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Building a Europe
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Joint EU DG Reform- Council of Europe project to
Support the Implementation of Barnahus in Slovenia (phase II)¹

**Public consultation process of the draft
Child protection in criminal proceedings and comprehensive treatment of
children in the Children 's House Act²of 1 June 2020**

**LEGAL EXPERT REVIEW OF
THE DRAFT LAW ON BARNAHUS IN SLOVENIA**

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The views expressed in this document are the responsibility of the author and do not necessarily reflect the official policy of the Council of Europe.

¹ The project supports Slovenia in establishing and operating their first Barnahus for child victims of sexual abuse in line with international standards and promising European practices. It is co-financed by the EU Structural Reform Support Programme and is implemented by the Council of Europe in close cooperation with the Ministry of Justice of the Republic of Slovenia and the European Commission (EU DG Reform). See more at: <https://www.coe.int/en/web/children/barnahus-project-in-slovenia>.

² Hereinafter the "draft Law on Barnahus in Slovenia". An informal English translation of the draft Law provided by the joint EU DG-Reform – Council of Europe project is available at: <https://rm.coe.int/draft-law-on-barnahus-for-the-republic-of-slovenia-child-protection-in/16809ee7c4>

Summary

This document is a legal review of the draft Barnahus Law in Slovenia (Child protection in criminal proceedings and comprehensive treatment of children in the Children 's House Act of 1 June 2020) in line with international and European standards and best practice.

Barnahus offers a child-friendly, safe environment for children, bringing together all relevant services under one roof. In brief, these services include: evidence-based *forensic interviews* and protection of the evidentiary validity of the child 's statement in line with the principles of due process; forensic *medical evaluation*, as well as the assurance of the child's physical well-being; short- and long-term *therapeutic services* for the child for trauma; and assessment of the *protection needs* of the victim.

Implementing Barnahus with its child-friendly ideology in a criminal system based on a criminal logic with and for adults is a challenge. Including the best interest of the child in criminal proceedings involves breaking new ground that presents obstacles and challenges. In this process, Barnahus plays a central role.

The Draft Law on Barnahus for the Republic of Slovenia is therefore a ground-breaking document. The law will provide organizational stability, which is important when establishing the model. The Barnahus law is also an important policy document in the sense that it demonstrates a political will and ambition of strengthening the rights of children.

Several aspects stand out in the draft law on Barnahus. First and foremost, a regulation that targets Barnahus as a whole, and as a state institution, provides good conditions for establishing and implementing Barnahus. The regulation on information exchange between the involved agencies as well as evidence-based methods and training programmes are important in establishing lasting multidisciplinary and multi-institutional cooperation. The child rights perspective is also a strong presence in the draft through the child counsellor and the child's right to access information from Barnahus, as is including children that are both victims and witnesses of crimes.

However, some challenges can be seen in the draft. The Slovenian Barnahus law is mainly applicable to the child interview in the pretrial proceedings and the child's need of psychological support and treatment in connection with the pretrial (court) hearing. The law does not focus on the events before the child interview in the pretrial (court) hearing or *a priori* on the coordination of parallel criminal and child protection investigations. A holistic child rights perspective takes its starting point from when the suspicion of a crime emerges. The initial phase is important in both the criminal and the child protection investigation as well as in protecting the child from revictimization. Barnahus, therefore, could play an important role at an earlier stage of the process of disclosure than the present draft provides for. Also, would the role of the child counsellor benefit from clarification.

Introduction

Child-friendly justice and the aim of Barnahus – international policies and experiences

In recent decades, awareness has increased regarding the need for child-friendly justice as a way to realize children's rights to protection from abuse and access to justice. The establishment of the Barnahus model is an important step in this process.

The aim and operations of Barnahus is described in several international sources. Probably one of the most relevant sources for promoting of Barnahus is the project Promise, in which European quality standards for the Barnahus model were developed.³ An international instrument of great importance is the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (the Lanzarote Convention). The convention emphasizes child-friendly, multi-disciplinary and interagency collaboration, including coordination, investigation, interviews with the child, and protected measures and assistance for victims. In 2015 the Lanzarote Committee pointed out the Barnahus model as a promising practice. A third important reference is the Guidelines of the Committee of Ministers of the Council of Europe on Child-friendly Justice, which points out multidisciplinary and multi-institutional cooperation as an important aspect of a child-friendly justice system. Furthermore, the EU directives on Child Sexual Abuse (2011/92/EU) and the Victims' Rights (2012/29/EU) set out important goals for child-friendly justice for child victims and witnesses of crimes.

