocate for the adoption of training programmes to improve the skills of judges and professional staff working in the family law sector.

1.2. PLAN AND METHODOLOGY

The plan and methodology of the working group for the preparation of a protocol for interviewing children in court envisaged:

- The conduct of an online survey among Slovenian judges who adjudicate in family matters, with the aim of familiarising ourselves with current practices regarding informal interviews with children and identifying the needs and challenges faced by judges. Sample: judges adjudicating in family matters across all 11 district courts.
- Review of Slovenian legislation and professional materials:
 - Constitution of the Republic of Slovenia (hereinafter the Constitution),²
 - Family Code (hereinafter FC),³
 - Non-Contentious Proceedings Act (hereinafter ZNP-1),⁴
 - Protocol on recommended conduct in the event of the enforcement of a decision on the removal of a child by direct handover (published on 24 November 2020),⁵
 - Guide to the Conduct of Family Proceedings, Version I,⁶
 - Commentary on the Family Code, Prof. Dr Barbara Novak (ed.), Official Gazette of the Republic of Slovenia 2019,
 - Family Code with Commentary, GV Publishing House, Ljubljana 2024,
 - Non-contentious Proceedings Act with Commentary, WD Publishing House, Maribor 2022,
 - The Child as a Party to Proceedings, Mateja Končina Peternel, Judicial Bulletin, No. 1/2021, pp. 119–127,
 - Obtaining the Child’s Opinion, Anja Andrejč Balažic, Judicial Bulletin 2/2024, pp. 63–7,
 - The Child’s Voice in Non-contentious Proceedings, Zoran Stankić Rupnik, Judicial Bulletin, No. 3/2023, pp. 73–82,
 - Article 12 of the CRC – The Child’s Right to Freedom of Expression in Judicial and Administrative Proceedings, Suzana Kraljić, Judicial Bulletin, 1/2016, pp. 11–33,
 - Family Law, Barbara Novak, Official Gazette of the Republic of Slovenia, Ljubljana 2014, pp. 198–199,

²Official Gazette of the Republic of Slovenia, No. 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121, 140, 143, 47/13 – UZ148, 47/13 – UZ90, 97, 99, 75/16 – UZ70a, 92/21 – UZ62a and 98/25 – UZ74a.

³Official Gazette of the Republic of Slovenia, No. 15/17, 21/18 – ZNOrg, 22/19, 67/19 – ZMatR-C, 200/20 – ZOOMTVI, 94/22 – Constitutional Court decision, 94/22 – Constitutional Court decision, 5/23 and 34/24 – Constitutional Court decision.

⁴Official Gazette of the Republic of Slovenia, No. 16/19.

⁵Available at: <https://www.tax-fin-lex.si/dokument/podrobnosti/a2798a48-cb94-4c8d-b8ac-5d5a926e04fa?qh=zakon%2co%2czavodih> (1 May 2026).

⁶Collection of publications Improving the Quality of the Judiciary, Guide to Conducting Family Proceedings, Supreme Court of the Republic of Slovenia (2022), pp. 27–28.

- Selected decisions of the Constitutional Court of the Republic of Slovenia regarding the significance of the child's opinion:
 - Up - 410/01 of 14 February 2002, Up - 957/16 of 22 June 2017,
 - Up - 677/19 of 12 March 2020, Up - 635/24 of 14 November 2024.
- Some decisions of the ordinary courts on the significance of the child's opinion when deciding on the child's best interests:
 - VSC Judgment Cp 979/2010, VSL Judgment II Cp 1765/2015, VSL Decision IV Cp 1342/2024,
 - VSL Decision IV Cp 643/2024, VSC Decision Cp 120/2024, VSL Decision IV Cp 666/2024,
 - VSK Decision IV Cp 137/2024, VSL Decision IV Cp 1979/2023, VSL Decision IV Cp 1454/2022,
 - VSL Decision IV Cp 2022/2022, VSC Decision I Cp 67/2025.
- Overview of international conventions (children's substantive and procedural rights) and key ECtHR case law, as well as relevant foreign academic literature and online sources:
 - European Convention on the Exercise of Children's Rights (hereinafter MEKUOP),⁷
 - The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (hereinafter referred to as the CPCSEA),⁸
 - United Nations Convention on the Rights of the Child (hereinafter CRC),⁹
 - Council Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and matters of parental responsibility, and on international child abduction,¹⁰
 - The Hague Convention on the Civil Aspects of International Child Abduction (hereinafter the Hague Convention),¹¹
 - EU Charter of Fundamental Rights,¹²
 - European Convention on Human Rights (hereinafter ECHR),¹³
 - Practical Guide to the Application of the Brussels Ila Regulation, Musseva Boriana, Luxembourg, European Union, 2023.
- Certain judgments of the European Court of Human Rights (hereinafter ECHR) on the importance of the child's opinion in decisions concerning their best interests:
 - Hokkanen v. Finland of 23 September 1994 (No. 19823/92),
 - Sahin v. Germany, 8 July 2003 (No. 30943/96),

⁷Official Gazette of the Republic of Slovenia – International Treaties, No. 26/99.

⁸Official Gazette of the Republic of Slovenia – International Treaties, No. 13/13.

⁹Official Gazette of the SFRY, No. 15/90.

¹⁰Official Journal L (EUR Lex) 178/2019.

¹¹Official Gazette of the Republic of Slovenia – International Treaties, No. 6/93.

¹²Official Journal C (EUR Lex) 326/2012.

¹³Official Gazette of the Republic of Slovenia – International Treaties, No. 7/94.

- Pini and Others v. Romania, 22 September 2004 (nos. 78028/01 and 78030/01),
- C. v. Finland, 9 May 2006 (No. 18249/02),
- M. M. v. Croatia, 3 December 2015 (No. 10161/13),
- Raw and Others v. France, 7 March 2013 (No. 10131/11),
- I. S. v. Greece, 23 August 2023 (No. 19165/20),
- X and Others v. Slovenia, 19 December 2024 (nos. 27746/22 and 28291/22),
- C v. Croatia, 8 January 2021 (No. 80117/17).
- Online sources:
 - <https://www.cnvos.si/aktualno/11813/svet-evrope-sprejel-priporocila-za-varstvo-otrok-v-postopkih-razveze-ter-postopkih-odvzema-otrok/>,
 - <https://rm.coe.int/zagotavljanje-najvecje-koristi-otrok-v-civilnih-postopkih-izbor-smerni/48802883f9>,
 - www.coe.int/children,
 - Council of Europe Handbook on Child Participation/for professionals working for and with children, Council of Europe (2020): <https://www.coe.int/en/web/children>.
- Overview of selected resources on the role of children in family matters
 - website: www.na.sodisctu.si ¹⁴
 - informative materials for children and parents, produced by the Psychologists' Group at the Community of Social Work Centres of Slovenia (leaflets),
 - an overview of relevant (international and Slovenian) psychological literature,¹⁵
 - an overview of international and European documents:
 - United Nations. (2009). *Guidelines on justice in matters involving child victims and witnesses of crime*,
 - Council of Europe. (2010). *Guidelines on child-friendly justice*,
 - European Union Agency for Fundamental Rights. (2015). *Child-friendly justice: Perspectives and experiences of professionals*,
 - European Union Agency for Fundamental Rights. (2022). *Children as victims: Support, protection and justice*.
- Overview of psychological foundations
 - *Developmental psychology: basic characteristics of individual developmental stages; a child's maturity (cognitive, social and emotional), capacity to participate in legal proceedings*,
 - *Mental processes/distinctions: emotions, motivation/will, desires, thinking/opinion*,

¹⁴Available at: <https://nasodiscu.si/> (1 May 2026).

¹⁵A list of key relevant sources in the field of psychology is provided in the appendix.

- *A child's temperament and other personality traits; individual differences among children,*
- *Children with special needs (mental development disorders, emotional and behavioural disorders, the hard of hearing, the visually impaired and other groups of children with special needs),*
- *Children from different cultures (national, linguistic and religious characteristics),*
- *Family dynamics, emotional attachment, family belonging, loyalty to parents,*
- *The impact of stressful childhood experiences, stressful family circumstances and traumatic events on a child's psychosocial functioning,*
- *The child's emotional experience and psychological needs in legal proceedings: parental divorce, arranging contact after separation, supervised contact, removal from parents due to risk, placement in a crisis centre, placement in a foster family, arranging contact with biological parents, return to the biological family, adoption, placement in an institution/specialist centre and termination of the measure, change of name,*
- *Interviewing a child in court proceedings; the child's motivation for the interview, verbal and non-verbal messages/body language,*
- *The influence of parents and other significant figures on the child during legal proceedings,*
- *Retravmatization, secondary traumatization, institutional violence,*
- *A trauma-informed approach (TIC),*
- *The psychological impact of the environment and the interviewer's characteristics on the child.*
- Coordination of the protocol's components across professional fields and the preparation of a joint protocol.
- Proposal for the appointment of professionals who will use the protocol – judges and specialist staff.
- Proposal for establishing the conditions for conducting interviews with children – basic training in the use of the protocol.
- Preparation of annexes and tools for use – preparation of a handbook for the use of the protocol.
- Testing of the protocol, *provided that this is still feasible in terms of time.*

2. ANALYSIS OF THE ONLINE SURVEY AMONG SLOVENIAN FAMILY COURT JUDGES

The survey was conducted using the online tool 1 KA between 25 March 2026 and 3 April 2026 among family judges who perform judicial functions in proceedings for the protection of children's interests¹⁶ (in family matters). Judges from all 11 district courts across Slovenia took part in the survey, for which the consent of the President of the Supreme Court of the Republic of Slovenia was also obtained.

According to data from the heads of family divisions at individual courts, 65 judges are currently involved in adjudicating family matters,¹⁷ but not all of them adjudicate in all proceedings for the protection of children's interests. Some thus only rule on individual cases, whilst others perform only on-call duties and rule solely on applications for interim orders under Article 168 of the Family Code,¹⁸ which are submitted by social work centres following the implementation of an emergency child removal measure,

The results of the survey conducted among family judges are presented below. When interpreting the results, it should be noted that the number of respondents for individual questions is not uniform, as some respondents did not answer certain questions or did not answer them in full. For this reason, the number of respondents whose answers were included in the analysis is specified for each question, with only fully completed answers to each question being taken into account.

2.1. SURVEY RESULTS

Thirty-eight participants answered the question regarding gender. Among them were 34 women (89%) and 4 men (11%), indicating a marked predominance of women in the sample of Slovenian judges adjudicating family matters.

¹⁶Article 93 of the ZNP-1: (1) Proceedings for the protection of the child's interests are, regardless of whether they are conducted independently or in conjunction with matrimonial disputes or disputes concerning the establishment or contestation of paternity or maternity, proceedings in which decisions are made regarding: - the care and upbringing of the child, - the maintenance of the child, - the child's contact arrangements, - matters relating to the exercise of parental care that significantly affect the child's development, - measures for the protection of the child's interests, - placing the child under guardianship, - placing the child in foster care, - the conferral of parental care upon a relative, - the adoption of a child and the annulment of a child's adoption. (2) Proceedings for the protection of the child's interests also include proceedings in which decisions are made regarding the maintenance of an adult child, provided that a maintenance obligation under the Family Code remains in force.

¹⁷Clarifications regarding the number of judges adjudicating in family matters were obtained from the heads of family law divisions, who also provided further details on how many judges work exclusively on family matters, how many decide only on certain types of family matters, and how many perform only on-call duties in family matters.

¹⁸The court must decide on applications for a temporary order under Article 168 of the Family Code within 24 hours; therefore, the family judge on duty does not seek the child's opinion before making a decision.

1. Judges' experience in adjudicating family matters

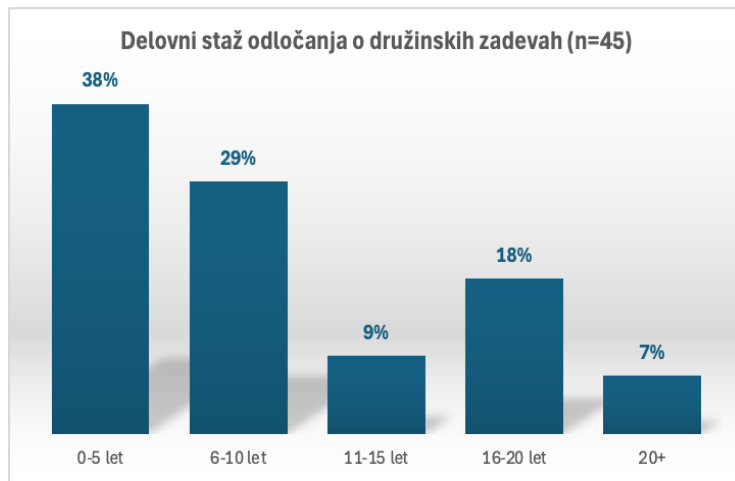


Figure 1: Length of service adjudicating in family matters ($N = 45$)

Most participants have been adjudicating in family matters for up to 5 years, followed by those with 6–10 years' experience. Judges with longer service, particularly over 20 years, represent a significantly smaller proportion. The average length of service is 9.3 years.

2. Frequency of interviews conducted with children

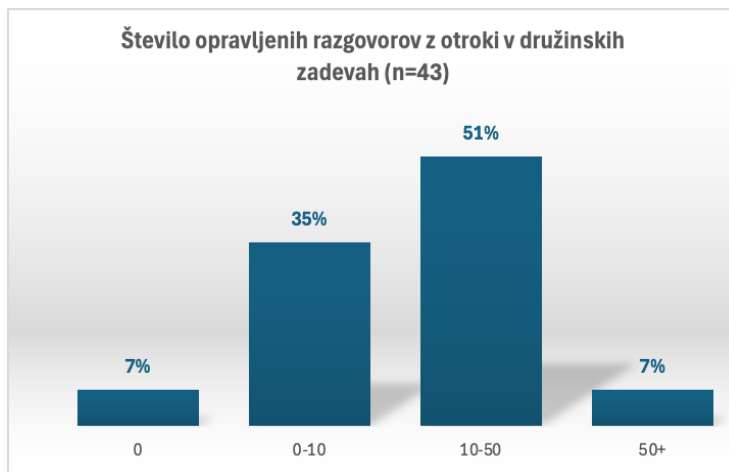


Figure 2: Number of interviews conducted with children in family matters ($N = 43$)

Most judges have conducted between 10 and 50 interviews with children, followed by those with 0–10 interviews.

Only a small proportion of judges have no experience of interviews, or have very extensive experience – with more than 50 interviews.

3. Age of children at the time of the interview with the judge

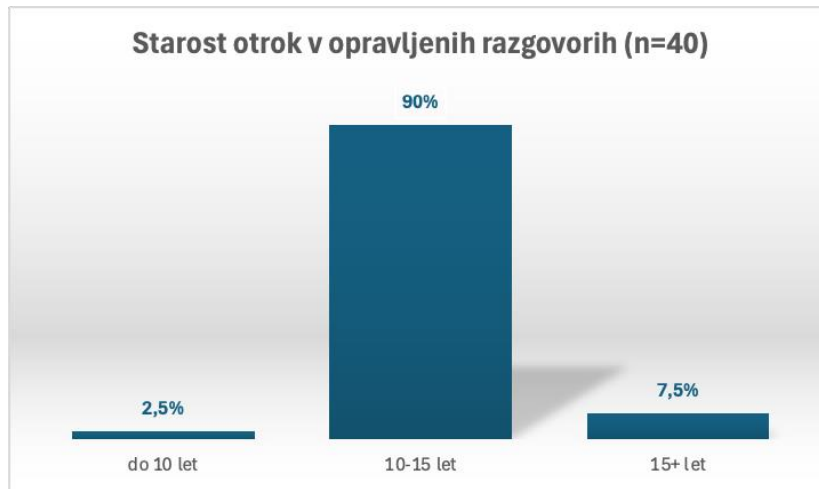


Figure 3: Age of children in interviews conducted ($N = 40$)

The vast majority of interviews were conducted with children aged between 10 and 15, whilst the younger (up to 10 years) and older (15+ years) groups are represented in a significantly smaller proportion.

The youngest child interviewed was 6 years old at the time of the interview.

The results show that most children do not have a trusted person present during the interview with the judge.

4. Venue for interviews with children

The results show that most judges most frequently conduct interviews with children in their office, whilst a significant proportion of judges also use other spaces for conducting interviews, such as specially equipped interview rooms, mediation rooms, school premises and other child-friendly spaces. A smaller proportion of participants conduct interviews in the courtroom.

5. Reasons for conducting an interview with a child

When judges decide to conduct an interview with a child to obtain their opinion, the factor most frequently highlighted in the survey was **the child's wishes** (e.g. that the child wishes to be heard, to express their own views, and for their opinion to be actively ascertained). **The professional judgement of the judge**, who makes a decision based on the interview, also plays an important role. **Proposals from other parties to the proceedings**, particularly the parents and the social services centre, also emerge as relevant factors in the judge's decision to conduct an interview.

Furthermore, the decision to hold an interview is influenced by conflicts between the parents or **unclear family dynamics**, where there are conflicting statements, demands or a mismatch between the child's wishes and the parents' expectations. Some judges also cited specific circumstances of individual cases, such as difficult life situations or the child's distress. Less frequently cited as a reason for conducting an

interview is the need to clarify circumstances, which involves obtaining additional information, verifying statements and resolving ambiguities, whilst judges most rarely highlighted procedural reasons, such as changes during the proceedings or their protracted nature.

6. The most common difficulties and challenges in conducting interviews

41 judges responded to the question.

The results show that judges perceive certain challenges in conducting interviews with children, but the degree of difficulty varies significantly depending on the children's age, their characteristics and the context of the interview. The greatest difficulties arise with younger children (under 10 years of age), with taciturn and withdrawn children, and with those who show no interest in the interview. Conversely, judges reported significantly fewer difficulties in interviews with adolescents and in proceedings concerning care and upbringing, where the predominant responses were that they did not perceive any difficulties or perceived fewer difficulties. For children involved in more complex institutional procedures (e.g. removal, foster care or placement in a specialist centre), the responses are more varied.

Particularly striking is the high proportion of "I have no experience" responses when interviewing children in the presence of a guardian, children with special needs, children who have experienced violence, children who perpetrate violence, and children from other cultural backgrounds, which suggests that the perceived difficulties in these cases are likely not merely a reflection of the actual complexity of the situation, but primarily a lack of prior experience among judges when dealing with such issues.

Overall, the results suggest that judges' perception of difficulties and challenges in conducting interviews with children is significantly influenced by both the developmental and behavioural characteristics of the children and the level of professional competence and experience of the interviewers.

7. Competence and the manner of conducting interviews with children

42 judges responded to the question.

The results reveal a variety of views regarding the manner in which interviews with children are conducted. A smaller proportion of participants believe that the judge should always conduct the interview with the child themselves, with partially affirmative responses predominating; this is attributable to the existence of three alternative, legally compliant and equivalent options for obtaining the child's opinion. The judges almost unanimously rejected the wearing of a judicial robe during the interview. Regarding the conduct of the interview outside the court and the presence of a professional, the responses are mostly "partially", indicating divided views.

