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REPUBLIC OF SLOVENIA  
MINISTRY OF JUSTICE

Building a Europe  
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**Securing the best interests of the child in civil proceedings:  
A selection of guidance, methods and tools used in  
Council of Europe member states**

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**Joint EU-Council of Europe project  
"Ensuring the best interests of the child in civil court  
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## INTRODUCTION

1. The European Union-Council of Europe Joint Project “Ensuring the best interests of the child in civil court proceedings in Slovenia” aims at ensuring a stronger protection of the rights and best interests of the child in civil court proceedings in Slovenia. The project contributes to the ongoing reform process initiated by the Government of Slovenia with the aim of securing children’s rights and becoming a pioneer country promoting excellence in child-friendly justice in EU Member States. Co-funded by the European Union and the Council of Europe, the project is implemented by the Council of Europe’s Children’s Rights Division in close co-operation with the Slovenian Ministry of Justice from 1 September 2023 to 28 February 2026. This international comparative study is one of the activities envisaged within the scope of the joint project.
2. The Government of Slovenia has achieved significant progress in securing the rights of the child in criminal law proceedings, and the joint project aims at keeping pace with this progress in the area of civil law proceedings. A particular concern relates to the delays in civil proceedings involving children, which tend to last up to three years.<sup>1</sup> In 2022, the European Court of Human Rights found that the unreasonable length of foster care proceedings in the case of Q and R v. Slovenia constituted a violation of the right to a fair trial under Article 6§1 of the European Convention on Human Rights. At the time of the ECtHR judgement, the proceedings in this specific case had been going on for six years.<sup>2</sup>
3. According to an analysis by the Slovenian Supreme Court, the main challenges causing these delays are related to a lack of court experts in clinical psychology, who are the most frequently appointed experts in civil proceedings concerning children and families, as well as an excessive use of legal instruments, which often remain ineffective, and a lack of a systemic approach.<sup>3</sup> The Supreme Court’s analysis revealed that the courts of first instance could avail themselves of only seven experts in the country, which leads to an average waiting time for an expert opinion of one year. The challenge is felt particularly strongly at the District Court of Ljubljana, which has the highest caseload of civil proceedings concerning children. The average duration of proceedings ranges between 14 and 24 months at first instance and a maximum of two months in higher courts.<sup>4</sup> The appointment of an expert is mandatory in care proceedings and optional in cases concerning parental responsibility, contact and upbringing of children in the context of parental separation.<sup>5</sup> The Supreme Court analysed the parental responsibility and contact cases tried between 2016 and 2019 and identified 300 cases in which court experts were appointed, that is five percent of all cases tried in this time-frame. In 2020 and 2021, the number of cases involving court experts decreased significantly as experts were missing.<sup>6</sup>

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<sup>1</sup> Republic of Slovenia, Ministry of Justice, and Council of Europe, *Inception report, Joint European Union-Council of Europe project “Ensuring the best interests of the child in civil court proceedings in Slovenia”*, 23SI08, November/December 2023, p. 3.

<sup>2</sup> Q and R v. Slovenia, Application no. [19938/20](#), 20 June 2022.

<sup>3</sup> Republic of Slovenia, Ministry of Justice, and Council of Europe, *Inception report, Joint European Union-Council of Europe project “Ensuring the best interests of the child in civil court proceedings in Slovenia”*, 23SI08, November/December 2023, p. 3.

<sup>4</sup> Supreme Court of Slovenia, *Lack of court experts in family disputes leads to serious procedural delays*, [Press release](#), 30 September 2022.

<sup>5</sup> pp. 1-2.

<sup>6</sup> Supreme Court of Slovenia, *Lack of court experts in family disputes leads to serious procedural delays*, [Press release](#), 30 September 2022, pp. 2.

4. In this report, 'civil court proceedings' refers to judicial proceedings under civil law in the child protection and family law field, such as parental separation proceedings under private law and child protection or care proceedings under public law. This study focuses on domestic proceedings in which Slovenia has full jurisdiction. It does not address civil proceedings under international private law or other proceedings with a cross-border dimension, although the standards and principles apply also in transnational cases and the specific methods and tools presented in this study may be useful.
5. This report is structured in two parts: Part I provides a brief overview of the main international and European standards concerning the rights and the best interests of the child in civil proceedings, to set the overarching legal framework of reference.
6. The study does not aim at a comprehensive legal analysis, but at a comparative analysis of measures suitable to implement the legal framework effectively in a manner that is sensitive to the rights and needs of the child. To this end, Part II of the report presents case studies that document and analyse examples of practice of Council of Europe member and observer states, which are considered relevant to respond to the identified needs of the Government of Slovenia. The case studies focus on service models, methods and tools that have been evidenced – or otherwise been verified – to contribute to securing the rights and best interests of children concerned by civil law proceedings.
7. The case studies describe considerations for introducing the service models, methods or tools and adapting them to the national context, such as the need for professional standards, relevant training and licensing, child safeguarding considerations, dissemination, any legal dimension of ensuring appropriate application in the national context, as well as costs.