The Convention of the rights of the Child (CRC) is the international legal instrument that exerts the greatest influence on how we view children and children's rights, yet this convention does not contain any specific article that directly addresses the right of access to child-friendly justice for child victims or child witnesses of violence. However, the child's right of access to child-friendly justice is the outcome of several articles in the convention and the CRC as a whole, and the UN Committee on the Rights of the Child has described this intention in several General Comments.

The extent to which the CRC is binding varies within the acceded states, depending on the status of the convention in each member state (incorporated, implemented etc.) and how international law is applied in the member state's domestic legal system. In addition to the matter of CRC status, several articles are open to interpretation. The Committee on the Rights of the Child has described its interpretation in the General Comments; these are considered normative but not legally binding documents.

According to the European quality standards for the Barnahus model, the Barnahus offers a child-friendly, safe environment for children, bringing together all relevant services under one roof. In brief, these services include: evidence-based *forensic interviews* and protection of the evidentiary validity of the child's statement in line with the principles of due process (thus eliminating the need for the child to repeat his/her statement during court proceedings); *forensic medical evaluation*, as well as the assurance of the child's physical well-being; short-

³ <https://www.childrenatrisk.eu/promise/eubarnahus/> (11 September 2020).

and long-term *therapeutic services* for the child for trauma; and assessment of the *protection needs* of the victim.

The Nordic Barnahus model is not in any sense normative or binding for the implementation of Barnahus. However, because the Nordic countries have more than 20 years of experience with the concept, the implementation process can be of great value for implementation of Barnahus outside the Nordic countries. The Nordic Barnahus model has been described as a house with four rooms. These rooms correspond to the Promise quality standards: 1) a child forensic interview, 2) a medical examination, 3) psychological therapy and support and 4) child protection. Even if the aim and the core of the Nordic Barnahus model can be described as a child-friendly, multidisciplinary and multiagency place for children who are suspected victims or witnesses of crime, several variations can be seen (both between countries and within countries). In the Nordic countries, though, the Barnahus concept has moved towards an increasing harmonization of the content in the four rooms.

General aspects

The process of implementing the Barnahus model must be viewed in a broader perspective than just the operations and management of the Barnahus itself. As mentioned above, domestic criminal law affects how the target group is defined; the criminal proceedings affect the handling of the child's statement; the healthcare system determines whether there is a health problem and how the problem is prioritized; and the child protection system determines whether there is sufficient reason to intervene in a family to protect a child. Furthermore, the economy of the country, the extent of welfare services, the institutional culture (e.g. the relation between state, regional and local governments) and existing institutions can play an important role in the implementation and outcome of a Barnahus model.

When examining the possible consequences of non-binding policies and absence of regulation, Sweden is a good example. Because Sweden does not have any binding regulations concerning Barnahus, and it has more than 30 operations that call themselves Barnahus, the implementation process is interesting in terms of the visibility of variations and challenges that arise when there are no binding regulations. Although the Swedish Barnahus model – in all its variations – is sprung from a Swedish institutional and legal culture, some general conclusions can be drawn: The need for legislation becomes particularly clear when defining the information exchange between collaborating agencies, as well as the choice of agencies and the extent to which these agencies should participate. Legislation is also important with respect to funding, governance, supervision, and future development of the operations in Barnahus.

The Slovenian Barnahus

General considerations

The Slovenian Barnahus law is mainly applicable to the child interview in the pretrial investigation but not the criminal investigation and not *a priori* to the coordination of parallel criminal and child protection investigations. Therefore, the law focuses not on the events before the child interview in the pretrial (court) hearing, but on the child's experience in connection to the pretrial (court) hearing. My comments will in part address the draft law from a holistic Barnahus perspective. The structure of the presentation follows to some extent the concept of the four rooms of Barnahus described above.