The majority of participants (83%) do not support the idea of leaving the conduct of the interview entirely to a professional associate. On the other hand, a large proportion (74%) support the employment of a psychologist at the court who would assist in conducting the interviews. On the question of who should

conduct the interviews, views are somewhat divided; there is slightly more support for specially trained individuals than for those with merely more work experience.

Regarding organisational aspects, the results show that the majority of participants do not support conducting multiple interviews with the child during the proceedings, whilst the majority agree that both parents should bring the child.

Overall, the results indicate a diversity of views with no clear consensus on most issues, with the exception of clear opposition to the wearing of judicial robes and support for the involvement of a psychologist in court.

8. Judges' views on what they need in their work

Table 1:

Judges' views on what they would need in their work (N = 42)

I would need	yes	no	maybe
Additional psychological knowledge for talking to different children	86%	2%	12%
Additional knowledge of children's procedural rights	19%	55%	26
Training to acquire skills for talking to children	81%	2%	17
Protocol with instructions and questions that are appropriate to ask a child	71%	5	24
Opportunity for consultation or peer review with colleagues on conducting interviews	76%	5%	19
Mentoring by an experienced judge	29%	33%	38
More time to talk to children, fewer other work commitments	52%	17%	31
More accessible specialist resources on this topic	64%	7%	29%
A suitable space for conducting conversations with children	55%	21%	24%

42 judges responded to the question.

The results show that judges most frequently express a need for additional psychological knowledge to work with different children, as well as for further training in conducting interviews with children. A significant proportion also support the provision of a protocol with instructions and questions, as well as the opportunity for consultation or peer supervision with colleagues, which indicates a need for greater professional support in their work.

There is also relatively high support for greater access to professional resources, suitable space for conducting interviews, and the provision of more time to work with children whilst reducing other work obligations.

Opinions are more divided regarding mentoring by an experienced judge, with a noticeable proportion of ‘maybe’ and ‘no’ responses. The need for additional knowledge regarding children’s procedural rights is the least expressed, with ‘no’ responses predominating.

Overall, however, the results point primarily to family judges’ expressed need for additional psychological knowledge and skills, the need for further training, and the provision of systemic support when conducting interviews with children.

9. Proposals from family judges

Some judges who took part in the survey, highlighted that it would be useful to have a standardised invitation letter for the child, clearly explaining to the child the purpose and significance of the interview, and that guidance on how a judge should explain their role and the importance of the child’s opinion in the proceedings to children of different ages would also be particularly welcome. It would also be useful to produce a leaflet explaining, in a way that a child can understand, what options a minor has regarding participation in family proceedings, and outlining the course of an informal conversation with them; there was also the suggestion that the protocol should only provide a general framework for how the interview might be conducted, and, in addition, a forum should be provided where family judges could share best practices with one another.

It was also emphasised that only psychological knowledge and experience can provide a judge with the appropriate skills to conduct an interview, and that before a judge begins working in the family law field, should undergo training covering knowledge of child and adult psychology, and how a judge should conduct proceedings so that they proceed calmly without increasing tension between the parties, as these proceedings are inherently stressful for the parties.

Ensuring that a child has the opportunity to be heard in their own proceedings restores their power over their own destiny, so that they no longer feel like a mere pawn being passed between parents or institutions, as the feeling that decisions have been made about them without even seeing them or asking them anything is not in the child’s best interests. The judges particularly emphasised the awareness that a court hearing is a stressful event for a child, simply because of the connotations of the words ‘court’ and ‘judge’, and the younger the child, the less they understand the meaning and role of the court.

It was emphasised that every interview must be conducted in a manner appropriate to the child’s age, behaviour and interests, and in a way that does not cause the child stress. It should also be borne in mind that children may be overwhelmed by the proceedings (interviews with social workers, psychologists, experts and other professionals), which is why more consideration should be given to reducing the burden on children (a single interview conducted by a professional, psychologist, covering several areas

simultaneously...), or whether the interview with the child should simply be recorded; the judge's interview with the child in the presence of an expert was highlighted as a positive experience. It was also suggested that the interview with the child take place at home, as well as ensuring a direct and independent communication channel for speaking with the judge, perhaps with the help of the Social Work Centre or the school, which would be safe and accessible to the child during the proceedings.

It was frequently noted that it cannot be ruled out that, prior to the interview with the judge, children may be subject to greater pressure and coaching from their parents regarding what they will tell the judge. This places additional distress on the child, as they must be mindful of this. It was also highlighted that judges are not trained to recognise whether a child is expressing their genuine and true will (opinion), or whether they have been prepared (manipulated) by one of their parents or close relatives.

It is also important to explain to a child who has given their opinion to the judge and expects the judge to take it into account and follow it, in an appropriate manner, that the court may not necessarily be able to follow their opinion in full and that their wish is not always in their best interests, even though these are terms that (especially younger) children find difficult to understand, and the disappointment at a different court decision may be all the greater, whilst the feeling of being overlooked is even more intense. Judges are not adequately professionally trained to explain legal circumstances in a way that a child (depending on their age) can understand.

In addition to the desire to acquire further professional knowledge in the field of psychology, the survey results clearly highlight the judges' assessment of the need to employ a psychologist in the court who could assist in conducting interviews with children. The need to provide a specialist psychologist to work alongside the judge in family proceedings has been expressed by family judges on several occasions to date, and was also highlighted in 2023, when it was included, among other things, in a study on the opinions and experiences of first-instance judges following changes to family law, which have been reflected in practice since 2019.¹⁹

Judges have highlighted the need to provide for intervention in addition to the protocol – the opportunity for professional consultations with colleagues – and to introduce (proper) supervision with the option of psychological counselling in more complex cases – thereby alleviating the burden on judges. The need for the latter was also, among other things, the subject of the aforementioned study, which, among other findings, assessed the overburdening of family judges by the number of cases they adjudicate in certain district courts across the country.

¹⁹F. Burkelc (2023), pp. 53–72.

3. LEGAL DEFINITION OF THE SIGNIFICANCE OF A CHILD'S OPINION

3.1. SLOVENIAN LAW

3.1.1. Substantive law

Pursuant to the provisions of Article 56 of the **Constitution of the Republic of Slovenia** (hereinafter the Constitution), children enjoy special protection and care, and they enjoy human rights and fundamental freedoms in accordance with their age and maturity. In accordance with their age and maturity, children are also afforded the right to freedom of expression, as defined in Article 39 of the Constitution.

In its supreme legal act, in the third paragraph of Article 53, Slovenia also guarantees the protection of children within the family.²⁰ The provision of the third paragraph of Article 56 of the Constitution, however, provides the basis for special state protection, which may constitute an interference with the right to family life where children and minors have no parents, their parents do not care for them, or they lack adequate family care.

The Family Code (hereinafter FC) gives concrete form to the constitutional provisions on the protection and care of children's best interests, as it encompasses legal principles and rules governing, amongst other things, the relationships between children and parents, and specifically defines measures to protect children at risk and to provide alternative care in the best interests of the child when the child has no parents or when the parents do not care for them.

The best interests of the child and their protection are the fundamental guiding principles of Slovenian law. This is a legal standard whose content must be carefully determined when deciding on the rights and best interests of each specific child. *Indeed*, by the definition in Article 7 of the Family Code, *the best interests of the child* are explicitly elevated to the level of **a principle** that must be taken into account when interpreting and applying any provision of the Family Code that concerns children and relates to their rights and duties. The third paragraph of this article also positively defines the content of this principle and the manner of its implementation in relation to the exercise of parental care,²¹ as the primary role of caring for the child is entrusted to the parents, which follows from *the principle of the primacy and equal responsibility of parents towards their children*, as defined in Article 135 of the Family Code. This stipulates that parents have the primary and equal responsibility for the care, upbringing and development of the child. The child's best interests are their primary concern. The state offers them assistance in fulfilling their responsibilities. It is also necessary to highlight the provision of the first paragraph of Article 154 of the Family Code, which expresses *the principle of the primacy of parental care* and the subsidiary power of the state to take measures to protect the rights and best interests of children only (or solely) when parents fail to exercise parental care or do so in a manner not in the child's best interests. Consequently, Article 8 of the Family Code stipulates

²⁰The third paragraph of Article 53 of the Constitution provides: The State shall protect the family, motherhood, fatherhood, children and young people, and shall create the conditions necessary for such protection.

²¹The third paragraph of Article 7 of the Family Code: Parents act in the child's best interests if, taking particular account of the child's personality, his or her age and stage of development, and wishes, they adequately satisfy his or her material, emotional and psychosocial needs through conduct that demonstrates their care and responsibility towards the child, and provide him or her with appropriate educational guidance and encourage him or her in his or her development.

that children enjoy special protection by the state whenever their healthy development is at risk and whenever the other interests of the child so require.

When assessing *the child's best interests*, the child's wishes must also be taken into account; therefore, the child must be given the opportunity to express their opinion and thus be afforded the chance to participate in decisions on matters of importance to them. The legal basis, the content of which applies in all decision-making procedures concerning the protection of children's rights and best interests, derives from Article 143 of the Constitution. A child's right to be heard and taken seriously forms the foundation of their dignity and is important for their healthy development.²²

The first paragraph of Article 143 of the Family Code

*When deciding on the care, upbringing and maintenance of a child, on contact, the exercise of parental care and the conferral of parental care on a relative, the court **shall also take into account the child's opinion, expressed by the child themselves or through a person whom they trust and have chosen themselves, provided that they are capable of understanding its significance and consequences.***

Article 158 of the Family Code, contained in Chapter 7 of the Family Code, which defines measures for the protection of the child's interests, also stipulates that the court *must take the child's opinion into account* when deciding on a measure for the protection of the child's interests. Pursuant to the second paragraph of the same provision, the court may issue a temporary order only without having first obtained the child's opinion.²³ In protracted court proceedings, the court is, as a rule, already aware of the child's wishes and may take them into account even in a decision that merely temporarily regulates the disputed relationship for the purpose of protecting the child at risk. Nor should the CSD's discretionary right to deny parents access to the child's statement be a reason for the child's statement to be simply disregarded. The court must assess whether there are valid reasons for the child's statement not to be taken into account.²⁴

Similarly, the National Assembly has not overlooked the importance of the child's opinion when it comes to adoption, as the second paragraph of Article 215 requires the court to take the child's opinion into account in adoption proceedings. In the following paragraph of that article, it even stipulates *the child's consent* as a necessary condition for adoption, provided the child is capable of understanding its significance and consequences.

Article 243 of the Family Code, which is set out in the chapter on Guardianship and also applies to guardianship of children, requires the court to take *the ward's wishes* into account when appointing a guardian.

The substantive provisions of Slovenian family law thus require the court, when assessing the child's best interests, to obtain and take into account the child's opinion, as well as to ensure the child's right to be heard.

²²VSM Decision III Cp 489/2023 of 4 July 2023.

²³E.g. VSL Decision IV Cp 666/2024 of 9 May 2024.

²⁴VSL Decision IV Cp 1342/2024 of 4 October 2024.

The primary criterion for taking a child's opinion into account is that **the child is capable of understanding its significance and consequences**. The assessment of a child's maturity and understanding is primarily left to the discretion of the decision-maker.²⁵

The National Assembly has not set a minimum age for a child,²⁶ from which their opinion would be taken into account; furthermore, the child's age is not the only relevant criterion for assessing the child's understanding and ability to form their own views, as their living environment, the level of support they receive, the information available to them, their previous experiences, their psychophysical development and other factors also have a significant influence. A child's maturity refers to their ability to express their views on matters in a reasonable and independent manner, and in an appropriate and sensible way. The impact of the matter itself on the child is also significant; the greater the impact of the outcome of the legal proceedings on the child's life, the more important the assessment of the child's maturity becomes. The more mature the child is, the greater and more decisive weight their opinion will carry.²⁷ However, the child's wishes and the child's best interests are not synonymous. What constitutes the child's best interests is a legal concept that must be given specific meaning in each individual case, taking into account all the circumstances of the particular case. It encompasses not only the child's best interests up to the age of eighteen (short-term best interests), but also the best interests that will become apparent in adulthood (long-term best interests). Efforts must be made to ensure the child's healthy and holistic development, that is, their development into an independent adult. If there are compelling reasons, the court may decide differently from what the child wishes. One such reason is a finding that the child's will is not free because they have been manipulated.²⁸

3.1.2. Procedural aspects

The duty to enable the child, in accordance with their maturity, developmental capabilities and psychophysical abilities, to be informed and involved in civil proceedings in which decisions are made regarding the protection of their rights and interests, stems from the provision of the first paragraph of Article 56 of the **Constitution**, which, in conjunction with the provision of Article 22 of the Constitution, also guarantees the child equal protection of their rights both before the courts and before other bodies and holders of public authority. Undoubtedly, however, the provision of Article 23 of the Constitution is also of key importance for ensuring a child's right to judicial protection,²⁹ as it defines the key factors for its implementation (an independent, impartial court and a lawful judge).

In its decisions, the **Constitutional Court of the Republic of Slovenia** emphasises the importance of safeguarding a child's right to express their opinion in all matters concerning them. It is not sufficient merely to provide a formal opportunity to make a statement; rather, the child's opinion must be obtained in an appropriate, age-appropriate manner and actually taken into account in the decision-making process. The court must clearly explain in its reasoning how the child's opinion influenced the decision or why it was not

²⁵For further details, see: M. Čujovič, pp. 72–73, in: B. Novak (ed.) (2019). Commentary on the Family Code. Official Gazette of the Republic of Slovenia.

²⁶Compare VSK Decision IV Cp 137/2024 of 24 April 2024 and VSC Judgment Cp 979/2010 of 2 December 2010.

²⁷For further details, see the Non-Contentious Proceedings Act – ZNP-1 with commentary, Maribor 2022, WD Publishing (pp. 402–403).

²⁸VSL Judgment II Cp 1765/2015 of 7 October 2015 and VSL Decision IV Cp 159/2026 of 24 February 2026.

²⁹Article 23 of the Constitution of the Republic of Slovenia: (1) Everyone has the right to have their rights and obligations, and any charges against them, determined without undue delay by an independent, impartial court established by law. (2) A person may be tried only by a judge selected in accordance with rules laid down in advance by law and by the rules of procedure.

followed. Failure to meet these standards may constitute a violation of constitutional procedural guarantees, in particular the right to equal protection of rights.

Thus, the Constitutional Court emphasised the importance of carefully assessing the significance of and taking into account the child's expressed opinion, even where there is an empirically probable influence of a parent on the child's expressed will, whilst emphasising that this results in the opinion of an otherwise sufficiently mature child being disregarded only if, in the reasonable judgement of the courts, such influence is greater than usual, i.e. where there is deliberate manipulation of the child by a parent or indoctrination of the child, rendering the child incapable of autonomous decision-making.³⁰

It also highlighted that the requirement for a reasoned judicial decision is all the more pressing in cases involving the most sensitive judicial proceedings, which include decisions on the care and upbringing of minor children, where the child's expressed will is one of the more important aspects of the decision-making process. The court must not disregard the child's wishes (whether expressed explicitly or implicitly). For the child is not the object of judicial decision-making, but a subject whom the court must treat as such. The Constitutional Court has repeatedly emphasised the position that, in proceedings relating to the relationship between parents and children, the child must be treated as *a subject*, which in particular means that children who, given their age and maturity, are capable of understanding the circumstances and independently expressing their will regarding them, must be allowed to do so. *Their will must be respected, provided that it is in accordance with the principle of the best interests of the child*. The right to express a preference as to which of the divorcing parents they wish to live with is guaranteed to children who are old enough and mature enough to exercise this right by Article 22 of the Constitution. This right is founded on respect for the personal dignity of children (Article 34 of the Constitution). This applies all the more in cases where, given their age and maturity, children are already capable of understanding the situation in which they find themselves as a result of their parents' divorce, and are therefore particularly vulnerable, a fact of which both the parents themselves and the competent state authorities must be aware; the latter are called upon to decide on the matter if the parents cannot agree on the upbringing and care of the children.³¹

The Constitutional Court was also critical of the court's reasoning in a case where the court failed to explain why it considered the child's wishes to be so much less important than the opinions of the psychologist and psychiatrist, particularly as it was not apparent from the reasoning that, in giving priority to objective circumstances, the court had weighed up whether giving priority to the opinions of the psychologist and psychiatrist truly outweighed the harm that would be caused to the child's psyche by disregarding the child's opinion.³²

That the child's age and maturity are key criteria in assessing their ability to express an opinion is evident from the decision in which the Constitutional Court did not uphold the appellants' argument regarding the necessity of involving minor children in court proceedings and obtaining their views. The courts' reasoning that the children were sufficiently involved in the decision-making process regarding contact, given that their guardian was involved in the proceedings and ensured the protection of their rights and interests, was, in the Constitutional Court's view, sufficient from the perspective of the requirement for the children to be adequately represented in court proceedings, which forms part of the right under Article 22 of the

³⁰Up-635/24 of 14 November 2024.

³¹Up-957/16 of 22 June 2017.

³²Up-410/01 of 14 February 2002.

Constitution; the Court did not find any violation of this right, as the courts based their assessment of the minors' incapacity on the opinion of the court-appointed expert.³³

It should also be emphasised that *a child has the right to express their opinion, but this is by no means their duty* if, for whatever reason, they do not wish to participate in the court's decision-making in this way. The child's right to express an opinion is balanced against the child's right to protection from the decision-making process. The sense of responsibility that they can influence a decision about their own future can also be a burden for them.³⁴

The procedural rules governing proceedings for the protection of children's interests are laid down in the **Non-Contentious Proceedings Act** (hereinafter ZNP-1).

Article 93 of the ZNP-1 specifies which matters/disputes are dealt with under the provisions governing proceedings for the protection of the child's interests; in addition to proceedings concerning the care and upbringing of the child, child maintenance, contact arrangements, issues relating to the exercise of parental care that significantly affect the child's development, measures for the protection of the child's interests, placing the child under guardianship, placing the child in foster care, granting parental care to a relative, the adoption of a child and the annulment of a child's adoption, it also includes paternity disputes and proceedings in which decisions are made regarding the maintenance of an adult child, provided that a maintenance obligation under the Family Code still exists.

Article 96 of the ZNP-1 contains general provisions on the court's conduct regarding the obtaining of a child's opinion.

³³Up-677/19 of 12 March 2020.

³⁴For further details, see: J. Švigelj, V. Nusdorfer, pp. 408–411. N. Weber (ed.) (2024). Family Code with Commentary. GV Publishing.

Article 96 of the ZNP-1

(1) In proceedings for the protection of the child's interests, the court shall request the social work centre to **inform** the child, who is **capable of understanding the significance of the proceedings and the consequences of the decision**, in an appropriate manner of **the commencement of the proceedings and of their right to express their opinion**.

(2) Where a child wishes to express their opinion, they may do so **at the social work centre or in an interview with the child's advocate**, who has been appointed to the child in accordance with the law governing the Ombudsman, or, depending on the child's age and other circumstances, **in an informal interview with the judge**, possibly with the assistance of a professionally qualified person, and in all cases without the presence of the parents.

(3) During an interview at the social work centre and with the judge, **a person whom the child trusts and has chosen themselves, or the child's advocate**, if one has been appointed to them in accordance with the law governing the Ombudsman, may be **present**. Such a person or the child's advocate may assist the child in expressing their opinion. The court may prohibit the presence of a person if it considers that the person is not one whom the child trusts and has chosen themselves, or that the participation of that person in the proceedings would be contrary to the child's best interests.