Specific themes of consideration

The aim and content of Barnahus

Article 1 sets forth the content and purpose of the Act: to define the institutional framework and procedures for the protection, in criminal proceedings, of juvenile victims and witnesses of crimes, provide comprehensive treatment of these victims and witnesses to ensure the best interests of the child, provide child-friendly and safe treatment and environments, and strengthen a child-friendly justice system. The second item provides that the hearings and comprehensive treatment also can apply in the cases of other criminal offences, if the court deems it necessary. Paragraph 3 states that the comprehensive treatment of children in Barnahus may also apply to the process of treating juvenile offenders.

The definition of comprehensive treatment, according to Article 4 Paragraph 2, includes the hearing of the child, the child's physical examination, and crisis support and psychosocial assistance to the child. To harmonize the wording in Paragraphs 1 and 2, "hearings" could be mentioned in Paragraph 1 as well; alternatively, it could be removed.

A hearing of a child under the drafted Barnahus law applies only to a hearing conducted on the basis of a written order issued by a court in a criminal proceeding (Article 16 p 1). An *eo contrario* interpretation is that other interviews, conducted with the child based on the suspicion of a crime, are excluded from the Barnahus. If future plans and ambitions aim to extend the operation in Barnahus to include interviews within the criminal investigation, a more open wording could be an option. In that case, the Barnahus premises, with its child friendly environment, could be open to serve both the court system and the police investigation. The benefits of this will be discussed in more detail below.

Because the starting point for the child to get access to Barnahus services is a court decision ordering a hearing of the child, crisis support, and psychosocial assistance given to the child in Barnahus will not be provided until this. The court decision is based on the information gathered in the police investigation, so investigative measures have already been taken, and in many cases, disclosure of the abuse has already been made (by witnesses or victims); therefore, the need for crisis support and psychosocial assistance can arise in earlier stages of the disclosure process.

The assessment of the child's need of protection is linked to the process of disclosure and can change during the criminal investigation and legal proceedings. Therefore, the collaboration between the police and prosecution authorities, the courts and child protection services can be important throughout the process. The role of the Barnahus in this respect is not clear. According to the Explanatory Memorandum to Article 7, the key role of the Barnahus institution is to coordinate criminal investigation proceedings and child protection procedures, which can take place in parallel. This aim is not clearly expressed in the article itself. The article's wording states only that Barnahus shall manage and organize multidisciplinary and multi-institutional cooperation and case management. Nor is coordination of criminal investigation proceedings and child protection procedures pointed out as an aim of Barnahus in the introductory article of the act. If the aim of the Slovenian Barnahus is to coordinate the child protection investigation, the criminal investigation and the criminal proceedings, this would benefit from a clarification. This will be discussed below.

The child forensic interview

According to the Slovenian criminal law procedure act, the child's statement can only be used as evidence in a criminal case if the child is heard within the legal framework of a court hearing, i.e., a pretrial court hearing. According to the draft, this hearing of the child is to be conducted in Barnahus by a specially trained expert and monitored by the judge in charge of the pretrial hearing. The child's hearing is recorded using audio and video equipment.

As mentioned in the draft on page 22, it is not possible to completely avoid repeated hearings of the child. The pretrial hearing is conducted when a certain, substantiated suspicion of a crime has been established, and therefore is preceded by a criminal investigation in which the police, in most cases, would need to interview the child to obtain necessary information. From the child's perspective, the risk of revictimization is present at this stage, and a child-friendly approach at this point therefore is motivated.

A child-friendly approach can also be motivated from an investigative perspective. The reason for this is simply that in many cases, the crime cannot be adequately investigated without a disclosure from the child, and the child's ability and motivation to disclose abuse is often linked to the safety and security of the child as well as the method used by interviewer. The possibility to use coercive measures, such as a house search or search of electronic devices, can depend on the information from the child. Access to the services in Barnahus with a child-friendly environment and specially trained experts in order to optimize the condition for the child's disclosure therefore would benefit the child as well as the investigative aspects of the case.