(4) A record shall be drawn up of the interview, and the judge or the social services centre may also decide that the interview be recorded by audio or audio-visual means. In the interests of the child, the court may decide not to allow the parents to inspect the record or to listen to or view the recording. There is no specific appeal against such a decision by the court. In this case, the court shall summarise in the grounds for its decision those parts of the statements made during the interview with the child on which it has based its decision.

(5) The social services centre must, within a period set by the court which must not be less than 30 days, send the court an opinion stating that the child is not capable of understanding the significance of the proceedings and the consequences of the decision, or a record stating that the child was informed of the initiation of the proceedings and of the right to express their opinion, and the child's opinion, if expressed.

(6) The court shall serve the decision on a child who has reached the age of 15 and has expressed their opinion during the proceedings; the child has the right to appeal against this decision.

a) Methods of obtaining the child's opinion

- **In an interview at the CSD:** under current procedural rules, the CSD is responsible for first informing the child that proceedings concerning their rights and best interests are taking place at the court's request, in which case the CSD must first assess the child's ability to understand the significance of the

proceedings and the consequences of their decision. A CSD professional may do this by conducting an interview with the child and directly assessing the child's developmental capabilities and ability to understand the proceedings and form an opinion. If the child's capacity is assessed positively, the child is then informed that legal proceedings have been initiated in which they have the right to express their opinion.

If the child is prepared to give their opinion, they may do so during the interview or at a later date, if they wish to have **a trusted person** or the **child's** advocate present during the interview.

- In the **interview with the child's advocate**, who is appointed in accordance with the Human Rights Ombudsman Act³⁵ - ZvarCP (see in particular the provisions from Article 25a to Article 25d).
- During **an informal discussion with the judge**, depending on the child's age and other circumstances, this may also take place *with the assistance of a qualified professional*, or *in the presence of a trusted person* (confidant) or *a representative* appointed in accordance with the ZvarCP.

In all cases, once it has been assessed that the child is capable of understanding the significance of the proceedings and forming their own opinion, they must be informed of the initiation of the court proceedings and instructed in an appropriate manner so that they may express their opinion, whilst the child must not be coerced into doing so. Their decision regarding the expression and content of their opinion must be free, expressed without influence or pressure, and an expression of their own views regarding the arrangement of their future, which is being decided in the court proceedings.

Provided the child is capable of understanding the significance of the proceedings and the consequences of the decision, Article 96 of the ZNP-1 thus offers three alternative and equivalent options for interviews to obtain the child's opinion, namely: (-) an interview at a social services centre, (-) an interview with the child's advocate, or (-) depending on the child's age and other circumstances, an informal interview with the judge.³⁶

A child who is prepared to express their opinion may do so in any of the aforementioned forms **without the presence of their parents**.

However, according to established case law, the court may also ascertain the child's opinion through the **expert's report**, which the court obtains to clarify the disputed circumstances, as this involves a qualified expert who, on the basis of objective indicators, can determine how the child perceives each parent and what their true relationship with each of them is. It is, in fact, generally known that a child's statement or opinion, given in the context of (most often momentary) subjective circumstances, does not always reflect the child's best interests.³⁷ Thus, the court is not obliged to conduct an interview with the children, as according to case law it is sufficient for the children to make a statement to an expert or a professional at the Social Work

³⁵Official Gazette of the Republic of Slovenia, No. 69/17 – officially consolidated text and 57/25 – ZF.

³⁶See in more detail: VSC Decision I Cp 67/2025 of 26 February 2025, VSC Decision Cp 120/2024 of 24 April 2024 and VSL Decision IV Cp 622/2017 of 22 March 2017.

³⁷VSL Decision IV Cp 2022/2022 of 30 March 2023.

Centre, and only in exceptional cases does the court obtain a statement directly from the children.³⁸ This method of obtaining an opinion undoubtedly sheds the most light on the circumstances relating to the child's maturity and the authenticity of their opinion, as it is also possible to identify any influences reflected in the child's statement.³⁹ Sometimes one of the parents insists that the judge also interview the child, whilst at the same time extensively setting out the child's wishes and views in their own submissions. In such cases, the value of interviewing the child is questionable, as it is difficult for the judge to assess whether the child's expressed opinion is genuine.

b) The presence of other persons during the interview

When interviewing a child who is capable and willing to express their opinion, parents may not be present.⁴⁰ However, a trusted person or the child's advocate may be present with the child, and it is also possible to conduct the interview in the presence of a professionally qualified person.

As is evident from a survey of family court judges, **trusted persons** chosen by the child are rarely present at interviews. A trusted person provides support in expressing an opinion, but this role can only be fulfilled by someone the child spontaneously chooses themselves; it cannot be someone appointed by the court or chosen by the parents or anyone else, so neither parent can act as a trusted person. In practice, this is often a relative, a school staff member – in short, someone the child trusts and wishes to have as support during the hearing. However, it should be noted that the court may prohibit the presence of a trusted person if they are not someone the child has chosen themselves and if the presence of such a person would be contrary to the child's best interests.

Similarly, interviews with the judge were rarely conducted in the presence of **the child's legal representative**.

The child's **guardian ad litem** is not usually present at the interview with the child, even if one has been appointed.

It should be emphasised that **the procedural roles of the child's advocate and the guardian ad litem differ**, as does their purpose in supporting the best interests of the child, whose interests are being determined in the proceedings.

The existence of a conflict of interest between the parents and the child forms the basis for the appointment of a guardian ad litem under the first paragraph of Article 269 of the Family Code, and not of a representative under Article 192 of the Family Code. The functions of the guardian ad litem and the child's representative in the proceedings are distinct. In accordance with the second paragraph of Article 25a of the Human Rights Ombudsman Act, the advocate provides professional assistance to the child to enable them to express their opinion in all proceedings and matters in which they are involved, and conveys the child's opinion to the

³⁸VSL Decision IV Cp 333/2012 of 15 February 2012, VSL Decision IV Cp 1333/2017 of 12 July 2017.

³⁹On the significance of the difference between the opinion of the CSD and the expert opinion of the psychological profession, see VSL Judgment IV Cp 2005/2017 of 20 September 2017 and VSL Judgment IV Cp 1521/2019 of 11 September 2019.

⁴⁰The second paragraph of Article 96 of the ZNP-1.

competent authorities and institutions deciding on their rights and interests, but is not their legal representative. The purpose of the advocate is to provide the child with psychosocial support, to discuss with them their wishes, feelings and views, to explain the proceedings and activities to the child in a manner appropriate to their age and development, to seek the most suitable solutions together with the child, to help them draft a statement at the end of the proceedings, and to accompany the child before the authorities and institutions deciding on their rights and best interests. The advocate therefore helps the child to express their opinion during the proceedings, but cannot represent them in the proceedings. The latter is the task of the guardian ad litem, who explains the proceedings and the significance of individual procedural steps to the child in an appropriate manner, and who, on the child's behalf, makes submissions, proposes evidence and comments on the procedural documents.⁴¹

3.1.3. The position of a child who has reached the age of 15

The provision of the second paragraph of Article 45 of the ZNP-1 requires the court to **allow** a child who has reached the age of 15 and is capable of understanding the significance and legal consequences of their actions to *perform procedural acts independently as a party to the proceedings*. Consequently, their legal representative may only perform procedural acts on their behalf until the child declares that they will perform procedural acts independently. A child who has not yet reached the age of 15, or a child () whom the court deems incapable of understanding the significance and legal consequences of their actions, is represented by a legal representative in non-contentious proceedings.

We consider that the procedural role of an independent formal participant does not prevent the child from having a separate informal discussion with the judge outside the courtroom, as even a young person who has reached the age of 15 is still a child.⁴² Therefore, they must be informed in an appropriate and understandable manner both of their right to act as an independent participant and of the possibility of nevertheless expressing their opinion in an informal interview with the judge. There are, in fact, cases where a child wishes to be present and participate as a party at the hearing, to listen to what is being discussed regarding their future, but would under no circumstances wish to be heard at the hearing and give evidence in the presence of their parents.

3.2. INTERNATIONAL CONVENTIONS, SELECTED ECtHR JUDGMENTS AND FOREIGN SCHOLARLY LITERATURE

Numerous binding and non-binding European legal instruments contain provisions on a child's right to be heard in court proceedings.

The **MEKUOP** addresses children's right to freedom of expression. The Convention guarantees children specific procedural rights in family proceedings before a judicial authority, particularly in proceedings

⁴¹VSL Decision IV Cp 474/2023 of 14 March 2023.

⁴²In accordance with Article 5 of the Family Code, a child is a person who has not yet reached the age of 18, unless they have previously acquired full legal capacity.

concerning the exercise of parental responsibilities, such as residence and contact with children. Article 3 of the Convention guarantees children the right to be informed and to express their views in proceedings as a procedural right. It also stipulates that the child must be informed of the possible consequences of their views being taken into account and of the possible consequences of any decision. Article 4 of the Convention further provides that a child has the right to request the appointment of a special representative in proceedings before a judicial authority concerning him or her, where domestic law prevents holders of parental responsibility from representing the child due to a conflict of interest. In accordance with Article 6, judicial authorities must, before taking any decision, ensure that the child has received all relevant information, consult the child personally where appropriate, and allow the child to express his or her views. Article 9 imposes an obligation on the court, in proceedings affecting a child where holders of parental responsibility are unable under domestic law to represent the child due to a conflict of interest between themselves and the child, to appoint a special representative for the child in such proceedings. Article 10, however, provides that such a representative (unless this would be manifestly contrary to the child's best interests) must: - provide the child with all relevant information, if under domestic law the child is deemed to have sufficient understanding; - provide the child with explanations, if under domestic law the child is deemed to have sufficient understanding, regarding the possible consequences of taking their views into account and the possible consequences of any action taken by the representative; - ascertain the child's views and present them to the court.

Furthermore, Article 9 of the **Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse** (the so-called Lanzarote Convention) addresses the participation of children in the development and implementation of national policies, programmes or other initiatives relating to the fight against the sexual exploitation and sexual abuse of children. Article 14 of the same Convention stipulates that, when providing assistance to victims, due regard must be paid to the child's views, needs and concerns.

Article 12 of **the CRC** also stipulates that a child capable of forming his or her own views has the right to express those views freely in all matters affecting him or her. The child's views must be given due weight in accordance with his or her age and maturity. It further stipulates that a child must have the opportunity to be heard in all judicial and administrative proceedings affecting them, either directly or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Council Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and matters of parental responsibility, and on international child abduction (recast), provides in Article 21 that the courts of the Member States must ensure that a child capable of forming his or her own views is given a genuine and effective opportunity to express those views, either directly or through a representative or an appropriate body. Where, in accordance with national law and procedure, a court allows a child to express his or her views in accordance with this Article, it shall give due weight to those views in light of the child's age and maturity. This right applies not only in matters of parental responsibility but also to return proceedings under the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

In accordance with Article 24 of the **EU Charter of Fundamental Rights**, children have the right to express their views freely and to have those views taken into account in matters affecting them, in accordance with their age and maturity.

In accordance with case law, and having regard to Article 8 of the **ECHR**, the decision as to whether a national court must hear a child must be assessed in the light of the specific circumstances of each case and depends on the child's age and maturity.

Furthermore, on 28 May 2025, the Committee of Ministers of the Council of Europe adopted **two recommendations** on ensuring the best interests of the child (including with regard to the expression of views) **in divorce proceedings and in proceedings for the removal of children from the family**⁴³. It follows from Chapter IV (points 19–25) of the recommendations on divorce proceedings, it follows that in such proceedings the child must be given an effective and genuine opportunity to express their views, either directly or through other means, and that they must be offered support in doing so through the use of child-friendly mechanisms and procedures. In doing so, the child's level of understanding and ability to communicate, as well as the specific circumstances of the individual case, must be taken into account. It is also expressly emphasised that the child's wish to express their views must be respected, regardless of their age, if the child wishes to do so. The child's views may be obtained through an interview conducted by the judge or with the assistance of qualified professionals appointed by the judge. To avoid causing the child unnecessary stress or discomfort, the interview must be conducted in a child-friendly environment. Under no circumstances should there be a cross-examination regarding the content of the child's views. In the interests of procedural fairness, the report on the content of the interview with the child should also be made available to the parties to the proceedings; however, it would be appropriate to provide the parties with only a brief summary of the interview, rather than the full content. The same applies to Chapter IV (points 20–31) of the recommendation on proceedings for the removal of children from their families.

From the (older) **Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice dated 17 November 2010**⁴⁴ it also follows that information provided to the child about the proceedings must include details on how the proceedings will take place, what the child's position and role will be, how the interview will proceed, etc. Children must understand what is happening, how things might or will proceed, what options they have and what the consequences of those options are. They must be made aware of possible alternatives to the proceedings. In some Council of Europe member states, private or subsidised services are available for children and young people where they can obtain information on children's rights in general or basic information on the legal issues relating to their case or situation. In some member states, such as Belgium and the Netherlands, children may be referred to a lawyer, offered assistance in asserting their rights (for example, writing to a judge to request a hearing or interview regarding a case concerning them), and so on. However, training in communication skills, the use of child-friendly language

⁴³Available at: <https://www.cnvos.si/aktualno/11813/svet-evrope-sprejel-priporocila-za-varstvo-otrok-v-postopkih-razveze-ter-postopkih-odvzema-otrok/> (1 May 2026).

⁴⁴ Guidelines of the Council of Europe Committee of Ministers on child-friendly justice, adopted by the Council of Europe Committee of Ministers on 17 November 2010, and explanatory memorandum, available at: <https://op.europa.eu/sl/publication-detail/-/publication/5f031e5d-9f09-11e5-8781-01aa75ed71a1> (1 May 2026).

and the development of knowledge of child psychology is essential for all professionals working with children (including judges). It is worth noting here, merely as a point of interest, that the Flemish Bar Association has for some years been offering its members (who are, of course, lawyers) a two-year course on children's rights, which does not focus solely on legal information, but also includes basic training in child psychology and development, as well as practical training such as communicating with children (which would also be very welcome for judges adjudicating in cases involving children). Furthermore, judges must be aware that children have the right to express their views and opinions on any issue or case that concerns them, regardless of their age, and that a child should be able to express their views in a safe environment that respects their personality. When children speak to a judge, they must feel at ease. This may require the judge to avoid certain formalities, such as wearing a robe or conducting the hearing or interview with the child in the courtroom; for example, it may be helpful to interview the child in the judge's chambers. It is important that the child is able to speak freely and that no one disturbs them. In practice, this may mean that no other persons are allowed to enter the room and that the atmosphere is not disrupted by unjustified interruptions, disorderly behaviour or people moving in and out of the room. Judges are often not trained to communicate with children, and specialist professionals are rarely called upon to assist them in this task. Even young children can clearly express their views if the judge knows how to help and support them properly. Judges and other professionals should indeed take the child's own views and opinions on the matter into account. Although there is sometimes a risk that children may be manipulated when expressing their views (for example, by one parent against the other), every effort must be made to ensure that this risk does not undermine the child's fundamental right to express their own views.⁴⁵

It is thus clear that European legal documents also extensively emphasise the right of children to be heard in all proceedings concerning them. A considerable body of European case law stems from family court disputes and also relates to the consideration of the child's opinion.

The European Court of Human Rights (hereinafter the ECtHR) does not interpret the right to respect for private and family life (Article 8 of the ECHR) as always requiring that a child be heard in court. As a rule, it is for the national courts to assess the evidence before them, including the means used to establish the relevant facts.

In a highly significant judgment in the case of *X and Others v. Slovenia*⁴⁶, the ECtHR emphasised, amongst other things, that whilst Article 8 of the ECHR does not contain any explicit procedural requirements, the decision-making process in family disputes must be fair and such as to ensure that the interests protected by Article 8 are respected. It is therefore necessary to determine whether the child was sufficiently involved in the decision-making process to ensure the necessary protection of his or her interests. In particular, in numerous cases concerning child protection, the ECtHR has examined whether parents were sufficiently involved in the decision-making process in order to determine whether their rights under Article 8 had been violated, and has therefore already held that the same considerations apply *mutatis mutandis* to children in

⁴⁵Council of Europe Handbook on Child Participation/for professionals working for and with children, Council of Europe, 2020, more on this at: <https://www.coe.int/en/web/children> (1 May 2026).

⁴⁶*X and Others v. Slovenia*, nos. 27746/22 and 28291/22, 19 December 2024.

all judicial proceedings affecting their rights under Article 8. Children capable of forming their own views cannot be regarded as having been sufficiently involved in the decision-making process if they were not given the opportunity to be heard and to express their views, and if their views were not given due weight in accordance with their age and maturity. In the aforementioned case, the ECtHR found that the domestic legislation applicable at the relevant time allowed the social welfare centre and the domestic court to appoint a guardian ad litem and/or a representative for the children, with the aim of ensuring the proper protection of the children's interests (see Articles 182 and 269 of the Family Code); nor was it disputed that such a guardian or advocate could be appointed without the parents' consent. Furthermore, Articles 143 and 158 of the Family Code provided that the domestic court deciding on contact, custody and upbringing or other measures concerning the care of children must take the child's views into account if the child is capable of understanding their significance and consequences. In this regard, the ECtHR noted that at the time the removal order was issued in 2020, one child (the second applicant) was nine years old, whilst the other two children (the third and fourth applicants) were six years old. At the time of the judgment depriving the mother of her right of access, the children were aged eleven and eight respectively. The domestic courts referred to the children's age and explained that it was not necessary to hear them, as their wishes and best interests did not necessarily coincide, given that they were heavily involved in the dispute between their parents and exposed to their mother's influence. They also referred to the fact that an expert psychologist had interviewed them, and all three children had told her that they wished to live with their mother. It appears that the domestic court assumed that the children would likely have expressed the same wish had they been heard. Furthermore, it is important to note that, due to the domestic courts' decision not to hear the children, their participation in the proceedings through a suitable impartial representative was all the more necessary. The same follows from the judgment in *C v. Croatia*,⁴⁷ which refers, inter alia, to Article 10 of the UN Convention on the Rights of the Child, which stipulates that it is the duty of the representative to act appropriately on behalf of the child by providing him or her with information and explanations, ascertaining the child's views and presenting them to the court. The aforementioned judgment also expressly refers to the endeavour to appoint a guardian ad litem or other independent representative in cases of conflicting interests between parents and children, who represents the child's views and interests and informs the child of the content of the proceedings.

In the case of *Sahin v. Germany*⁴⁸, the mother prohibited all contact between the father and his four-year-old daughter. The German court ruled that establishing contact between the father and his daughter would be detrimental to the child due to the exceptional conflicts and tensions between the parents. It did so without first obtaining the child's opinion on whether she wished to continue seeing her father. Regarding the issue of obtaining the child's opinion, the ECtHR referred to the expert's statement before the national court in Germany. Namely, following several meetings with the child, his mother and his father, the expert considered that the process of hearing the child or conducting an interview with him could pose a risk to him. The ECtHR therefore found that, in these circumstances, the procedural requirements under Article 8

⁴⁷*C v. Croatia*, no. 80117/17, 8 January 2021.

⁴⁸*Sahin v. Germany*, No. 30943/96, 8 July 2003.

of the ECHR did not provide a basis for asking the child direct questions about his relationship with his father.

In the case of *Hokkanen v. Finland*⁴⁹, however, the Court gave weight to the child's opinion. In this case, the father sought custody and care of his daughter, who had been living with her grandparents for years. The daughter did not wish to live with her father, and the court agreed that she had become sufficiently mature for her opinion to be taken into account and that contact should therefore not be ordered against her will.

The case of *M. and M. v. Croatia*⁵⁰ concerns a dispute over custody and upbringing, including allegations of child abuse by the father. The ECtHR was particularly surprised by the fact that the child, who was 13 and a half years old at the time, had not yet been heard in these proceedings, which had by then lasted more than four years, and had therefore not had the opportunity to express his opinion before the court as to which parent he wished to live with. It could not be argued that children capable of forming their own views had been sufficiently involved in the decision-making process if they had not been given the opportunity to be heard and thus express their views. The limited autonomy of children, which gradually increases as they mature, is exercised through their right to be heard or to express their views. In this case, the ECtHR found that the failure to respect the child's wishes regarding which parent he wished to live with violated his right to respect for private and family life under Article 8.

In the case of the international adoption of Romanian children by Italian adoptive parents (*Pini and Others v. Romania*⁵¹), the ECtHR was very clear regarding the children's right to be heard and to have their views taken seriously: *"It should be emphasised that, in this case, the children rejected the idea of joining their adoptive parents in Italy once they had reached an age at which it could reasonably be considered that their personality was sufficiently formed and that they had attained the necessary maturity to express their views on the environment in which they wished to grow up. The children's interests dictated that their views on this matter should be taken into account once they had attained the necessary maturity to express them."*

The ECtHR also emphasised that a child's right to express their own views must not be interpreted as unconditional, without also taking into account other factors relevant to determining their best interests. In the case of *C. v. Finland*⁵², the ECtHR found that the Supreme Court had given decisive weight to the children's expressed wishes to remain with their mother in Finland, referring to legislation that prevented the enforcement of decisions against the will of children over the age of 12. It is generally accepted that courts must take the children's wishes into account in such proceedings. In practice, there may also come a stage when it becomes pointless, if not counterproductive and harmful, to try to force a child to adapt to a situation which, for whatever reason, they resist. However, the Finnish lower courts assessed that, regardless of their wish to remain with their mother, it was in their best interests for custody and care of the child to be awarded to the father. The Supreme Court then attached exclusive weight to the children's views, without taking into account any other factors, in particular the father's rights, thereby effectively granting the

⁴⁹Hokkanen v. Finland, no. 19823/92, 23 September 1994.

⁵⁰M. M. v. Croatia, 3 December 2025, No. 10161/13, dated 3 December 2025.

⁵¹Pini and Others v. Romania, nos. 78028/01 and 78030/01, 22 September 2004.

⁵²C. v. Finland, no. 18249/02, 9 May 2006.

children, both of whom had reached the age of 12, effectively granted an unconditional right and overturned the decisions that had hitherto been in the father's favour. Furthermore, it did so without an oral hearing at which the parties could have been called upon to address the matter, or without taking any steps to clarify any differing interpretations of the evidence through further evidence or expert opinion, or whether a decision in favour of the father would cause greater harm to the children's welfare than a decision in favour of the mother, which would effectively deprive them of a relationship with their father.

Similarly, in certain cases relating to disputes over custody and upbringing, the ECtHR has also found that, although the views of children must be taken into account, their views are not necessarily immutable, particularly in disputes concerning contact with children.⁵³

Giving a child the opportunity to express their views may serve various purposes, depending on the nature and objective of the proceedings. The objective of proceedings concerning the right to care and upbringing is usually to assist in determining the most suitable environment in which the child should reside. In the case of wrongful removal of a child, the aim is often to determine whether the child objects to being returned and what the nature and reasons for their objections are, and to assess whether and how the child can be protected from serious danger in this case. The fact that a child is very young or in a vulnerable position (for example, they are disabled, a member of a minority group, a migrant, and so on) does not deprive them of the right to express their views. Young children can express their views through non-verbal forms of communication, including play, body language, facial expressions, drawing and painting. The assessment of a child's capacity also does not depend on their request to be heard or on a request from their parents. However, international instruments do not alter existing national law and procedures regarding how to determine a child's capacity to form their own views. National courts therefore develop their own techniques and strategies. Some courts carry this out directly, whilst others appoint specialist experts, such as psychologists, who then report to the court. Regardless of the method used, however, the decision as to whether or not a child is capable of forming their own views is taken by the court. In doing so, it must not presume that the child is incapable of expressing their views. The views of all children must be assessed with particular expertise and care in a manner consistent with their age and maturity. The child's views need not be obtained at a court hearing; instead, the competent authority may obtain them by other means in accordance with national law. In some countries, the child is interviewed by a social worker, who submits a report to the court setting out the child's wishes and feelings. If the hearing takes place in court, the judge must endeavour to organise the hearing in a way that takes into account the nature of the case, the child's maturity and other circumstances of the case. In many courts, this is done by means of an informal arrangement whereby the child is not heard in the courtroom, but in another room or even outside the court building (for example, in a park or on the beach). In any case, it is important that the child is able to express their views in confidence. Regardless of whether the hearing is conducted by a judge, an expert, a psychologist, a social worker or another official, it is essential that the person in question is suitably

⁵³Raw and Others v. France, No. 10131/11, 7 March 2013, and I. S. v. Greece, No. 19165/20, 23 May 2023.

qualified, for example in how best to communicate with children. Whoever is gathering the opinion must also be aware of the risk that parents will try to influence and put pressure on the child.⁵⁴

It may be worth mentioning the example of Germany at this point. In 2021, the German Bundestag passed a law on combating sexual violence against children, which introduced changes to civil procedure law regarding proceedings for the protection of the child's best interests. Among other things, the law establishes the principle that children must be heard in person, regardless of their age. It also sets out specific requirements for family court judges and guardians ad litem involved in proceedings to protect the best interests of the child. To support the implementation of the Act by family court judges, the National Council against Sexual Violence against Children and Young People has prepared a practical guide to assist family courts in hearing children and applying child-friendly justice criteria in proceedings. Their Practical Guide to Child-Friendly Justice is based on the guidelines of the Council of Europe's Committee on Child-Friendly Justice and the UN Convention on the Rights of the Child. It is primarily intended for judges and contains recommendations for the child-friendly organisation of civil proceedings. It can also be used by other stakeholders involved in the proceedings, such as social workers, guardians ad litem and lawyers, as well as court staff.⁵⁵

⁵⁴Practical Guide to the Application of the Brussels IIa Regulation, EU 2023, pp. 146–154, available at: <https://op.europa.eu/sl/publication-detail/-/publication/ff34bda5-ea90-11ed-a05c-01aa75ed71a1> (1 May 2026).

⁵⁵D. Wenke (2025). Ensuring the best interests of the child in civil proceedings: A selection of guidelines, methods and tools used in Council of Europe member states. Available at: <https://rm.coe.int/zagotavljanje-najvecje-koristi-otrok-v-civilnih-postopkih-izbor-smerni/48802883f9> (1 May 2026).

4. PSYCHOLOGICAL ASPECTS OF TALKING TO A CHILD

4.1. DEVELOPMENTAL PSYCHOLOGY AND CHILDREN'S MATURITY IN COURT PROCEEDINGS

An understanding of the basic principles of developmental psychology is important for correctly assessing a child's participation in court proceedings. A child's abilities to perceive, remember, understand and express themselves change significantly as they develop; therefore, age alone is not a sufficient indicator of their maturity.⁵⁶

In **early childhood (up to around the age of 6)**, thinking is predominantly concrete and egocentric. Children find it more difficult to understand temporal and cause-and-effect relationships, often do not clearly distinguish between fantasy and reality, and are highly suggestible.⁵⁷ Due to these characteristics, their ability to participate reliably in the process is limited, so particular caution is required when interpreting their statements.

In **middle childhood (approximately 6–11 years)**, logical but still concrete thinking develops. The child has a better understanding of rules, the sequence of events and the meaning of reality, but may have difficulty with abstract concepts and more complex issues.⁵⁸ Their suggestibility decreases, but they still require an appropriately adapted approach to questioning.⁵⁹

During **adolescence (from around the age of 12 onwards)**, the ability to think abstractly, understand different perspectives and navigate complex social situations develops.⁶⁰ As a rule, adolescents have a better understanding of the significance of the process and the consequences of their statements. Nevertheless, emotional instability, peer pressure or loyalty to close associates may influence their behaviour and credibility.⁶¹

When assessing a child's maturity, three interrelated dimensions must be taken into account holistically:⁶²

- **cognitive maturity** (understanding of issues, memory and logical reasoning),
- **social maturity** (understanding of rules, authority and one's own role in the process),
- **emotional maturity** (the ability to regulate emotions and cope with stress and pressure).

Cognitive maturity is achieved more quickly than the latter two. For example: a 15–16-year-old is cognitively at the level of an average adult, but the same level of socio-emotional maturity is only achieved after the age of 20.⁶³ A child is capable of participating in court proceedings when they understand the basic

⁵⁶D. R. Shaffer and K. Kipp (2014).

⁵⁷J. Piaget (1952), S. J. Ceci and M. Bruck (1993).

⁵⁸J. Piaget (1952).

⁵⁹S. J. Ceci and M. Bruck (1993), pp. 403–439.

⁶⁰J. Piaget (1952).

⁶¹L. Steinberg, E. Cauffman, J. Woolard, S. Graham and M. Banich (2014), pp. 583–594.

⁶²M. Lamb, I. Herchkowitz, Y. Orbach, P. Esplin (2007).

⁶³See, for example: L. Steinberg, E. Cauffman, J. Woolard, S. Graham and M. Banich (2014).

purpose of the proceedings, can distinguish between truth and falsehood, are able to answer questions coherently, and can cope with the psychological strain that the proceedings entail.⁶⁴ In this regard, particular attention must be paid to factors such as suggestibility, fear, any traumatic experiences, and relationships with persons involved in the proceedings.

To ensure the credibility of statements and the protection of the child's best interests, it is recommended that the procedure be adapted to the child's stage of development. This includes using age-appropriate language, avoiding leading questions, limiting the number of interviews, and involving relevant experts where necessary.⁶⁵

4.2. MENTAL PROCESSES AND THEIR DISTINCTIONS: EMOTIONS, MOTIVATION (WILL), DESIRES, THINKING (OPINION)

When assessing the statements of those involved in the proceedings, it is important to distinguish between fundamental mental processes, as these influence an individual's perception of events, the formulation of statements, and behaviour. An unclear distinction between emotions, desires, will, and thought can lead to erroneous conclusions regarding the credibility or significance of statements.

Emotions encompass subjective experiences (e.g. fear, anger, sadness), physical responses and expressive behaviour. Emotions can significantly influence perception and memory – intense emotions can amplify certain aspects of an event whilst distorting others – peripheral details are lost due to the narrowing of attention caused by stress.

In a legal context, this means that the emotional intensity of a statement is not necessarily an indicator of its truthfulness.

Motivation, or will, refers to the processes that direct and sustain behaviour towards a specific goal. It involves conscious decision-making, persistence and self-control. An individual may consciously adapt their statements for various reasons (e.g. to protect themselves or others, to avoid sanctions).⁶⁶ It is therefore important, when making an assessment, to take into account any interests and goals that influence the participant's behaviour.

Desires represent an individual's subjective wishes or preferences. They do not necessarily correspond to their actual behaviour or statements, as they may be constrained by social norms, fear or other motives. In the case of children and vulnerable persons, particular care must be taken to distinguish between what they wish for and what they actually describe as having happened.

⁶⁴American Psychological Association (2013), Specialty guidelines for forensic psychology, available at: <https://www.apa.org/practice/guidelines/forensic-psychology> (1 May 2026), United Nations (2009), Guidelines on justice in matters involving child victims and witnesses of crime, available at: https://www.unodc.org/pdf/criminal_justice/Guidelines_E.pdf (1 May 2026).

⁶⁵United Nations. (2009). Guidelines on justice in matters involving child victims and witnesses of crime, available at: https://www.unodc.org/pdf/criminal_justice/Guidelines_E.pdf (1 May 2026).

⁶⁶E. L. Deci and R. M. Ryan (2000).

Thinking involves processes of understanding, reasoning, judging and forming opinions. An **opinion** is the result of these processes and represents an interpretation or evaluation that is not necessarily the same as the facts. Individuals may present their opinion as a fact, particularly when they lack sufficient information or are influenced by prejudice.⁶⁷ For judicial assessment, it is crucial to distinguish between a description of an actual event and a subjective interpretation.

4.3. A CHILD'S TEMPERAMENT AND INDIVIDUAL DIFFERENCES

A child's behaviour in court proceedings is significantly influenced by their temperament and other personality traits. Temperament refers to biologically determined differences in emotional response and self-regulation, and influences the way in which a child perceives, experiences and describes events.⁶⁸

It is crucial for judicial assessment that temperament and individual differences primarily influence **the manner** in which **a statement is made**, but not necessarily its truthfulness. Slovenian professional literature also points out that it is not permissible to equate children's behavioural characteristics directly with credibility.⁶⁹

Research in forensic psychology shows that behavioural signs (e.g. self-confidence, emotionality) are not a reliable indicator of the truthfulness of a statement.⁷⁰ There are significant individual differences among children, including: developmental differences (cognitive, emotional, social), family and social environment, traumatic experiences, and communication skills and language development.

4.4. CHILDREN WITH SPECIAL NEEDS IN LEGAL PROCEEDINGS

Children with special needs represent a highly heterogeneous group, within which children and young people may have significantly altered cognitive, emotional, social or sensory functions. These particularities affect their understanding of the proceedings, communication, perception of events and the giving of evidence. For proceedings to be conducted lawfully and fairly, it is essential that the judge recognises these differences and takes them into account appropriately.

The fundamental principle when working with a child or young person with special needs is **to treat them as an individual**. A diagnosis alone does not provide sufficient information about the child's or young person's actual ability to participate – the decisive factor is their specific level of functioning⁷¹.

⁶⁷D. Kahneman (2011).

⁶⁸M. K. Rothbart (2007).

⁶⁹See, for example, K. Šugman Stubbs (2000).

⁷⁰A. Vrij (2008), G. H. Gudjonsson (2003).

⁷¹American Psychological Association (2013), Specialty guidelines for forensic psychology, available at: <https://www.apa.org/practice/guidelines/forensic-psychology> (1 May 2026), United Nations (2009), Guidelines on justice in matters involving child victims and witnesses of crime, available at: https://www.unodc.org/pdf/criminal_justice/Guidelines_E.pdf (1 May 2026).

4.4.1. Specific groups of children with special needs

a) Children with intellectual disabilities

These children have limitations in intellectual functioning and adaptive skills. When interviewing a child with an intellectual disability, it is important to recognise that the child has a reduced ability to understand questions, temporal relationships and abstract concepts; there is greater suggestibility and a desire to please authority figures, and difficulties in distinguishing between relevant and irrelevant information. Their statements may be less structured, but this does not necessarily mean that they are untrue.

b) Children with emotional and behavioural disorders

This category includes children with pronounced emotional distress or behavioural deviations. Characteristics of their functioning include: impulsivity, emotional instability or distrust of adults; possible inconsistency in statements; and increased sensitivity to stressful situations. Their behaviour may be misinterpreted as untrustworthy or manipulative.

c) Deaf and hard-of-hearing children

For this group of children, communication barriers are a key factor. We must be aware that these children have a limited vocabulary (particularly in cases of early hearing loss); a different development of language and understanding of complex issues; and a need for an interpreter or an adapted method of communication. Misunderstanding a question can lead to inaccurate answers.

d) Blind and visually impaired children

Their perception relies more on auditory and other sensory information. When interviewing a deaf or hard-of-hearing child, it is important to be aware that they have: a different way of perceiving events (fewer visual details); may have a better memory for auditory information; and may have difficulty describing visual elements. Their statements should be assessed in the light of their mode of perception.

e) Children with other developmental disorders (e.g. ASD, ADHD)

A child or young person with an autism spectrum disorder (ASD) has difficulties with social communication and understanding questions; their understanding may be literal. A child or young person with attention-deficit/hyperactivity disorder (ADHD) has difficulties with attention, impulsivity and inconsistency in their responses. Behavioural characteristics may affect the way a statement is made, but not necessarily its content.

4.4.2. General guidelines for talking to a child or young person with special needs

For all groups of children with special needs, particular attention should be paid to:

- increased **suggestibility** in some children;

- the impact of **communication barriers** on understanding questions;
- differences in **perception and memory**;
- the impact of **stress and the environment** on behaviour.

Research shows that behavioural signs (e.g. uncertainty, confusion) are not a reliable indicator of the truthfulness of a statement.⁷²

A child with special needs is no less credible because of their limitations. Their statements must be assessed **in the context of their abilities, their mode of communication and their perception of the world.**

4.5. CHILDREN FROM DIFFERENT CULTURES IN LEGAL PROCEEDINGS

Children from different cultural backgrounds (national, linguistic, religious) may, due to their specific socialisation experiences, understand authority, communication, emotional expression and legal proceedings differently. For lawful and fair decision-making, it is essential that the judge recognises these differences and takes them into account appropriately.

When interviewing a child or young person from a different cultural background, it is helpful to bear in mind that our assessment must be **culturally sensitive and tailored to the individual**. Cultural differences primarily affect **the way things are expressed**, not necessarily **the truth of the statement**. An inappropriate approach can lead to incorrect conclusions about credibility or cooperation.

Key areas of difference include language and communication, attitudes towards authority, emotional expression, understanding of events and norms, and religious particularities.⁷³

Language and communication: the child may not fully understand the language of the procedure and may have a limited vocabulary, which can lead to brief or unclear responses. Cultural differences in communication (e.g. avoiding eye contact as a sign of respect) may stem from cultural norms or customs. Misunderstood responses may be the result of a language barrier, not a lack of credibility.

Attitude towards authority: in some cultures, **obedience to adults** is emphasised. A child may respond in the way they believe is expected of them, and there is also an increased likelihood of suggestibility. It is therefore important to avoid leading questions.

Emotional expression: the expression of emotions varies across cultures (e.g. restraint or expressiveness); a child may appear cold or overly emotional depending on cultural norms. Emotional expression is not a reliable indicator of truth.

Understanding of events and norms: cultural norms influence the understanding of relationships, family roles and acceptable behaviour. A child may interpret events differently from those in the majority culture.

⁷²A. Vrij (2008), G. H. Gudjonsson (2003).

⁷³American Psychological Association (2017), Multicultural guidelines: An ecological approach to context, identity, and intersectionality, available at: <http://www.apa.org/about/policy/multicultural-guidelines.pdf> (1 May 2026).

Religious considerations: religion can influence perceptions of truth, guilt and punishment. Religion may be associated with potential restrictions on communication (e.g. contact with members of the opposite sex). The importance of loyalty to family or community is also significant.

Language barriers may lead to misunderstood responses. Culturally conditioned behaviour may lead to misinterpretation (e.g. avoiding eye contact). There is increased suggestibility due to attitudes towards authority. There may be differences in narrative style (e.g. less linear, more contextual).