A dilemma that arises when the child is heard in this early stage of the criminal investigation is that the child interview will not be allowed as evidence in the Slovenian criminal proceedings. The reason is partly that an evidence in a criminal case must be brought to the court in accordance with the principles of orality and immediacy, and partly because the defendant's right to a fair trial is safeguarded by the defendant's right to cross-examine a witness, which this is a core feature of the right to a fair trial, as enshrined in Art. 6.3d of the Convention for the Protection of Human Rights and Fundamental Freedoms.

These prerequisites give rise to several consequences. The child will be interviewed by at least two different persons, and the child could be asked the same question several times; in addition, as mentioned above, the first hearing might be conducted in a less child-friendly environment and by a person without special training. This in turn presents several risks; the child does not disclose existing abuse in the police investigation, and the case is closed; the child discloses abuse in the police investigation, but presents a different statement the pretrial court hearing, e.g. because the child is asked the same questions again; the child discloses additional abuse in the pretrial court hearing as a result of repeated questions. A consequence here is that the evidential value of the statement given in the pretrial court hearing could be questioned. Even if the aim is to reduce the number of hearings, it would still be necessary in most cases to interview the child more than once. From an evidential perspective, the information given by the child as well as how questions were asked in previous interviews can be of great importance in assessing the reliability of the child's statement.

From an investigative, evidential as well as child-friendly justice perspective, it is not motivated to interview the child in two different locations with two different interviewers. To safeguard the child's right of access to justice as well as the primary investigative and evaluative interest, the child should be heard on the Barnahus premises, by a specially trained person, for both the criminal investigation and the pretrial court hearing. When performing the latter hearing, the questions asked in the police investigation hearing should be taken into account and second hearing's questions should be planned accordingly. This could mean that some questions would be asked only once and perhaps referred to in the second interview.

The possibility to use the child's statement from the first hearing could be problematic. This statement was not given at a court hearing and no defence lawyer was present to safeguard the defendant's right to a fair trial. However, there might be exceptions in the criminal proceeding act that allow information from the police investigation to be used as evidence in the main hearing.⁴ If not, the child should be heard at Barnahus, regardless of whether the interview is a part of the criminal investigation or a pretrial hearing, in order to avoid the risk for revictimization.

The medical examination

The medical examination of a child can be an important investigative measure when violence and/or sexual abuse is suspected. Medical findings can provide evidence that is critical to prosecution of the case; in addition, the examination can be important in determining the physical status of the child. Furthermore, this process can be therapeutic, as a way to assure the child with respect to his or her physical wellbeing.

⁴ The European Court of Human Rights (ECHR) has ruled that testimony given in the pretrial (criminal) investigation does not violate the defendant's right to a fair trial if the defendant's rights according to article 6 have been safeguarded during the pretrial investigation. To safeguard a defendant's rights, the defence lawyer is given the opportunity to ask questions indirectly via the person performing the child forensic interview. The ECHR also stated that the evidence obtained from a witness under conditions in which the rights of the defence cannot be secured to the extent normally required by the Convention should be treated with extreme care, E.g. ECHR Case of S.N. v. Sweden, App. no. 34209/96, 2 July 2002.

Slovenian Barnahus include the medical examination in the comprehensive treatment of the child, and an order for examination must be issued by the court. The judge is responsible for whether the child should undergo a medical examination, but according to Article 7 of the draft, the Barnahus is responsible for organizing the examination and shall provide premises and other assistance in performing medical examinations. The role of the Barnahus is described as primarily supportive because the institution is not a medical facility and has no medical staff.

The role of the Barnahus could be clarified here. What is the institution's role in providing the judge with e.g. information about the child for assessing the best interest of the child? Furthermore, more information is needed regarding coordination of when and where the child should be examined.

It is unclear whether the Barnahus premises have the capacity to house medical examinations. In addition, the draft does not clarify who will administrate such examinations and whether, there is a specific coordinator at Barnahus who will perform this function. It is also unclear whether a preparatory meeting is to take place prior to a medical examination. The multidisciplinary and multi-institutional cooperation would probably benefit from some clarification in this respect.

The psychological treatments/supports

The draft emphasizes the child's need for crisis support and psychosocial assistance, in connection with and after the hearing (and medical examination). The child counsellor provides these services and follows the child through and after the child's visit at Barnahus; therefore, the training and competence of this counsellor is probably crucial for the success of psychosocial assistance. The description of the training and tasks of the child counsellor is also strength of the draft act, such as the right to information (Article 25) from the hearing, monitoring of the hearing etc. This will facilitate the counsellor's task.

Because the child counsellor will work closely to the agencies involved in Barnahus – where each agency has there area of responsibility – a recommendation is to clarify in the act that the child counsellor shall have the child's best interest and right to participation in mind, the latter includes the responsibility to provide the child with information. This will strengthen the child right's perspective in the draft and clarify the role of the child counsellor.

Child protection

Protection of the child is one of the four rooms in Barnahus. The child's need of protection is closely linked to the disclosure of the abuse, as well as cooperation between child protection services and the criminal investigation and/or the pretrial criminal proceedings. Coordination of the criminal investigation with the child protection investigation can be of great importance in an early stage of the process of closure, because one of these agencies is often the first to be informed of the suspected abuse. To assess the child's need of protection and take measures to investigate the suspected crime, information exchange between these agencies is paramount. Coordination between agencies can also spare the child from repeated interviews.

As mentioned above, the role of child protection services in the draft law on Slovenian Barnahus is unclear in some respects. According to Articles 1 and 4, comprehensive treatment in Slovenian Barnahus shall include the hearing of the child and the child's physical examination, as well as crisis support and psychosocial assistance to the child. A child counsellor will provide crisis support and psychosocial assistance; the counsellor is an employee of the Barnahus, and not part of the child protection system. The role of the child protection agency in the Barnahus is clarified to some extent in the articles that regulate information and preparatory meetings. For example, Article 16 states that the court shall inform the competent social work centre of the order to hear the child in Barnahus and summon centre personnel to the preparatory meeting. Article 21 states that a representative of the social work centre can monitor the hearing of the child from a separate room. The participation of child protection services is not mandatory; nor does the Slovenian Barnahus appear to have an obligation to inform child protection services if the child discloses more or more serious abuse to a staff member (e.g. the child counsellor) or at the hearing (if child protection services representatives are not present).

The involvement of child protection services in the preparatory meeting and the hearing of the child in Barnahus gives the agency the possibility to obtain information to assess the child's need of protection. This does not preclude collaboration and information exchange earlier in the criminal investigation. Nevertheless, according to the draft, coordinating the collaboration between the police investigation and child protection services is not the task of Barnahus. This can be questioned from a Barnahus perspective because the need of coordination and collaboration can be crucial in early stages of the disclosure process. This could benefit both the criminal investigation and the child right to protection as well as protection from revictimization.

A recommendation for further development of Slovenian Barnahus is to craft a regulation that does not present obstacles for expanding multidisciplinary and multi-institutional cooperation in Barnahus. It could also be useful to enhance the regulation concerning information exchange between Barnahus and child protection services.

The child rights perspective

The aim of Barnahus on an ideological level is to combat violence and abuse of children by realizing their right to protection, support, and access to justice. The ideological fundament of the Barnahus concept is that fulfilling these obligations is best achieved through multidisciplinary and multiagency collaboration in a one-roof, child-friendly environment, in accordance with the best interest of the child – which includes safeguarding the child's right to participation.

The core principles of the Slovenian Barnahus concept are expressed in Article 3, which states that the Act derives from the fundamental principles of:

- the child's *participation* in proceedings in a child-friendly way, taking account of the child's maturity and possible communication difficulties;
- respect for the *best interests* of the child;
- respect for the *dignity of the child*, including the limitation of child hearings to a

- minimum in order to prevent secondary victimization;
- *non-discrimination* and ensuring equal treatment of children;
- respect for a fair trial and the right of defence in criminal proceedings; and
- prevention of unnecessary delay.

The first four principles derive from the fundamental rights of the child stated in the CRC and other international policy instruments, and the fifth is the crucial and fundamental principle of a fair trial. The sixth item is more a product of the principle of the best interest of the child rather than a principle as such.

The child's right to *participation* is a challenging principle and includes several aspects. First, it means that the child has a right to be heard in all matters concerning the child, e.g. when and where medical examination is done, why the case is not prosecuted, exercise of the right not to testify etc. To be able to make an informed decision, the child has a right to information concerning the question at stake. The duty of realizing the child's right to participation lies with the agency that is responsible for the current decision. Because the activities in Barnahus are based on multiagency collaboration, several agencies can be involved, as well as overlapping decisions can be made that affect the child. Therefore, it could be unclear to agencies and professional which agency should inform the child, as well as when and how the information is relayed.