A child from a different cultural background is no less credible – their statement must be assessed **in the context of their language, culture and life experiences**.

4.6. FAMILY DYNAMICS, ATTACHMENT AND LOYALTY

Family relationships significantly shape a child's behaviour, experiences and manner of making statements. When making decisions in cases involving children (e.g. in family and criminal proceedings), it is crucial to understand the influence of **emotional attachment, family ties and loyalty to parents**, as these factors can significantly affect the child's cooperation and the credibility of their statements.

Emotional attachment: attachment theory emphasises that a child develops strong emotional bonds with caregivers, which influence their sense of security, behaviour and communication.⁷⁴ In legal proceedings, it is therefore important to be aware that a child may protect a person to whom they are strongly attached (even if that person has behaved harmfully); they may downplay the significance of negative events or deny them; they may display ambivalent behaviour (e.g. fear and attachment at the same time). Strong attachment can influence the content and manner of a statement.

Family affiliation and loyalty: A child often experiences an internal conflict of loyalty, particularly in disputes between parents (e.g. divorce, custody), in cases of violence or abuse, or when a statement could harm one of the parents. Consequently, this may manifest as the child adapting their statements to protect one of the parents; avoiding disclosing information; altering or downplaying events; or taking responsibility for the family situation. Such behaviour is not necessarily a sign of untruthfulness, but rather an expression of psychological conflict.

Family dynamics: these include patterns of relationships, communication and power within the family. Important aspects for court proceedings are: high conflict between parents (the child may internalise the conflicts or take sides); authoritarian or controlling relationships (increased suggestibility and submissiveness); neglect or trauma (impact on memory, trust and communication); and assuming an adult role (may influence the manner of expression and the content of statements). When assessing a child's statement, the judge must bear in mind that the child may speak **in accordance with loyalty**, not necessarily with their actual experience. **Inconsistencies in statements** may reflect internal conflict, not necessarily deception. Emotional attachment may lead to **selective reporting**, and the child may express **fear of the**

⁷⁴ J. Bowlby (1969), M. D. S. Ainsworth (1978).

consequences of their statement. Research indicates that behavioural signs and emotional responses are not a reliable indicator of the truth of a statement.⁷⁵

4.7. THE IMPACT OF TRAUMATIC EXPERIENCES, STRESSFUL FAMILY CIRCUMSTANCES AND TRAUMA ON A CHILD'S PSYCHOSOCIAL FUNCTIONING

Understanding the impact of adverse life experiences on a child is crucial for correctly assessing their behaviour, statements and interests. A child exposed to **prolonged stress, family conflict or traumatic events** does not react as a neutral observer, but as a developing individual whose functioning may be significantly altered.

The experiences that a child finds distressing can vary greatly. A child may be exposed to chronic stressful situations (e.g. a conflictual divorce, an unstable environment), neglect or inadequate care, psychological, physical or sexual abuse, the loss of a significant person, or sudden crisis events.

These experiences may be **acute** (a single event) or **chronic** (long-term exposure). Long-term exposure generally has deeper and more lasting consequences.

Traumatic experiences can affect various aspects of a child's functioning:

- **Cognitive functioning** – difficulties with concentration and attention; poorer organisation of thought; difficulties in placing events in time; and fragmented or non-linear memory. The child may speak in a disjointed or inconsistent manner.
- **Emotional functioning** – anxiety, fear, sadness; irritability or emotional numbness; feelings of guilt or shame; and emotional instability. Emotional responses are not necessarily proportionate to the event.
- **Behavioural functioning** – withdrawal or isolation; aggression or impulsivity; regressive behaviour (e.g. reverting to a lower developmental level) or difficulties in relationships with adults.
- **Social functioning** – reduced trust in adults, difficulties in forming relationships, and increased dependence or, conversely, excessive independence.
- **Self-regulation** – reduced ability to manage emotions and behaviour, and rapid shifts between states (e.g. from calm to outburst).

Traumatic experiences can significantly affect memory:

- memory may be **fragmented** (partial, disjointed);
- sensory impressions (images, sounds) are emphasised;
- difficulties with chronological narration;
- possible inconsistencies.

⁷⁵A. Vrij (2008).

Inconsistencies in a statement are not necessarily a sign of untruthfulness, but may reflect the way in which traumatised memory functions.⁷⁶ A child may develop coping strategies in the form of minimising or denying events, loyalty to parents (even in the face of harmful behaviour), avoiding conversation, or dissociation (withdrawal from the experience). These behaviours may be misinterpreted as unreliability or manipulation. Consequently, during court proceedings, a child may find it difficult to understand questions, give unclear or inconsistent answers, avoid certain topics, or display emotional or behavioural reactions (e.g. crying, withdrawal, restlessness). This reflects their psychological state, not necessarily the truth of their statement.

It is important to recognise that a child exposed to stress or trauma does not function ‘neutrally’. Their behaviour and statements are often the result of adapting to stressful experiences. It is the judge’s role to recognise these influences and take them into account appropriately when assessing the evidence.

4.8. INTERVIEWING A CHILD IN COURT PROCEEDINGS: MOTIVATION, VERBAL AND NON-VERBAL COMMUNICATION

An effective and professionally appropriate conversation with a child is crucial for obtaining reliable information and, at the same time, for safeguarding the child’s welfare. In court proceedings, a child does not act as a “miniature adult witness”, but as a developing person whose expression depends on their age, maturity, emotional state and relationships.

4.8.1. The child’s motivation to talk

A child’s willingness to cooperate is variable and depends on several factors:

Factors that encourage conversation include a sense of **safety and acceptance**, understanding of what is expected of them, trust in the adult, trust in the process, system or institution (e.g. that the judge will be fair, take the child’s views into account both during the interview and when making a decision, etc.) and the absence of fear of the consequences of their statement.

Factors that inhibit the conversation include: fear (of punishment, consequences, or losing a parent); a conflict of loyalty; past negative experiences with adults or institutions; a lack of understanding of the questions or the process; and fatigue, stress or trauma.

Consequently, the child may remain silent, give terse answers or disclose information selectively. This is not necessarily a sign of non-cooperation or untruthfulness, but is often a defence mechanism.

4.8.2. Specific features of verbal communication

Developmental characteristics

- younger children use simple language and concrete descriptions;

⁷⁶B. A. van der Kolk (2014).

- they find it harder to understand abstract concepts (time, intent, legal categories);
- they may confuse facts, imagination and interpretations.

Typical difficulties include short or incomplete answers; unclear chronological sequences; inconsistencies; and answers such as “I don’t know” or “I can’t remember”. Inconsistency or incompleteness in a statement often reflects **a developmental stage or stress**, not necessarily untruthfulness.⁷⁷

4.8.3. Features of non-verbal communication (body language)

A child’s non-verbal communication includes eye contact (or avoidance thereof), body posture, tone of voice, facial expressions, and restlessness, withdrawal or tension. It is important to be aware that:

- avoiding eye contact may indicate **fear or shyness**, not lying;
- restlessness or silence may indicate **stress or being overwhelmed**;
- a strong emotional reaction is not necessarily proportional to the event;
- apparent calmness may indicate **emotional numbness**.

Research shows that non-verbal cues **are not a reliable indicator of the truthfulness of a statement**⁷⁸. In a conversation during legal proceedings, it is crucial to distinguish between content and manner of expression – what the child says (content) and how they say it (manner of expression). The manner of expression may be influenced by age, temperament, trauma, cultural background, and the child’s relationship with adults. Therefore, behaviour must not be the sole criterion for assessing credibility.

4.9. THE CHILD’S WISHES AND THEIR BEST INTERESTS

A child has the right to express their opinion in legal proceedings, but psychological and developmental findings clearly show that a child’s wishes are not necessarily the same as their best interests.⁷⁹ The reason for this lies primarily in the developmental limitations of a child’s thinking and judgement. Younger children in particular find it harder to understand the long-term consequences of decisions; their thinking is often focused on immediate comfort and specific circumstances, so they may express wishes that do not reflect their long-term well-being.

Another important factor is the child’s emotional attachment to their parents and other significant figures. A child may express a wish that reflects a need to maintain a relationship or protect a parent, even when that relationship is stressful or even harmful to them. In the context of family disputes, a conflict of loyalty often arises, causing the child to try to balance the relationship between their parents by expressing a wish that they believe will cause the least harm to one or the other. Such a wish is often the result of internal psychological pressure, rather than a free and considered decision.

⁷⁷S. J. Ceci and M. Bruck (1993).

⁷⁸A. Vrij (2008).

⁷⁹M. Hudoklin (2021).

The child's expression can also be significantly influenced by parents or other individuals, either directly or indirectly. The child may adopt views they perceive in their environment, or respond in a way they believe is expected of them. Research on children's suggestibility highlights that children, particularly younger ones, are more susceptible to environmental influences and authority, which further reduces the reliability of their wishes as an independent criterion for assessment.⁸⁰

Situations in which a child is exposed to stress or trauma introduce further complexity. In such circumstances, a child may develop defence mechanisms such as denial, minimisation or idealisation of a harmful environment. For example, they may express a wish to return to an environment that is objectively unsafe for them, because they are emotionally attached to it or because they are unfamiliar with other forms of relationships. Trauma can also affect a child's experience and assessment of reality, which further complicates the direct equating of expressed wishes with their best interests.⁸¹

It is crucial to distinguish between the child's wishes and their developmental needs. Wishes are often situational, emotionally charged and aimed at short-term relief, whereas needs include safety, stability, continuous care and conditions for healthy development. It is the court's task to assess the latter, with the child's opinion representing an important but not decisive factor.

The child's wishes are therefore an important source of information about their experience, but only a comprehensive assessment of all the circumstances enables a decision that is truly in their best interests.

⁸⁰S. J. Ceci and M. Bruck (1993).

⁸¹B. A. van der Kolk (2014).

5. INFORMAL DISCUSSION WITH THE CHILD – PROTOCOL FOR THE JUDGE⁸²

5.1. PURPOSE OF THE PROTOCOL

The protocol is a tool for judges and, at the same time, a checklist to help them prepare for and conduct a conversation with the child. It covers the essential elements of the conversation in sequence, from establishing contact with the child to concluding the conversation.

The protocol provides a basic structure which the judge should adapt to the specific case, using the attached guidelines and instructions which form an annex to the protocol (Psychological and Ethical Guidelines and Practical Instructions).

5.2. PREPARATIONS FOR CONDUCTING THE INTERVIEW

5.2.1. Preparing to conduct the interview with the child

- A preliminary review of basic information about the child, family issues and new circumstances, enabling appropriate preparation for the interview and a comprehensive approach to the child.
- Preparing questions for the specific child and selecting interview aids that are likely to be appropriate (e.g. mood cards, visual aids).
- Ensuring suitable spatial and other physical conditions for conducting the conversation (in accordance with the guidelines).

5.2.2. Method of invitation and content of the invitation to the child

The invitation should be descriptive and include the following elements: the legal basis for the interview with the child, a brief description of the child's procedural rights, the purpose and format of the interview, the date and details of the interview location.

For children under the age of 15, the invitation is sent via their parents.⁸³ For children who have already reached the age of 15, the invitation is also sent in their own name.

SEE:

- Sample invitation to parents for children under 15 (ANNEX 1.1),
- Sample invitation for children over 15 years of age (ANNEX 1.2).

⁸² The protocol and its annexes were drawn up by a working group as part of a joint project between the Ministry of Justice, the EU and the Council of Europe (2026).

⁸³ See Article 145 of the Criminal Code.

5.3. CONDUCTING THE INTERVIEW – STAGES

5.3.1. Establishing contact with the child

- **Greeting the child and their parents** in the anteroom. We address the child by their name, which we already know. We ask the child and parents a few neutral, polite questions (e.g. about the journey to court, what the weather is like outside, or whether the child was at school that morning). We introduce ourselves by name, surname and profession. We may explain our appearance – that we do not wear a judge’s robe when speaking with the child. We show them the room where the conversation will take place. With a younger child, we check whether they are ready for a one-to-one conversation straight away or would prefer their parents to accompany them to the interview room and stay with them at the start. Upon entering, we explain to the child that this is a room for conversations, whilst the courtroom is elsewhere. If the child is interested and we have time, we can show them the courtroom.
- We check whether the child knows why they have been invited to court and what the proceedings are about. The judge may ask them: *“Do you know why I have invited you here, and what we are going to talk about?”* This allows us to check whether the child has been adequately **informed** about the purpose of the meeting and the type of court proceedings (e.g. parental divorce, contact arrangements, choice of school). If the child’s answer is unclear, we **explain the purpose of the invitation and what the proceedings are about**.
- We offer young people over the age of 15 a choice – whether to **address** them **informally or formally**.
- **We briefly explain the course and manner of the conversation** to the child. *“First, we’ll talk about the court proceedings and your rights, then a little about your family situation and how you’re feeling, and then about your wishes, if you’re willing to talk about them. I’d like to get to know you a bit – how you think, how you feel and what you want; all of this will help me decide what needs to be sorted out for you in this process. I’ll ask you a few questions, but you can also ask me anything you’re curious about. If there’s a question you can’t or don’t want to answer, you can say ‘I’d rather not talk about that’ or something similar. During our conversation, I’ll be taking notes of what you say, and I’ll then include these notes in the court file – is that OK with you?”*
- A neutral question that can help put the child at ease and show an interest in their **favourite activities**: *“What do you like to do when you’re not at school or studying?”* If the child is interested in sport, we continue with questions along these lines, e.g.: *“Which sport do you most enjoy playing, and what do you like about it?”*
- **Checking how** they’re feeling; ask the child how they’re feeling and *“shall we carry on?”*

5.3.2. Checking the child's knowledge and informing the child

Introductory recommendation: The judge may use the visual aid MAP OF THE COURT PROCESS,⁸⁴ , which will enable them to talk to the child more quickly and clearly, whilst also allowing the child to participate actively.

SEE: Map of court proceedings – description (ANNEX 3).

- **If we use the map of the court proceedings**, we can address and encourage a younger child in their parents' divorce proceedings to participate as follows: *"Here I have a sheet of paper showing how the court proceedings work; your family is also on the sheet, and we'll add a few more things together, which is why there are coloured pencils on the table. We're going to make a sort of map. That way, it'll be easier for us to talk, and you'll find it easier to picture everything."*

If we do not use a map, we take a similar approach to the child and check their level of understanding, as shown in the continuation of the protocol, and also provide the child with further information if necessary. If the child is already well informed about the course of the proceedings, the jurisdiction of the institutions involved and their procedural rights—which we check with a few questions—no further information or explanation is required.

The following questions and explanations are particularly important for younger children who do not have sufficient or appropriate information. It is important that the child acquires and consolidates the essential information before expressing an opinion.

- **About the family situation and the reasons for the court proceedings.** When using a visual aid, we can continue the conversation with a child whose parents are separating as follows: *"First, let's look at the spaces for your family. Here are your **parents**, who are separating as husband and wife, so let's mark the end of their relationship with a small line between them. As you can see, they are both connected to you by a line (and to any other children, if they have more), which means they are still your parents, and you will always be their child. Please add your parents to the map. For Mum, write what you call her (e.g. Mum) and write her name next to it. For your dad, write what you call him (e.g. Dad, Daddy, Papa) and write his name. Then, in the space for children, write your name, and the names of any other children if you have a brother or sister. Next to your name, you can write a number to show how old you are."*

From this point onwards, we use the child's terms for their parents in the conversation.

- **On cooperation with institutions, their responsibilities and the course of the proceedings.** We can explain to the child: *"When parents separate, they have to sort this out through special services: your mum and dad have already been to meetings at the social services centre, and they've also been to court. When parents cannot agree on how they will share care of the children after the divorce, experts help them think this through. Look at the arrows on the sheet: the social services*

⁸⁴Concept and development of the tool: M. Maj, member of the working group.

centre sends its opinion on what would be best for the child to the court first. What, then, is the judge's role? The judge is the one who makes the decision, but first they must carefully consider what would be best for the child or what would be in the child's best interests. When the judge does not yet know the family well enough and needs to find out more about the child and the parents, they may ask for help from an expert, known as a court-appointed expert, to write an opinion. We enter the expert's name on the sheet if they have already been appointed in the proceedings.

- **On the child's procedural rights.** A child summoned to court usually already has experience of speaking at the Social Work Centre and may also have had contact with a child advocate. In this case, we ask the child who they have already spoken to since their parents separated. We ask them to recall the names, which we enter on a map if one is used, or which the child writes down themselves. A child with such experiences usually already knows their procedural rights; if they do not, or do not know them sufficiently, we provide explanations. When discussing the importance of the child's opinion, it is important to emphasise that giving an opinion is not the child's obligation but their right, which means **that the child does not have to express an opinion if they do not wish to**. At the same time, we explain to the child that we will listen to their opinion, which is why they have been invited to the discussion, but that we may decide differently, as many factors must be taken into account when making a decision, not just the child's opinion. The judge may say to the child: *"I cannot promise you that I will ultimately decide exactly as you wish, as I must carefully consider what would be best for you and in your best interests."*

It is right to tell the child that the parents may also reach an agreement or a court settlement later in the proceedings.

- A conversation with the child about the role and work of the **guardian ad litem**, who also has a place in the court proceedings.
- **Informing the child about possible arrangements for their care and upbringing**, as well as possible contact arrangements. Children usually have too little knowledge and insufficient information on this subject, which can limit their ability to form their own opinion. The judge may ask the child: *"What do you know about what the judge decides in your parents' divorce proceedings? What are the possible decisions?"* If the child does not know this or has insufficient information, the judge can explain: *"The child may be entrusted to the care and upbringing of both parents or just one of them – the father or the mother."* It is important that the child is also aware of the possible forms of joint care and upbringing.
- **A child at risk** who needs protection **must be made aware of the possible measures**, their significance and how they are implemented, with the judge approaching the conversation sensitively and empathetically. The judge may ask the child to trust that they will do their utmost to ensure the child's protection.
- **We check with the child to see if they are prepared to express their wishes and opinions.** If the child confirms this, we announce an imminent discussion on the matter. In doing so, we must inform

them of the option to seal their statement or opinion; if they do not wish their parents to be informed of their opinion, the opinion will be placed in a sealed envelope and known only to the judge. If they wish for their parents to be informed only in part, they should specify which parts of their opinion should be shared and which should not.

If the child states that they do not wish to express their opinion, we accept this. In this case, we invite them to tell us more about their reservations and reasons. We may also ask them if they are nevertheless willing to talk about how they feel and their family circumstances. If they decline this as well, we move on to the concluding phase of the conversation or meeting.

5.3.3. Discussion about the family, current issues and the child's well-being

- We ask the child **if they can tell us more about their family situation** – how things were in the past and how they are now. For example, how contact is currently taking place – what they find pleasant and what they do not. We conduct the conversation about the family with the aim of understanding the child's experience and showing empathetic attention to the child; this is particularly important for children from dysfunctional families for whom institutional care is being arranged. The child needs to feel heard in order to be convinced that we genuinely want to get to know them and understand their living conditions and how they feel. We must be careful to show respectful understanding of the child's emotions and any ambivalence towards their parents (for more on this, see the guidelines).

Recommendation: the judge may conduct a discussion on the structure and dynamics of the family using a family genogram, provided they are trained in this technique.

- The child may express **how they feel** in different situations through verbal description or non-verbally, for example using numbers. For example, in response to our question about how they currently feel at the crisis centre, they might use a rating scale from 1 to 5. Younger children may express their feelings using non-verbal techniques⁸⁵ and visual aids, such as mood cards.

5.3.4. Discussing wishes and seeking the child's opinion

- We offer the child the opportunity to **talk about any wishes and needs** after discussing the family situation and their own feelings. We can ask the child: *"Given everything you've said and what's going on, what can you tell us about your wishes... what would suit you in the current situation, what do you want, what needs to be arranged for you?"*

If the child replies that they want peace above all else and for the proceedings to end quickly, we listen to them and show understanding. We explain to them what the next steps in the proceedings

⁸⁵Such techniques are used in conversations with children by child advocates from various professional backgrounds and by social work centre staff who have undergone special training; it would be appropriate to organise such training for judges as well.

will be. If they reply that they want their parents to reconcile and be a family again, we explain that only the parents can decide this; the court cannot influence it.

- **Obtaining the child's views.** We check again whether the child is ready to express their wishes and views on the matter that is the subject of the court proceedings. We might say to them: *"In the first part of our conversation, you told me that you are ready to share your views and wishes in these proceedings. If you still feel that way, you can tell me now... how much time would you spend with Mum and how much with Dad? What would suit you best?"* We can ask the child an additional question: *"What do you think would be good for you?"* These questions allow us to ascertain the child's wishes and emotional needs, as well as their opinion or thoughts.

If the child is currently in a crisis centre under a temporary order and is deciding whether or not to be placed in a foster family, we can, for example, ask them: *"What do you want right now, where would you feel safest... what is your opinion?"*

- Once the child has expressed their wishes and views, we **can ask them about their reasons**: *"Can you tell me why you want this?"* Or we might say: *"You can tell me, if you like, why you would rather return home from the crisis centre than live with a foster family for a while."* The judge may also ask a question such as: *"I'd like to understand why you want this; can you tell me a bit more about it?"* If, for example, the child has expressed the view that they do not want to see their mother at all, we ask them why they do not want to see her. If they do not wish to discuss the reasons, we do not press the issue with such questions.
- We can gauge **the duration** of the child's opinion by asking: *"How long have you felt this way, since when?"* If it hasn't been long since the separation or the new circumstances, we ask the child: *"Do you think this is your final opinion, or would you need a bit more time to think it over? Would it be easier for you to tell me your wishes and opinion during our next conversation?"*
- We can also check **the stability** of the child's opinion: have they had the same wishes all along (e.g. since their parents' separation), or do they perhaps want something different on certain days or during certain periods? We reassure the child that they shouldn't feel guilty if they haven't yet managed to form a firm and final opinion.
- Let's check **whether his parents are aware of his wishes and views**: *"Do your mum and dad know what you want? Have you told either of them?"* If it turns out that the child has not yet clearly told their parents what they want, and during the conversation they express concern about how their parents will take their opinion, it is necessary to explain to the child again the option of not telling their parents their opinion, or only telling them part of it.
- We ask the child **if there is anything else they would like to say or ask**.
- **We summarise** the child's wishes and views aloud and check with the child to ensure we have understood and recorded everything correctly.

5.3.5. Concluding the conversation, easing the tension

- We announce that the conversation is coming to an end. We **thank** the child for their cooperation.
- If the child has any further questions, we explain them. We can **inform** them **about the next steps in the process and relieve them of any responsibility**. We tell them that the adults must take care of them, whilst they should focus as much as possible on school, hobbies and leisure activities.
- We **conclude** the conversation **with a neutral topic** relating to the child's strengths (e.g. football training) or their future. This has a relieving effect on the child, giving them a sense of strength and self-worth. For example, we might ask the child: *"Have you started thinking about your career... what would you most like to do when you're older?"* or *"Which extracurricular activities will you choose for the next school year?"* We can also ask them how they plan to spend the afternoon or the next school holidays. We wish them every success and happiness, and at the end of the conversation we ensure a positive and optimistic atmosphere.
- We **accompany** the child to the exit and hand them over to their parents. In the child's presence, we can tell the parents that they cooperated well. We say goodbye to the child and their parents.

6. TRIAL APPLICATION OF THE PROTOCOL IN PRACTICE

On 21 May 2026, District Judge Tanja Dolar Božič at the District Court in Celje used the protocol during a conversation with two children in non-contentious proceedings, also making use of the recommended visual aid.

In this regard, she also prepared a report containing positive feedback on the usefulness of the entire material. The report can be found in the appendix to this protocol.

SEE:

- Report on informal interviews conducted with two minors (ANNEX 5).

7. FINAL PROPOSALS OF THE WORKING GROUP

7.1. Who should conduct interviews with children in court

As part of the project to develop a protocol for conducting informal interviews with children⁸⁶, a survey was conducted among family court judges,⁸⁷ the results of which highlighted the judges' strong need for additional legal and psychological knowledge, as well as the need for training in conducting interviews with children of different ages facing various family issues.

As many as 86% of judges responded that they need additional psychological knowledge to talk to different children, whilst 12% remain uncertain on this point. As many as 81% of judges responded that they need

⁸⁶Joint project of the EU, the Council of Europe and the Ministry of Justice of the Republic of Slovenia, 2026.

⁸⁷Working group led by Senior Judge F. Burkelc.

training to acquire the skills to interview a child, whilst 17% answered ‘perhaps’. Thus, only 2% of judges do not require additional psychological knowledge or training. Approximately half of the judges responded that they do not require additional knowledge regarding children’s procedural rights, whilst the remainder definitely or partially do.

Only 5% of judges replied that they do not need a protocol with questions and instructions for interviewing a child, 71% definitely need the protocol, and the remainder need it to some extent.

When asked about difficulties in conducting interviews with different children, judges reported having difficulties in conducting interviews with younger children, whilst they have fewer difficulties in conducting interviews with young people over the age of 15. They also face greater difficulties in interviews with children who are taciturn and withdrawn. Both of these issues necessitate training for judges in the use of additional interview techniques and visual aids.

It is also telling that the majority of judges believe that interviews with children should only be conducted by a judge who is specially trained for this purpose; only 10% believe that no special training is required for this work.

The survey results call for training to be implemented as soon as possible, covering psychological and legal content as well as practical exercises and training in conducting interviews.

Given the diverse content and, above all, the need for training, we believe that a two-day training course would be necessary. The proposed content is also useful for judges in carrying out other work tasks, not just when conducting interviews with children.

7.2. Proposed training content for those conducting interviews with children in court

Table 1: Training content for practitioners conducting interviews with children

LAW CASE LAW	• Children’s procedural rights in legislation, conventions and case law • The child’s opinion after the age of 15 • The work of various practitioners conducting interviews with children in court proceedings – social worker, children’s advocate, court expert, guardian ad litem and judge • Legal and ethical dilemmas in conducting interviews with children in court • Where has the child’s trusted person gone? • Taking the child’s opinion into account in the court decision
PSYCHOLOGICAL CONTENT	• The child’s cognitive abilities – the capacity to understand the meaning and consequences of the opinion expressed

	• The child's adaptive abilities • The child's emotional and social development • The child's psychological needs at different stages of development and in stressful family situations • Factors influencing the child's wishes and views in court proceedings • Manipulation of the child – methods and consequences • Parental dispute and conflict – the child's experience • Vulnerable and traumatised children – consequences, retraumatisation • Family belonging and loyalty to parents • Adolescents with behavioural problems
CHILD AND ADOLESCENT PSYCHIATRY	• Psychopathology in children and adolescents • Children with neurodevelopmental disorders: ADHD and autism
WORKING METHODS, techniques and tools ➤ description, presentation ➤ training, practical exercises	• Use of the protocol for talking to the child and additional appendices • Selection of conversation techniques and aids based on the child's age and other circumstances ➤ Non-verbal techniques for expressing feelings ➤ Use of visual aids when talking to a child (Map of the court proceedings and other aids) ➤ An approach based on an understanding of trauma ➤ Relaxation techniques ➤ Questioning younger children (adapted language, visual aids) and children with mild intellectual disabilities ➤ Interviewing adolescents over the age of 15 ➤ Ways to calm and reassure the child ➤ Observing the child (body language, behaviour)

Note: for a 1-day training course, the programme would need to be split in half.

7.3. Preparation of standardised invitations

We also recommend that specific standardised invitations be prepared for children up to the age of 15 and those over the age of 15. The invitations should include a reference to the legal basis for conducting an interview with the child, a brief description of procedural rights, an explanation of the purpose and manner of the interview in a way that the child can understand, and the date and location of the planned interview.

It would be useful to include such standardised invitations, which highlight the procedural role and are adapted to the children's age, in the set of standardised documents (STANDARDISED DOCUMENTS: N register (OZ)).⁸⁸

7.4. Production of a leaflet and short film

We believe that an illustrated brochure/leaflet should also be prepared for children, regarding the rights and interests concerning which decisions are made in family non-contentious proceedings, explaining the role of the court, the procedure and the roles of the participants, and in particular the importance, opportunities and ways of expressing their views, all in a manner understandable to children. Such a leaflet would be attached to invitations sent to children. To better illustrate the child's role in family court proceedings, we propose that the existing online presentation **on the court's website** be appropriately updated⁸⁹ and that a short video presentation be produced on this topic.

7.5. Consideration of providing a psychologist at the court

Although the responses of family judges in the survey are based on the current situation, it can undoubtedly be concluded that the judges highlighted a lack of knowledge in the field of psychology and expressed the need to involve a professional psychologist who would assist in conducting interviews with children. In view of this, we consider it appropriate to propose consideration of the possible establishment/systematisation of a new post for a psychologist in the family divisions of district courts, as this could provide judges with professional assistance not only in conducting interviews between the judge and the child, but also in obtaining supplementary opinions from the Social Work Centre, in formulating more appropriate questions for experts, and, by clearly defining their role and professional duties, could usefully contribute to better safeguarding the rights and interests of children and to expediting court proceedings in which decisions concerning them are made.

However, we anticipate that judges, provided they undergo sufficiently comprehensive training in interviewing children and apply a developed protocol with guidelines in their work, would have less need to engage a psychologist, as they would thereby acquire additional psychological knowledge that would also assist them in carrying out other judicial duties more easily.

⁸⁸Standard forms, available at: http://krm.sodisce.si/userfiles/File/NAVODILA/PUND/KATALOGI_PUND/zadnji_katalog/vzorci/aktivni/302.htm (1 May 2026).

⁸⁹Divorce (dissolution of marriage), available at: <https://nasodisce.si/locitev#otroci> (1 May 2026).

8. CONCLUSION

During the drafting of the protocol, extensive legal and psychological foundations were reviewed; these are taken into account in the protocol itself and its annexes, and will also be important for the further education and training of judges. Particular attention is paid to the methodology of conducting interviews, as it is necessary to enhance current practices in interviewing children with new interview techniques and tools.

A survey of family judges, carried out as part of this project, has yielded significant results. The majority of judges confirmed a strong need for the protocol. They highlighted the existing difficulties they face when conducting interviews with children, as well as their needs. Most of the judges surveyed wish to acquire additional psychological knowledge and skills for conducting interviews, thereby demonstrating a high level of motivation to improve their work in this area.

The protocol and its annexes serve as a starting point for planning training; to enhance their capabilities, judges require training in conducting interviews with children of different ages and dealing with various family issues. The use of the protocol promises a more consistent approach among judges, whilst also allowing for a creative approach to the child.

The achievements of this project are significant for Slovenian judicial practice and will have a positive impact on the further professional development and work of family judges.

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10.ANNEXES TO THE PROTOCOL

ANNEXES 1.1 AND 1.2: INVITATIONS (for parents of children up to 15 years of age and for children over 15 years of age)

District Court

[name and address of the court]

Date: _____

ADDRESSEE

[parent's first name, surname and address]

Subject: INVITATION for your child to attend a meeting with a judge

Reference: regarding _____, case no. _____

Dear Sir/Madam

In these proceedings, which concern the protection of the welfare, rights and interests of a minor child, we would also like to hear the child's views and find out what they wish. If the child is willing to express their views and wishes before the court and you agree to this, we invite you to bring or accompany them to the meeting (either one parent or both).

This is an informal discussion conducted by a judge with the child. Parents are not present during the discussion, but the child's trusted person or the child's advocate, if one has been appointed, may be present. More information on the purpose of the discussion and the child's participation in the proceedings is provided in the attachment.

Child: _____ [first name and surname]

Date and time of the interview: _____ [date and time]

Location: District Court in _____ [name and address of the court], _____ floor, room no. _____

Please prepare the child for the interview in an appropriate manner. The child may bring a toy with them to make them feel more comfortable, if they wish (the toy should not be noisy or disruptive). The interview is not a hearing; it takes place in an interview room, not in the courtroom.

If this time does not suit you, please let us know at: _____ [contact]

Kind regards!

Judge

Sent to: the child's legal representative

ANNEX

LEGAL BASIS for obtaining the child's opinion

In accordance with the provisions of Article 143 of the Family Code (hereinafter FC), when deciding on the care, upbringing and maintenance of a child, contact arrangements, the exercise of parental care and the granting of parental care to a relative, the court shall also take into account the child's opinion, expressed by the child themselves or through a person they trust and have chosen themselves, provided the child is capable of understanding its significance and consequences. Similarly, Article 158 of the Family Code imposes an obligation on the court to take into account the child's opinion, expressed by the child themselves or through a person they trust and have chosen, when deciding on measures to protect the child's best interests (namely interim orders, emergency removal of the child and measures of a more permanent nature), the court must take into account the child's opinion, expressed either by the child themselves or through a person they trust and have chosen themselves, provided the child is capable of understanding its significance and consequences.

Article 96 of the Non-Contentious Proceedings Act (hereinafter ZNP-1) provides that where a child wishes to express their views, they may do so in several ways, namely at a social work centre or in a meeting with the child's advocate, who has been appointed to the child in accordance with the law governing the Ombudsman, or, depending on the child's age and other circumstances, in an informal meeting with a judge, possibly with the participation of a professionally qualified person, always without the presence of the parents. During the interview at the social services centre and with the judge, a person whom the child trusts and chooses

themselves (the child's confidant) may be present, or the child's advocate, if one has been appointed to them in accordance with the law governing the Ombudsman. Such a person or the child's advocate may assist the child in expressing their opinion. The court may prohibit the presence of a person if it assesses that the person is not one whom the child trusts and has chosen themselves, or that the participation of that person in the proceedings would be contrary to the child's best interests.

Article 97 of the ZNP-1 regarding the child's advocate stipulates that, upon a reasoned proposal by the Human Rights Ombudsman, the court shall appoint the person proposed by the Human Rights Ombudsman as the child's advocate if it considers that this is in the child's best interests in the proceedings before the court. It follows from Article 25a of the Human Rights Ombudsman Act that a request for the appointment of an advocate may be made by anyone who considers that the child is unable to exercise their right to express their opinion. If the Ombudsman considers the request to be justified, they shall obtain the consent of both parents or legal representatives and appoint an advocate from the list of advocates. The consent of a parent from whom parental care has been withdrawn or who is permanently incapable of expressing their will is not required. If the parents or legal representatives do not give their consent to the appointment of an advocate, or if such consent is subsequently withdrawn, the guardian shall submit a proposal for the appointment of a guardian to the competent social services centre or court, which shall appoint one from the list of guardians, if the guardian assesses that this is in the child's best interests in proceedings before the social services centre or court.

Article 43 of the ZNP-1, however, expressly stipulates that proceedings concerning the regulation of personal status and family relations are closed to the public.

District Court

[name and address of the court]

Date: _____

ADDRESSEE

[child's first name, surname and address]

Subject: **INVITATION TO A MEETING**

Reference: regarding _____, case no. _____

Dear _____ [child's first name],

In the proceedings currently taking place before the court and relating to you, I am inviting you to a hearing.

During the meeting, you will have the opportunity to express your views and wishes regarding the matter on which the court is deciding. Your opinion is important to the court. The meeting is not a hearing; it will take place in a meeting room, not in the courtroom. If there is a question during the meeting that you do not wish to answer, no one will force you to do so.

I invite you to attend the meeting, which will take place on _____ [date] at _____ o'clock.
Location: District Court _____ [name and address of the court], _____ floor, room no. _____ .

If you wish, a trusted person may be present at the interview, or the child's advocate may be present if one has been appointed to you. If you give your opinion on this matter, the court will also serve you with the final decision, against which you have the right to lodge an appeal. Further information on the rights of children over the age of 15 is set out on the reverse side of this invitation or in the annex.

If the proposed date does not suit you or if you have any further questions, please let us know at _____ [contact].

Kind regards!

Judge

Appendix: - legal basis

Sent to: the child's legal representative and the child

ANNEX

LEGAL BASIS on obtaining the child's views and the right to independent participation in proceedings upon reaching the age of 15

In accordance with **Article 143 of the Family Code (hereinafter referred to as the FC)**, when deciding on the care, upbringing and maintenance of a child, contact arrangements, the exercise of parental care and the conferral of parental care on a relative, the court shall also take into account the child's opinion, expressed by the child themselves or through a person whom they trust and have chosen themselves, provided that the child is capable of understanding its significance and consequences. Similarly, **Article 158 of the Family Code** imposes an obligation on the court to take into account the child's opinion, expressed by the child themselves or through a person they trust and have chosen, when deciding on measures to protect the child's best interests (namely interim orders, emergency removal of the child and measures of a more permanent nature), the court must take into account the child's opinion, expressed by the child themselves or through a person they trust and have chosen themselves, provided the child is capable of understanding its significance and consequences.

Article 96 of the Non-Contentious Proceedings Act (hereinafter ZNP-1) stipulates that where a child wishes to express their opinion, they may do so in several ways, namely at a social work centre or in a meeting with the child's advocate, who has been appointed to the child in accordance with the law governing the Ombudsman, or, depending on the child's age and other circumstances, in an informal meeting with a judge, possibly with the participation of a professionally qualified person, always without the presence of the parents. During the interview at the social services centre and with the judge, a person whom the child trusts and chooses themselves (the child's confidant) may be present, or the child's advocate, if one has been appointed to them in accordance with the law governing the Ombudsman. Such a person or the child's advocate may assist the child in expressing their opinion. The court may prohibit the presence of a person if it assesses that the person is not one whom the child trusts and has chosen themselves, or that the participation of that person in the proceedings would be contrary to the child's best interests.

Article 97 of the ZNP-1 regarding the child's advocate stipulates that, upon a reasoned proposal by the Human Rights Ombudsman, the court shall appoint the person proposed by the Human Rights Ombudsman as the child's advocate if it considers that this is in the child's best interests in the proceedings before the court. It follows from **Article 25a of the Human Rights Ombudsman Act** that a request for the appointment of an advocate may be made by anyone who considers that the child is unable to exercise their right to express their opinion. If the Ombudsman considers the request to be justified, they shall obtain the consent of both parents or legal representatives and appoint an advocate from the list of advocates. The consent of a parent from whom parental

care has been withdrawn or who is permanently incapable of expressing their will is not required. The consent of the parents or legal representatives is not required if the child, who has already reached the age of 15, consents to the appointment of a guardian. If there is no consent from the parents or legal representatives regarding the appointment of a guardian, or if such consent is subsequently withdrawn, the guardian shall submit a proposal for the appointment of a guardian to the competent social services centre or court, which shall appoint one from the list of guardians, if the guardian assesses that this is in the child's best interests in proceedings before the social services centre or court.