The Act presents a good example of catering to this right of the child, through the function of the child counsellor. Several articles (e.g. Article 31) in the draft are exemplary in their statement that the child should be informed. Because participation is a fundamental right in Barnahus, the act could express more specific information regarding the role that is responsible for providing the child with information, e.g. the child counsellor.

The principle of the *best interests* of the child is the core of the CRC and the ideological foundation of the Barnahus concept. With its child focused activities, the implementation of Barnahus in Slovenia, is an important step forward in achieving child-friendly justice and combating abuse against children. The strengths of the Slovenian model are many, and the provisions regarding the child counsellor and the child's right to information are particularly child's-right focused. Providing the child with a person who follows the child throughout the proceedings optimizes the safeguarding of child's right principles and the best interest of the child.

However, the aim of the act, as stated in Article 1, is to give comprehensive treatment to ensure the maximum benefit of the child. This is also the core of the Barnahus ideology. The most challenging aspect in the Barnahus act in this regard is the focus on the pretrial (court) hearing. There are several challenges related to this aspect. One is the fact that most children will be heard in the criminal investigation before the pretrial hearing takes place. This interview will not take place in Barnahus and will not be performed by a specially trained person; therefore, this hearing will not be conducted according to the best interest of the child. As mentioned above, in this stage of the disclosure process, the need may arise for effective collaboration between the police and child protection services in order to provide the child with adequate support and protection, and to optimize police conditions to investigate the suspected crime.

The focus on the pretrial (court) hearing is also problematic from a non-discrimination perspective. Some cases will never go as far as a prosecution or pretrial (court) hearing; this means that some children, despite being suspected victims of abuse and being subjected to a criminal investigation, will not get access to Barnahus services.

Multidisciplinary and multi-institutional cooperation

The idea behind the activities in Barnahus is to gather the agencies involved, under one roof, when a child is a victim or witness of crime. This multidisciplinary and multi-institutional cooperation is one of the core principles of the Barnahus concept. This cooperation can be organized in various ways. In an individual case concerning a child, the multidisciplinary and multi-institutional cooperation revolves around the information exchanges between the agencies and organizing the parallel investigations and/or activities that involve the child. The information exchange provides the involved agencies with the information needed e.g. to assess the child's need of protection, psychological support, and treatment, as well as preparing the child forensic interview and determining which criminal investigation measures should be taken.

In the draft law for Slovenian Barnahus, the multidisciplinary and multi-institutional cooperation depends to a large extent on the court order to summon agencies to a preparatory meeting and the pretrial hearing of the child. The judge decides which agencies will be summoned and who is allowed to monitor the hearing. According to the act, this includes (among others), the defendant's lawyer, the prosecutor in charge of the criminal investigation, and child protection services. It is not clear whether the agencies are obligated to participate, but the court shall inform the competent social work centre of the order to hear the child in Barnahus and summon the centre to the preparatory meeting; this notification shall be documented in the case file.

The explicit regulation regarding the agencies to be summoned to the preparatory meeting should provide a stable basis for interagency collaboration. The requirement to document notification for child protection services is also a good example of how to safeguard information exchanges. One concern is that the preparatory meeting will focus only on preparing the hearing of the child and will not address the wellbeing and needs of the child or additional investigative measures that may be required in the criminal investigation. The presence of the competent prosecutor and child protection services will probably safeguard these aspects, but there is a risk that the primary purpose of the meeting will be to assist the judge in preparing the hearing at the expense of a more holistic and child-focused approach in accordance with the best interest of the child.

As described in the Explanatory Memorandum, a preparatory meeting does not preclude possible prior consultations between the bodies involved in the proceedings (e.g. the police) and competent professional services (e.g. the social work centre). The Swedish experience – where there are no binding rules on operations and information exchange (secrecy regulations) in Barnahus – participation by collaborating agencies has varied in both the so-called collaboration meetings and the forensic interview with the child. This experience highlights the need for regulations and guidelines concerning the aim and content of multidisciplinary and multi-institutional meetings.