In accordance with the provisions **of Article 45 of the ZNP-1**, the court shall also allow a child who has reached the age of 15 and is capable of understanding the significance and legal consequences of their actions to perform procedural acts independently as a party to the proceedings. In such cases, the legal representative may perform procedural acts only until the child declares that they will perform procedural acts independently.

Article 43 of the ZNP-1, however, expressly stipulates that proceedings concerning the regulation of personal status and family relations are closed to the public.

ANNEX 2: PSYCHOLOGICAL AND ETHICAL GUIDELINES AND PRACTICAL ADVICE FOR TALKING TO A CHILD

TALKING TO A CHILD IN COURT – PSYCHOLOGICAL AND ETHICAL GUIDELINES AND PRACTICAL GUIDELINES

In drawing up these guidelines and advice, the child's procedural rights and ethical principles were taken into account, as well as the fundamentals of developmental psychology and other psychological knowledge. The results of a survey conducted among family court judges for the purpose of drafting the protocol were also taken into account; among other things, the survey highlighted the difficulties and needs faced by judges when conducting interviews with different children.

All of the above was also taken into account in the drafting of the protocol for conducting interviews with children. The protocol can be used by the judge as a direct aid during the interview with the child or as a checklist, whilst the present guidelines and practical advice will provide the judge with additional support.

For greater clarity, the guidelines are presented in a table and arranged in alphabetical order, not by order of importance.

• LONG-DRAWN-OUT PROCEEDINGS	• Let us take the child's feelings into account; the child may have developed a negative emotional attitude due to the protracted proceedings. They may be angry with their parents and also with the institutions. They may be bored, apathetic, disappointed and listless. They may approach new conversations with mistrust or even refuse to engage in them. Let them express their anger and other emotions. • Let us show understanding for the child's situation. The child may need an explanation of the procedural reasons for the protracted process. It will be reassuring for the child if we can inform them of an approximate date for the conclusion of the proceedings. • Prolonged, highly conflictual situations within the family environment are a risk factor for the child's psychosocial development; a further risk factor is the child's distrust of institutions and gradual refusal to cooperate; these findings serve as a call to expedite the proceedings and take appropriate action to protect the child.
• INDIVIDUAL APPROACH	• There are individual differences among children. The judge must adapt the selection of questions and interview techniques to the specific child. In doing so, they must take into account the child's age, ability to cooperate, family issues, the child's state of mind and current psychological needs.

	• We must also take into account the child's ethnic, religious, cultural and linguistic characteristics. • We must take into account the child's mental/intellectual or physical disability (e.g. mobility impairment, visual impairment, hearing impairment).
• INFORMATION OF THE CHILD	• The child must be prepared for the conversation, which means they must be properly informed – about the purpose of the conversation and how it will be conducted. • The purpose of the interview may also be briefly described in the invitation sent to the child's parents or to the child themselves. The invitation may be accompanied by a leaflet or information sheet on the child's procedural rights. • During the opening part of the interview, the judge checks whether the child has been adequately and sufficiently informed. If the child has been inadequately or inappropriately informed, the judge must provide the necessary information in an appropriate manner.
• LANGUAGE – SIMPLE AND UNDERSTANDABLE	• The judge should use simple and understandable language, explain complex legal concepts to the child, and ensure that explanations are brief and clear. • The judge should ask the child what they call their mum and dad (e.g. 'mum' and 'dad') and what they call their grandparents (e.g. 'granny') and other important people. In the rest of the conversation, the judge should use the child's own terms for these people, as this will make it easier for the child to follow the conversation, and their own terms are more familiar to them. • Let's look after children who speak a foreign language: we must provide an interpreter for such a child in good time.
• YOUNG PEOPLE	• We must explain the criteria for decision-making, or the criteria of the child's best interests in their situation, to a strong-willed adolescent who is striving to exert a strong influence on the court's decision and to realise their own wishes (e.g. they wish to remain in their home environment, they resist placement in a care home). It is important to inform such a young person of the possible court decisions and their consequences for them. • We ensure that the young person is given sufficient opportunity to express their views, reservations, doubts and concerns, and to ask questions. • If the young person is disrespectful during the conversation, we draw their attention to this in an appropriate manner.

• YOUNG PEOPLE over 15	• Informal or formal address: with a young person over 15, we first check what suits them best. We may start with a formal address and ask if that is fine with them. If they express a preference for an informal address, we accept that. • We inform them of their right to act independently as a party to the proceedings (second paragraph of Article 45 of the ZNP-1) and clearly explain to them what this means: that they will be present at the court hearing, that neither parent will represent them, that a lawyer can be provided for them, and that they may also be heard in the presence of others at the hearing. • The young people summoned are not yet 18 years old and are still children; some of them may have significant delays in their emotional and social development.
• RESPONSIBILITY, DECISION-MAKING	• We do not place the child in the role of decision-maker and relieve them of the burden if they feel that way themselves. We can say to them: <i>“You do not decide how much contact you will have with your father; that is my job. However, you can express your wishes and opinion on how much contact you would like to have.”</i> Or like this: <i>“Whatever you tell me, I’ll take it into account when I’m thinking it through and making a decision.”</i> Perhaps also: <i>“We adults are responsible for the decisions; if the parents can’t agree during a divorce, judges help with this.”</i> • We tell the child what we expect of them, thereby preventing false expectations: that we’re interested in how they feel with Mum and how with Dad, what they think, what suits them and what doesn’t, and what they want.
• OPEN-ENDED QUESTIONS	• When asking questions, we mainly use open-ended questions, such as: <i>“What can you tell me about this?”</i>, <i>“What can you tell me about how you feel in your foster family...”</i>, <i>“Can you tell me anything about your sisters and brothers...”</i>. • Follow-up questions can also be open-ended, e.g. <i>“What did you mean by that?”</i>, <i>“Can you tell me more about that?”</i>.
• VULNERABLE AND TRAUMATISED CHILDREN	• We pay particular attention to traumatised and vulnerable children. • We use a trauma-informed care (TIC) approach, or the principles of this approach. The fundamental premise of this approach is to avoid re- and causing further harm during the process of assistance/protection/conversation.

	• If the child finds it difficult and does not wish to talk about something, we redirect the conversation to more neutral and less stressful topics. • We do not ask the child questions about traumatic experiences unnecessarily. • If the child wishes to talk about traumatic experiences, we listen to them empathetically and, at the end, encourage them to discuss this with professionals and those they trust (e.g. their foster carer).
• OBSERVING THE CHILD	While questioning and talking to the child, we observe them unobtrusively, paying attention to how they are feeling and any peculiarities in their behaviour. • We should pay attention to the child's non-verbal cues, which they express through facial expressions, hand and foot gestures, as well as through their voice and body language; however, we must be very careful when interpreting our observations. A single non-verbal cue can have multiple meanings.
• THE CHILD'S WISHES AND OPINIONS AND THE CHILD'S BEST INTERESTS – DIFFERENCES	• Let us pay attention to how we phrase questions and use terms; let us distinguish between a wish and an opinion. To the question <i>"What are your wishes, what do you want?"</i>, a child may answer differently than to the question <i>"What is your opinion" or "What do you think would be good for you?"</i>. • A wish reflects emotional needs and, particularly in younger children, may stem from daydreaming or longing rather than consideration of the actual circumstances (e.g. a child going through a divorce says or writes that what they want most is for their parents to live together again). • An opinion (view) is the result of thinking, reflecting, pondering, weighing up and similar cognitive processes. For example, a child says that what they would most like is for their parents to live together again, but since they won't, they would like to have contact with both to the same extent, because they think this is best. The child can explain why they want something or why they think (= the child's opinion) that something would be good for them. • How to explain the difference between a child's wishes and what is 'in their best interests': for a younger child, for example, by asking a question about diet: <i>'Is it good for a child to eat nothing but sweets all day long?'</i> We can ask a younger teenager, <i>"Is it good/beneficial for a child to spend all day playing on the computer and not learning anything? Why isn't that good?"</i>

• CHILDREN WITH SPECIAL NEEDS	• NOTE: see the table below, which lists groups of children with special needs, their characteristics, possible influences on the child's statement, and recommendations for conducting the interview.
• AUTHENTICITY AND SUSPICION OF MANIPULATION	• We can encourage the child to be honest if we get the impression that their statements are inconsistent, exaggerated, minimised, unclear, or paint a black-and-white picture of their parents. We can check with the child again to see if they really want to express their wishes and opinions; we prioritise honesty and authenticity. If the child would feel better not expressing their opinion, we can allow them to do so even in the middle of the conversation, not just at the start. • To a child who gives the impression of not being genuine, or who does not have their own formed wishes, or who does not dare or is unable to express them, we can say: <i>"It helps me most if you tell me how you think, what you want... and not what others want."</i> • If there is a suspicion of manipulation of the child, evident in their statements and/or behaviour, it is necessary to psychologically investigate the factors that have influenced the child's opinion. A heavily manipulated and indoctrinated child does not usually appear to be in emotional distress: they confidently take the side of one parent and are emotionally completely hostile towards the other, even though they have no valid reasons for this (black-and-white thinking, the presence of a rift). Due to the influence of manipulation, such a child has been unable to form their own opinion, but has become a mouthpiece for the person manipulating them. • If the child has a black-and-white view of their parents, which may be the result of indoctrination, we can ask them whether the parent described negatively also has any positive qualities and vice versa, but we must not be suggestive in doing so. If there is a suspicion that the child is being manipulated, we must obtain a psychological assessment or the opinion of a psychological expert. • PLEASE NOTE: the child may be in emotional distress during the conversation because they are not expressing their own wishes and opinions, but are conforming to the wishes of others. They may appear frightened, uncertain, or perhaps even apathetic. The child may also be distressed because, due to unclear and difficult-to-predict family circumstances, they have not yet formed an opinion and do not know what they want; they may also be very torn and experiencing a conflict of loyalty.
• PROFESSIONALISM	• We ensure a professional and impartial approach; we do not judge, suggest answers or make promises.

	We can only promise the child that we will do our best to ensure they are looked after in the best possible way given the circumstances. We can tell them that we want to hear their voice or opinion during the process, but that we must take all the information into account when making a decision and judge what is best for them (the principle of the child's best interests).
SPACE AND OTHER PHYSICAL CIRCUMSTANCES	- Before the interview takes place, the judge (court) ensures that the room and other physical conditions are suitable for the interview. The room should not be too large, but the judge may show the child around the courtroom (indicating where they will sit during the hearing and where the parents will sit). At their discretion, the judge may conduct the interview on school premises. - The judge should not be wearing a robe, but may explain to the child what judicial uniforms look like (judge, lawyer). - The judge and the child should sit in an L-shape if the table is large enough to allow the child personal space. There may be a glass of water on the table, and tissues may be kept nearby. Offering sweets is not appropriate, as this may inadvertently have a manipulative effect on a younger child. - It is appropriate to arrange a friendly welcome for the child and parents in the waiting room or anteroom.
VOLUNTARINESS (free will, choice)	- The child must be free to choose whether or not to participate in a conversation with the judge. They must also be free to choose whether or not to express their opinion. A conversation with the child should only take place if the child agrees to it without significant reservations. Similarly, the child's opinion should only be sought if the child is willing to express it. - SEE: the child's procedural rights (conventions, National Assembly) - Similarly, the child is not required to speak about other matters if they do not wish to. The judge may encourage them at the outset: <i>"If there is something you do not wish to say or do not know, you may say 'I don't know' or 'I do not wish to speak about this'."</i> This is a matter of the principle of voluntary participation or free choice. If the child does not wish to express their opinion, we can ask them if they can tell us what is worrying them and what might happen if they were to express their wishes or opinions. We can also ask them if they need more time to think it over and would find it easier to speak at the next meeting (they are given a new appointment).

• RELIEVING THE CHILD	• Ensuring a calm, relaxed atmosphere: we show the child that we understand their possible distress, anxiety, fear and anger. We encourage them to express their feelings. The child can say, if they wish, what is worrying them or what they are afraid of. • If the child is restless or tense, we allow them a short break or some relaxing activities. We can use anti-stress activities and aids (e.g. squeezing a ball, scribbling on a sheet of paper, colouring, spinning on a chair, walking around the room). • When offering a break, we can ask them if they need to use the toilet and encourage them to drink some water. • If the child is reluctant or finds it difficult to talk about their feelings, we can offer them the option of writing something down if that suits them better. • During the conversation, we use expressive techniques, such as pictures or emotion cards, which help the child to show how they feel in a particular situation. For example, following instructions, the child selects the emotions (cards) they experience during contact with their father, which takes place under the supervision of a professional at the CSD premises. During this, we ask the child what each selected card means and what it refers to. When using non-verbal techniques, the child must be given the opportunity to describe their non-verbal messages in words. We can also assess the child's feelings using a school grading scale, asking the child: <i>"How do you feel when you have contact with your father at the CSD, on a scale of 1 to 5?"</i> • At the end of the conversation, we can reassure the child by saying, <i>'You've been very helpful. I now understand better how you feel, and I know what you want. I'll take all this into account when thinking about what would be best for you.'</i> • If the child seems worried, we ask them, <i>"What worries you most?"</i> We ease the child's mind by reminding them of the parents' responsibility, as well as the possibility of professional help for both parents and the child. We can ask them who they would most like to turn to if things get difficult (someone in the family or outside it) – this shows we care about how they feel after the conversation.
• RESPECTFUL AND EMPATHETIC ATTITUDE TOWARDS THE CHILD	• We listen actively to the child and treat them with respect. We take care not to make them feel interrogated, guilty or forced to talk about something. • We also demonstrate respect and understanding through the way we ask questions and appropriate facial expressions, suitable eye contact, relaxed gestures, a moderate speaking pace, a warm tone of voice, an appropriate volume, and respect for the child's personal

	space and interpersonal distance (excessive closeness or distance are not appropriate). The space between us should be open; we do not speak over obstacles, e.g. a computer. • We should allow the child to ask questions or play an active role: <i>“If there’s anything you’re curious about, you can ask me.”</i> • We must give the child enough time to think, express themselves and answer. Do not rush the child and be patient with them (especially with a child who has speech difficulties). If you notice they are thinking and searching for words, do not break the silence; instead, you can encourage them to speak non-verbally with appropriate facial expressions. • We look after the child’s well-being and, if necessary, allow them a short break.
• RESPECTFUL ATTITUDE TOWARDS THE CHILD’S PARENTS	• Let us take into account the child’s feelings and relationship with their parents: the child’s attachment to each parent, loyalty to one or both parents, emotional affection, and any feelings of rejection. The child’s distress during separation (loyalty conflict): how to be loyal to both parents when they are in dispute or have a conflictual relationship. Distress when taken away from parents: being loyal to parents or accepting a new environment (unknown, uncertain). • We show basic respect for the child’s parents regardless of information about their functioning. • For a younger child who expresses distress due to physical separation from the parent who accompanied them to the meeting, we allow the parent to be present during the introductory part of the conversation. • Unless there are valid reasons not to, both parents should accompany the child to the interview. • In cases involving domestic violence, we should explain to the child the social norms and possible measures. In such cases, the child should be made aware of the difference between civil (family) and criminal proceedings. • We do not judge the child or directly reprimand them if they express positive feelings towards the violent and threatening parent.
• MULTIPLE INTERVIEWS	• In individual family cases, the child should have the opportunity for multiple interviews if there are grounds for this. Reasons for conducting a second interview or additional interviews: - significant new life circumstances within the family environment (sudden or arising during a lengthy process);

	- if the child does not have a clear opinion during the first interview and does not know what they want or what they would like to say; - if, during the first interview, the child is in great emotional distress or under the influence of strong emotions (e.g. is currently experiencing intense anger towards their mother), but soon changes their mind and wishes to communicate this; - if the child or young person expresses an interest in speaking to the judge again and justifies this interest. • PLEASE NOTE: Family matters are not comparable to criminal cases, where the bulk of the evidence relates to past historical events. The purpose of family proceedings is to seek the best interests of the child and to protect children at risk, whereas criminal proceedings primarily concern the establishment of the elements of a criminal offence and the criminal liability of the perpetrator. In family matters, the aim is to ascertain the child's views in order to assess the child's best interests, which we seek to achieve through a court decision. In criminal cases, a forensic interview is conducted, whereas in family proceedings, the interview serves a different purpose and has a different structure. The principle that applies to criminal cases—that the child should not be burdened with repeated conversations or hearings about the event or past circumstances—cannot apply to proceedings in family matters.
• VISUAL AIDS	• Particularly with younger children, the interviewer should use visual conversation methods and aids to illustrate the situation, as these facilitate better understanding and visualisation (e.g. a flowchart of the court proceedings). • PLEASE NOTE: children up to the age of 11 think in terms of concrete and visible concepts (concrete thinking), whilst after the age of 11 they gradually develop the ability to think abstractly. • Various visual aids are useful for children of all ages: they are essential for pre-school children, highly recommended for younger children (up to the age of 10), and are also well received and useful for children aged 11 to 15, as well as for older children. • The key rule: the younger the child, the more visual and concrete our explanation must be. • Regardless of age, they are also recommended for children who are less communicative or have intellectual disabilities, as well as for children who are experiencing emotional distress or whose family situation is very complex and who need visual support (e.g. if there are several parties involved in the process).

	We also use simple, concrete and visual communication aids with children with special needs (e.g. with mild intellectual disabilities). In doing so, we must give the child sufficient opportunity to describe their non-verbal responses and creations; the child should therefore describe them themselves, but if they are unable or unwilling to do so, we must be very careful in interpreting them or leave the task to a suitable professional.
TRUST	- A judge can build trust in several ways, first and foremost through appropriate introductory information, which includes an explanation of the principle of voluntariness. Appropriate and open information helps the child to understand their own position in the court proceedings and reassures them that they have a genuine free choice, which will increase their sense of security against unwanted consequences and their sense of trust in the judge and the court. The judge introduces themselves to the child by their first and last name, and also explains the court as an institution and its jurisdiction. - In particular, they should discuss with the child who will have access to the summary of their conversation, and especially the child's views on how it will be stored. - Parents accompanying the child to the interview should not sit outside the door, but should remain at a sufficient physical distance whilst the interview is taking place. - The judge should avoid a bureaucratic approach; in the opening and closing parts of the interview, they should ask neutral and pleasant questions (e.g. they can ask the child what they like to do in their free time). Duration of the interview: approximately one school hour or at least half an hour. In a shorter time, it is not possible to have a clear discussion with the child about their procedural rights and current family circumstances, nor to obtain their opinion. The layout of the room can also increase or decrease the child's trust and, at the same time, their sense of ease, so the judge should not overlook these factors. - PLEASE NOTE: The judge is an authority figure for the child and the family who makes the decisions; moreover, it is difficult to achieve a relaxed and confidential atmosphere in a single conversation. The judge should therefore not expect to be able to quickly gain the child's trust. Let us be empathetic, yet encouraging: allow the child to be cautious and reserved, whilst at the same time inviting them to cooperate through a fair and honest approach.