Target group

The Slovenian Barnahus model refers primarily to children as victims or witnesses of crimes against sexual integrity. However, in the act itself, the target group is broader and includes all children in criminal proceedings, either as juvenile injured parties (victims) or witnesses, but also as juvenile offenders. The definition of the target group as including both violence against children and sexually abused children as well as children as witnesses of crimes is in line with the development of the Nordic Barnahus. In the Nordic countries, definition of the target group has moved toward a harmonization in this sense. A wide target group is in line with the principle of non-discrimination and the right to child-friendly justice. This wide target group definition, however, faces several challenges. First, this is a question of capacity and quality. A broad target group means that the Barnahus must accept a large group of children and their families. It will also be a diverse group with a wide range of needs. The Barnahus, therefore, will not only need to have sufficient capacity (and premises) but also the competence to fulfil many different needs. Against this background, it is motivated – as does the Slovenian plan – to start with a more limited target group. This will give Slovenia time to develop the model, build up premises, and train experts and staff.

A more complex dilemma is the question of including juvenile offenders in the target group. This is a group of vulnerable children who have an equal right to child-friendly justice. The question, therefore, is not whether it is in the best interest of the child offender to get access to the service of Barnahus; rather, the question is whether these children should visit the same premises as child victims and witnesses of crimes. The idea of Barnahus as a safe place for children as victims and witnesses of crimes must be safeguarded, and in this respect, including young offenders in the target group can pose a risk.

According to the act (Article 1 p 3), a juvenile offender can be received in Barnahus if the best interests of the child require it. A recommendation is to supplement this provision – in the act or otherwise – that giving a juvenile offender Barnahus access is acceptable only if it does not pose a risk to Barnahus as a safe place for child victims or witnesses of crimes.

Legislation, management and organization

An obvious strength when implementing Barnahus is a specific regulation that targets the Barnahus as a whole and gives the model a status as an independent institution. This will give the Slovenian process of implementing Barnahus stability and a foundation on which to establish and develop the model. This is especially important when the model is based on multiagency collaboration, where each agency otherwise would fall under independent regulations.

The act includes the aim (and ideology) of the Barnahus, as well as the organization and operation in the institution. This is all included in the Slovenian draft, along with the regulation of supervision and documentation, which are crucial in securing the quality of the operation, the child's access to information, and future research and follow-up studies.

Explicitly stating the aim and the general principles of Barnahus in the act helps in interpreting vague or open regulations, making additional guidelines, and further developing Barnahus operations. The aim of the Slovenian Barnahus is expressed in Article 1 and the general principles are found in Article 3. Article 4 plays a part in the interpretation of Article 1 because Article 4 defines the term 'comprehensive treatment'. As mentioned above, there is a risk that the child protection aspect will be overshadowed by focus on multiagency cooperation that concerns the hearing of the child in the pretrial hearing.

The regulation of Barnahus organization by a council of the institution, expert counsel and a director. These are stabilizing factors as well as a guarantee for the quality of the Barnahus. The council of the institution is of great importance for the quality and further development of Barnahus; therefore, its members should represent the aim of Barnahus. As the draft's emphasis regarding Barnahus operations seems to be placed on the criminal procedural proceeding – although several wordings point out a more holistic aim – I would suggest, in order to secure other child rights interest are represented, including one person with child rights expertise as a member of the council. This person would preferably not be involved in the operational work of the Barnahus.

The regulation concerning operation tends to be focused on the hearing in the pretrial criminal procedure. This is modified to a certain extent in the Explanatory Memorandum. An example here is multidisciplinary and multi-institutional cooperation. In the act, the preparatory meeting plays an important role in this respect. The Explanatory Memorandum points out that additional consultation meetings can be held. As we have seen in the Nordic experience, unregulated areas in this aspect risk the consequence of one logic taking precedence over other, and normally the criminal law logic dominates. The aim of the preparatory meeting is to prepare the hearing of the child. A suggestion would be either to – in the act – add some type of coordination meeting, administrated (in terms of setting up the meeting, taking the initiative etc.) by either the Barnahus or child protection services.

Another strength of the Slovenian Barnahus law is the child counsellor. This function demonstrates a clear child rights perspective and seems to be of great importance for safeguarding the child's right to participation as well as a holistic perspective on the child's situation and needs. The roles of the experts in Barnahus are of great importance from a qualitative perspective. However, it is not clear who will do the administrative work in Barnahus. The preparatory meeting, other consultation or cooperation meetings, planning the medical examination, hearing of the child etc. are core tasks of the Barnahus; these activities require significant amounts of time and demand specific competence. These tasks can be performed by the child counsellor and/or the expert employed at the Barnahus, but it could be useful to clarify the separate functions.

Concluding words

Implementing Barnahus with its child-friendly ideology in a criminal system based on a criminal logic with and for adults (adult victims, witnesses, and suspects/defendants) is a challenge. Balancing the interests of investigation and prosecuting crimes while also safeguarding the rule of law has an established tradition, even if the challenges are many. The child right perspective does not have the same tradition and involving the best interest of the child in criminal proceedings involves breaking new ground that presents obstacles and challenges. In this process, Barnahus plays a central role.

The Draft Law on Barnahus for the Republic of Slovenia is therefore a ground-breaking document. The law will provide organizational stability, which is important when establishing a model that challenges in many respects the traditional views of children as victims and witnesses. The Barnahus law is also an important policy document in the sense that it demonstrates a political will and ambition of strengthening the rights of children.

Several aspects stand out in the draft law on Barnahus. First and foremost, a regulation that targets Barnahus as a whole, and as a state institution, provides good conditions for establishing and implementing Barnahus as a long-term commitment. The regulation on information exchange between the involved agencies as well as evidence-based methods and training programmes are important in establishing lasting multidisciplinary and multi-institutional cooperation. The child right perspective is also a strong presence in the draft through the child counsellor and the child's right to access information from Barnahus for a long period of time after the criminal proceeding has been completed, as is including children who are both victims and witnesses of crimes.

Nevertheless, implementing Barnahus and a child-friendly justice system is a process. The physical Barnahus premises must be in place, with trained staff to conduct and provide interviews and therapeutic treatment. The models and routines of collaboration will take some time to establish and challenges must be overcome, such as the balancing of criminal and social welfare logic. Successful implementation and development of the model is highly dependent on documentation in order to provide follow-up studies.

The process presents other challenges as well. A holistic child rights perspective includes multidisciplinary and multi-institutional cooperation in a child-friendly environment and starts from when the suspicion of a crime emerges and the information reaches the authority responsible for the safety of the child and/or investigation of the crime (police or child protection agency). The initial phase is important in both investigations and the risk of revictimization is present. Both agencies benefit from coordination. For example, shared information and coordinated interviews benefit the best interest of the child as well as the evidential value of the child's statement. The role of the Slovenian Barnahus is not entirely clear in this respect. Closely linked to this aspect is the draft's focus on the pretrial hearing. In most cases, this interview will probably not be the only interview conducted with the child. From the perspective of revictimization as well as investigative and evidential perspectives, this must be taken into account and multidisciplinary and multi-institutional cooperation and preparation must be considered at an earlier stage.

From a child rights perspective the right to participation and information is crucial. In a Barnahus context, where several agency's work together and several decision concerning a child are overlapping (involving police, child welfare, healthcare etc), it is important to establish clear guidelines as to how has the responsibility to inform the child as well as what information the child has a right to get and when. This is perhaps something that should be clarified in guidelines and not int the law itself. However, if this is a function that should be placed on the child counsellors this should maybe be clarified in the law.

Another challenge is the question of expanding the target group to include juvenile offenders. This must be considered with great care. Juvenile offenders comprise a vulnerable group of children, with equal rights to child-friendly justice as victims and witnesses of crime. Including them in the Barnahus concept, however, is, acceptable only if it does not pose a risk to Barnahus as a safe place for child victims or witnesses of crimes.

The capacity and number of Barnahus also presents a challenge. Providing child victims and witnesses of crime with the services of Barnahus will undoubtedly require several Barnahus in Slovenia. In the process of expansion, it is important to keep in mind the balance between giving children access to Barnahus and maintaining high-quality service according to the aim and ideology of Barnahus.