CHARACTERISTICS OF THE CHILD'S OPINION	- By asking follow-up questions, we can assess certain characteristics of the child's wishes and views: duration, stability (consistency), and strength. We can assess the duration of the wish by asking, <i>'How long have you wanted this, and since when?'</i>. We can check the stability of the opinion, for example, by asking: <i>"Have you wanted the same thing ever since your father left... or do you perhaps want something else on some days..."</i>. When talking to a younger child, who may have difficulties with time orientation or understanding, these questions should be phrased simply. - During the conversation, the teenager can explain how they 'came' to the opinion they have expressed and what they took into account when forming that opinion: personal experiences, their relationship with each parent (past and present), the parents' wishes and needs, the influence of other people, the importance of the environment (friends, proximity to school), etc. - We can gauge the child's trust in their parents by asking whether they have told them what they want. We can ask: <i>"Do your mum/dad know about your wishes? Have you told either of them what you want and what you'd like?"</i> We can also ask them what their mum/dad thinks about their wish, as well as how they reacted when they told them about it. When discussing the consequences of expressing an opinion, we must inform the child of the option not to tell their parents about their opinion, or to tell them only partially (as the protocol already points out).
MATURITY AND THE CHILD'S UNDERSTANDING	- The child must be old enough and mature enough to understand the significance and consequences of their participation or the opinion they have expressed. We invite the child to the discussion if, based on all available information, they are expected to have a sufficient level of understanding. - SEE: Articles 143, 158, 215, 247 and 274 of the Family Code What the child should understand: the meaning and course of the court proceedings (the powers of the Social Work Centre and the court, what is being decided, possible court decisions and their consequences, the involvement of the parents and the child); the right to express an opinion (if they wish) and other procedural rights; the significance and consequences of expressing an opinion (it may or may not be taken into account; the difference between a wish and what is in the child's best interests). - PLEASE NOTE: after the age of 10, a child is cognitively mature enough to understand the consequences, but their maturity is influenced not only by age but also by other factors (emotional

	maturity, personality traits, possible pressure and manipulation by parents), which is why each case must be assessed individually. • The child must be helped to understand the whole situation more easily. We can significantly improve a child's understanding in the following ways: using simple language, simplification, concretisation, and illustration (use of visual aids). • Assumption: even a child of average mental development and appropriate age cannot understand the procedure and their own position within it, nor the information provided, unless it is conveyed to them in an appropriate manner. • We can check the child's understanding by asking them to explain the basic concepts in their own words, to see if they have grasped the essentials. • If, during the conversation, we find that the child does not understand the basic concepts or even what is being decided in the process, despite explanations and visual aids, we adapt the manner and content of our questioning accordingly. We can still allow the child to speak spontaneously on neutral or family-related topics, and the child may also express their wishes; in this way, we ensure they have a positive experience with the institution. We record the child's answers in accordance with ethical considerations.
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Key points for judges regarding the content of Chapter 4

Mental processes:

- emotional expression (e.g. crying, anger) is not a reliable indicator of the truth of a statement;
- motives and interests may influence the content and manner of making statements;
- desires (e.g. a desire for a specific outcome of the proceedings) must not be confused with facts;
- opinions and interpretations must be clearly distinguished from observed facts;
- during the interview, it is advisable to use questions that distinguish between what the person has **seen or experienced** and what **they think or feel**.

The child's temperament:

- the child's behaviour should not be the sole criterion for assessing credibility;
- a distinction must be made between personality traits and possible deception;
- the assessment should be based primarily on **the content of the statement**;
- the interview should be tailored to the child's individual characteristics;
- where necessary, a psychological expert should be involved.

How a child's temperament can influence the interview in court proceedings:

- a reserved or anxious child may appear uncertain or inconsistent;
- an impulsive child may answer quickly and make more mistakes;
- a child with a strong need to please may be more suggestible;
- an emotionally intense child may express strong emotions that are not necessarily proportionate to the facts.

Children with special needs – practical recommendations for judges:

- it is always necessary to take into account the child's actual functional ability, not just the diagnosis;
- clear, specific and appropriate language should be used;
- suggestive and complex questions should be avoided;
- allow for the use of professional support (psychologist, speech therapist, interpreter);
- take into account the possibility that the child may not understand the question, may be unable to express an answer, or may be answering under the influence of a desire to please;
- ensure protection against secondary victimisation (e.g. a limited number of interviews).

Table: Children with special needs – implications and recommendations for the interview

Group of children	Key characteristics	Possible influences on the statement	Recommendations for discussion
Mental development disorder	Lower cognitive abilities, difficulties with abstract thinking	Lack of understanding of questions, increased suggestibility, short or disjointed answers	Use simple, concrete language; ask short questions; check for understanding
Emotional and behavioural disorders	Impulsivity, emotional instability, distrust	Inconsistency, excessive or reduced emotionality, reluctance to cooperate	Maintain a calm approach; do not judge credibility based on behaviour
Hard of hearing/deaf	Limited access to spoken language, different language development	Misunderstanding of questions, limited vocabulary	Use an interpreter; adapt language; check for understanding
Blind/visually impaired	Perception without visual information	Fewer visual details, emphasis on auditory cues	Do not expect visual descriptions; adapt questions to the mode of perception

MAS	Difficulties with social communication, literal understanding	Unusual responses, difficulty understanding questions, limited engagement, fixation on a specific topic or detail	Clear, specific questions; avoid metaphors; allow more time to answer
ADHD	Attention deficits, impulsivity, restlessness	Incoherent answers, loss of attention, interruptions	Short questions; frequent breaks; redirecting attention
Speech and language disorders	Difficulties in expressing or understanding language	Vague or terse answers, misunderstanding	Simplified language; checking for understanding; patience

Children from different cultures – important when talking to a child or young person:

- ensure **high-quality interpreting** (not family members);
- use **simple, clear language**;
- check that they have understood the questions;
- avoid cultural stereotypes;
- distinguish between **cultural differences** and potential dishonesty;
- involve **a cultural mediator or expert** where necessary;
- be mindful of any **traumatic migration experiences**.

Family dynamics – guidelines for talking to a child or young person:

- take into account the possibility of **a conflict of loyalty** (do not judge credibility solely on the basis of emotionality or reserve, or the child's relationship with their parents);
- ask questions that distinguish between **the child's experience**, their **wishes** (e.g. who they want to live with) and **actual events**;
- provide a safe environment where the child can speak without pressure;
- involve a psychological expert where necessary;
- pay particular attention to cases of domestic violence and highly conflictual divorces.

Traumatic experiences – guidelines for talking to a child or young person:

- assess the statement in the context of the child's psychological state;
- do not equate inconsistency with untruthfulness;
- take into account the impact of trauma on memory and behaviour;
- ensure a safe and supportive environment;
- keep the number of **interviews to a minimum**;
- allow time and provide support;
- involve specialists (psychologist, expert witness).

ADDITIONAL SUPPORT FOR THE JUDGE

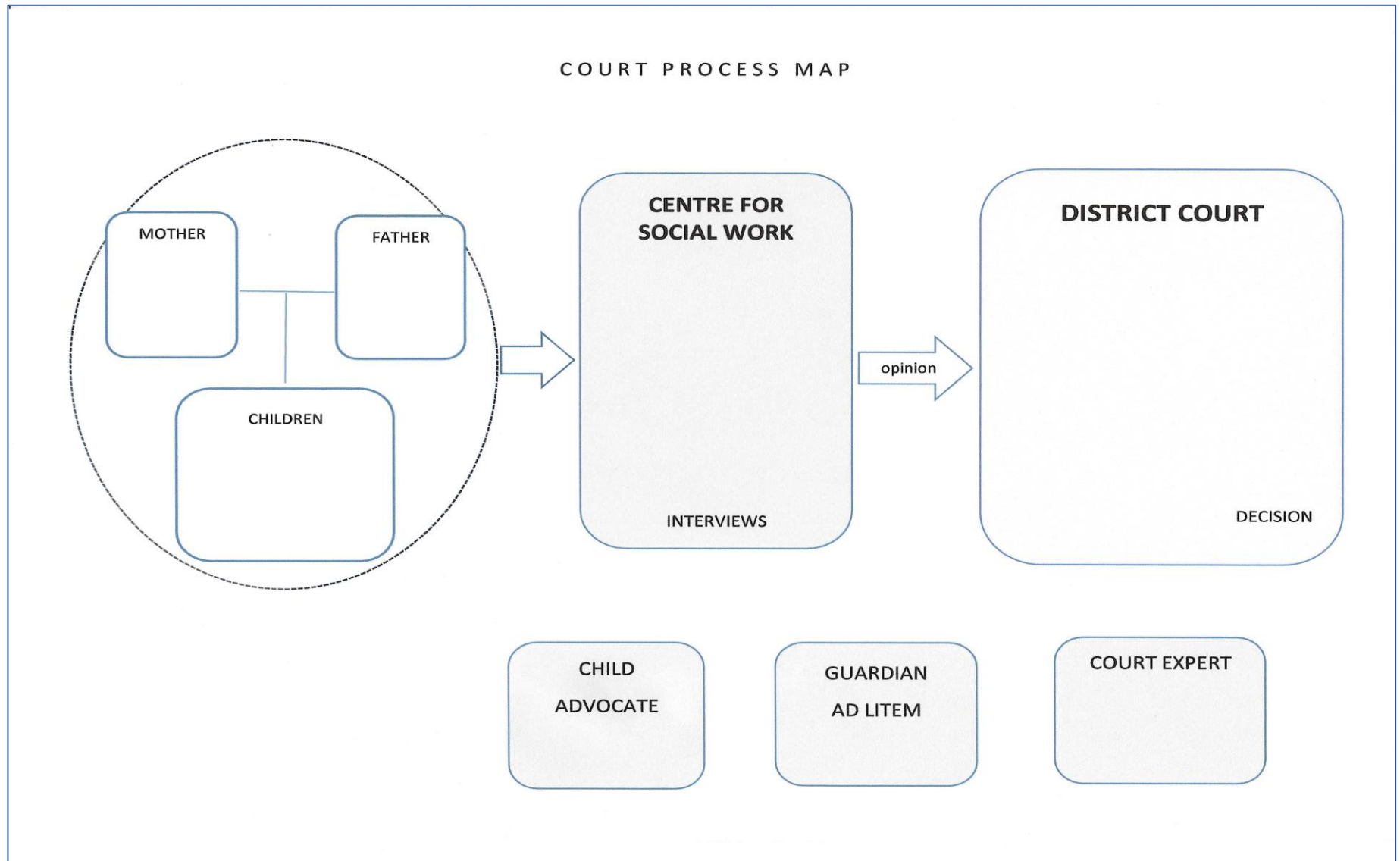
- Training and education (psychological and legal content)
- Consultation with experienced colleagues (peer review)
- Discussions and consultations (inter-institutional)

ANNEX 3: MAP OF THE COURT PROCESS (diagram)

➤ Court Process Map

- ☐ **Mother**
- ☐ **Father**
- ☐ **Children → Children**
- ☐ **Centre for Social Work → Centre for Social Work**
- ☐ **Conversations / Interviews**
- ☐ **Opinion**
- ☐ **District Court**
- ☐ **Decision**
- ☐ **Child's Advocate / Child's Representative**
- ☐ **Conflict Guardian / Guardian ad litem**
- ☐ **Court Expert**

MAP OF THE COURT PROCESS



ANNEX 4: MAP OF THE COURT PROCESS (description)

‘Map of court proceedings’ = a visual aid (diagram, picture) for discussing court proceedings with a child, which can be used to check the child’s understanding of basic concepts or to explain the following:

- what the purpose of court proceedings is and how they take place;
- how parents and the child participate in the proceedings;
- the child’s procedural rights: the right to be informed, to express an opinion, to have a trusted person and a representative;
- who is involved in the proceedings; what are the responsibilities of the institutions and professionals involved: the Social Work Centre, the court, the child’s advocate, the court-appointed expert, the guardian ad litem;
- basic legal concepts (the child’s best interests, parental care) and possible court decisions (possible arrangements for care, upbringing and contact, possible measures to protect the child).

Concept, naming and development of the tool: Metoda Maj

Instructions for use: see protocol.

BENEFITS OF USING THE MAP

- **Clarity:** faster and better understanding of legal concepts and the course of court proceedings; the map provides the child with a visual representation.
- **Cost-effectiveness:** we can inform the child or check their knowledge and understanding of information relevant to them in a matter of minutes.
- **Active participation of the child:** the child is not merely a passive listener but actively participates in completing the diagram (e.g. by writing in names and other details themselves; younger children can add or stick on pictures).
- **A child-friendly tool:** it has been designed with the child’s developmental needs and abilities in mind. It is particularly suitable for younger children (up to the age of 11), who find it harder to understand verbal explanations and abstract concepts, and therefore need more visual material. A photograph of the courtroom can be stuck onto the diagram. The aid is also useful for older children and young people (at least up to the age of 15, possibly older), as it enables them to grasp the course of a more complex procedure more quickly and to better understand legal concepts. In principle, we do not use additional images with adolescents, except for those who, due to intellectual disabilities, require a very clear explanation.
- **Relieving the child’s burden:** keeping the child properly informed reduces uncertainty and stress.
- The map serves as a **starting point** for further discussion.

RECOMMENDATION: training for judges on the use of the map with children of different ages in various family matters (divorce, long-term measures, etc.).

ANNEX 5: REPORT ON INFORMAL DISCUSSIONS HELD WITH MINOR CHILDREN

Location: Celje District Court, Family Division, office of Judge Tanja Dolar Božič

Date: 21 May 2026, in the afternoon

Subject: court decision on the custody and upbringing of minor children, determination of contact arrangements and maintenance

The parents separated in the summer of 2024. Due to conflicts between them, a restraining order was issued against the father, prohibiting him from approaching the mother and their three minor children; however, during the proceedings to impose the restraining order under the Domestic Violence Prevention Act before the Family Court, the parents managed to reach a provisional court settlement regarding contact between the children and their father. In the court proceedings, the parents interpret the children's wishes and preferences regarding each parent differently. The older children are undergoing psychological assessment in relation to family issues. No interview has yet been conducted with them at the Social Work Centre, and their views have not yet been obtained. Nor was there a need to appoint a guardian ad litem, and the children do not have a children's advocate. The youngest girl is only three years old, so the judge decided not to conduct an interview with her given her age.

No written invitation was sent to the children or their parents, as we agreed verbally at the hearing to hold an informal discussion with the children to obtain their views; at that hearing, the judge explained the purpose and procedure of the informal discussion to the parents.

Separate informal interviews were conducted with the boy (9 years old) and the girl (7 years old). The mother brought the children to the interview. The younger girl confidently stated that she wanted to be the first to speak. Her older brother waited with his mum in the waiting room.

Interview with Metka, aged 7

– to gather her views on where or how she would like to live in the future and how much contact she would like

I went to the waiting room, where the mother was waiting with the boy and the girl. I introduced myself, addressed them by name and asked which of them would like to be the first to speak with me. The younger girl immediately stood up and said she would like to be first. We then went together to my judge's office. I asked her if she wanted to go to the toilet first or if she'd like a glass of water, but she declined. We then sat down at the table, forming an L shape. I introduced myself to the girl again by my first and last name and explained that I was her judge. I explained to her that everything we would be talking about today would also be recorded. If she doesn't want to talk, she can say so. In accordance with children's rights, she also has the right to be heard in court proceedings where decisions about her rights are being made. Everything she tells me can be sealed in an envelope or shown to her parents and the social services centre, if she allows it. I also tell her that there are no right or wrong answers,

as I simply want to find out how she feels, what she wants, what she likes and what she is thinking about. I also tell the girl that I may not necessarily be able to go along with absolutely everything she wants, as this may not necessarily be in her best interests. I give her a simple example to illustrate that even if she wanted to stay up until midnight every day, this would not be in her best interests, and that the final decision will be made by the court, and I, as the judge, am responsible for that decision and no one else.

The girl says she wants to be heard, but she doesn't yet know whether she would show what we write down to others.

I then give the girl a map of the court process and ask her to write the names of her parents, brother and sister in coloured pen. The girl immediately picks up a crayon and explains why she has chosen each colour, and uses stickers which she sticks next to each of her family members, explaining why she has chosen a particular sticker. From the emojis (faces) the girl chooses for each family member, I can tell that she is fond of them all, as she has chosen only smiling and friendly faces from all the possible emotional expressions.

I then use the court process map to explain to the girl how court proceedings work, who gives their opinions, who talks to whom, and who ultimately makes the decision. It seems that the girl relaxes as she enters the information into the map herself and writes or draws.

Conversation with Janko, aged 9

– finding out where or how he would like to live in the future and how much contact he would like to have

The conversation with the boy took place in a very similar way, but the boy, who is slightly older than the girl, used fewer stickers than she did. It was also easier and quicker to explain the process to the boy, and he was able to provide more precise answers (e.g. time frames, reasons for his wishes and opinions).

The boy also responded positively to the visual aid – the map of the court proceedings – and to the question of whether he had any further questions or would like to ask anything else. He was delighted to view the courtroom and the security guard's control room with CCTV.

After the conversation had ended, I accompanied both children to their mother and handed them over to her.

I had not used the aid – the map of the court proceedings – before, and it proved to be a very good tool for helping the child relax right from the first use. The map also served as a guide for the child during the conversation, helping them understand who plays what role in the court proceedings. This tool also allows the child to draw or add something whilst talking, thereby conveying to the judge what they are unable to put into words.

In my conversation with the child, I follow the psychological and ethical guidelines as well as the practical instructions from the draft protocol on interviewing a child in court. In doing so, I also take into account new guidelines that I was previously unaware of or had not paid attention to, such as checking whether the child has been informed in advance about the conversation with the judge, having the child and the judge sit at the table in an L-shape, using a visual aid such as a map of the court proceedings, and asking the child if there is anything else they are interested in or if they would like any further answers from the judge. In response to the last open question, both children asked if they could have a look around the courtroom. It seemed that this approach helped

to familiarise the children with the court proceedings and, at least to some extent, alleviate any concerns they might have had about the proceedings.

PROPOSAL:

I believe that further training based on the adopted protocol for interviewing children in court would be very beneficial. Full-day or two-day workshops with simulated interviews with children, led and guided by qualified psychologists, would be useful. Family court judges are, in fact, self-taught when it comes to conducting informal interviews with children. It is clear from the draft protocol on interviewing children in court that there are also differences in the age structure of the children with whom we judges conduct interviews, and that children of different ages require a different approach. The attached invitations to children (up to 15 years old and over 15 years old) to attend a court interview are therefore very useful. Similarly, a situation may arise during the interview for which the judge is unprepared based solely on their legal knowledge. In such cases, it would be highly appropriate to conduct a simulation of a conversation with a child and to share experiences among judges, with evaluation or interpretation by a psychologist, in the form of regular periodic training sessions. In this way, it would be possible to enhance the skills of judges conducting informal interviews with children, and to provide children with a positive experience of the court, as well as to alleviate their burden and empower them in court proceedings. The final decision, which the judge may also reach by taking into account the informal conversation held with the child, will ensure the best possible outcome in the child's best interests.

District Judge:

Tanja Dolar Božič