## METHODOLOGY

8. The international comparative study was implemented under the supervision of the project coordination group, which consists of representatives of the Council of Europe, the European Union and the Ministry of Justice of Slovenia, and in close cooperation with the Inter-Ministerial Working Group to improve the situation of children in civil court proceedings in Slovenia (IMWG)<sup>7</sup>.
9. The study was implemented through a desk review and a consultation phase. The desk review provides an overview of international and European standards concerning the rights and best interests of the child in civil law proceedings. In addition, a selective literature review aims at offering a synthesis of the status quo of the European debate on the rights and best interests of the child in civil law proceedings, taking into account official documents and research reports issued by the Council of Europe and the EU, by national governments, international and national organisations, the academia and other relevant sources.
10. The literature review is complemented by case studies documenting and analysing examples of practice from Council of Europe member and observer states (see Box 1). A standardised case study guide was prepared to ensure the case studies follow, as far as possible, a unified format and structure and respond to the key questions identified by the project coordination group. Each case

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<sup>7</sup> The IMWG meets 2-3 times per year to oversee to monitor and guide the strategic aspects of the Project. It includes representatives of the following institutions: Ministry of Justice; Judiciary (Supreme Court of Slovenia, High Court in Ljubljana, District court in Ljubljana); Ombudsman's Office; Ministry of Health; Ministry of Labour, Family, Social Affairs and Equal Opportunities; Association of centres for social work; Chamber of clinical psychology; Association for nonviolent communication (NGO); Expert Council for Judicial Expertise, Judicial Valuation and Judicial Interpretation; Slovenian Bar Association.

study builds on a literature review, as well as a consultation of experts to gather specific information and experience from Council of Europe member and observer states. The project coordination group selected the case study examples in cooperation with the IMWG in accordance with the identified needs and priority areas.

11. The case studies and international report were reviewed by the project coordination group and the IMWG. Experts and key informants from member and observer states were invited to review the case studies presenting their own practice.

**Box 1: Case studies on service models, methods and tools to secure the best interests of the child in civil proceedings**

The case studies address the following topics:

- 1) Guidance and tools for the best interests determination procedure
- 2) Guidance on hearing children in civil proceedings
- 3) Guidance and tools for specific assessments
- 4) Support services for children, parents and families
- 5) Legal professionals working with children in civil proceedings: training, specialisation and support

## PART I: THE BEST INTERESTS OF THE CHILD IN CIVIL PROCEEDINGS: INTERNATIONAL AND EUROPEAN STANDARDS

### 1) The best interests of the child as a general principle of the UN Convention on the Rights of the Child

12. Under the UN Convention on the Rights of the Child (UNCRC), the best interests of the child shall be a primary consideration in all decisions and actions concerning the child (Article 3.1). The UNCRC refers to the best interests of the child in relation to the right of the child to live with the parents (Article 9.1 and 9.3), parental responsibilities and state obligations (Article 18), the rights of children who are deprived of a family environment (Article 20.1), the adoption of children (Article 21), the protection of the child from cruel and harmful punishment (Article 37(c)), and the rights of children who are suspects or accused persons in criminal proceedings (Article 40.2(b)(iii)). In addition, the Committee on the Rights of the Child identified the best interests of the child as one of the “general principles” of the Convention (see Box 2).<sup>8</sup>

#### Box 2: The best interests of the child as one of four general principles of the UNCRC

The Committee on the Rights of the Child identified four articles of the Convention as general principles, including the best interests of the child as set out under Article 3.1. The general principles are specific rights of the child that are considered of significant importance because they relate to the implementation of all the other rights of the child as well. Securing the best interests of the child, in the individual case or collectively for groups of children, requires therefore due attention also to the other general principles of the Convention:

Article 2 sets out the ***right of the child to non-discrimination***. Securing this right in law, policy and practice requires careful attention to the needs and rights of the individual child – or groups of children. Although the legal prohibition of discrimination is a prerequisite for guaranteeing this right, it constitutes only one aspect of effective non-discrimination and needs to be combined with non-discriminatory policies and services and proactive measures to prevent discrimination. Preventing discrimination is not achieved by treating all children the same, but by ensuring that the responses and services in place for a child are tailor-made to the child's individual needs and take the child's current situation and background into consideration. A non-discriminative approach aims at ensuring that all children have equal opportunities to enjoy and exercise their rights.

Article 6 sets out the ***right of the child to life, survival and development***. Every child has the right to receive support to secure his or her life and survival and to fully develop the individual resources, potentials and capacities. From an early age, this support shall be targeted at promoting the child's development and transition to adulthood and independent life. The Committee on the Rights of the Child explains development as a “holistic concept, embracing the child's physical, mental, spiritual, moral, psychological and social development”.<sup>9</sup> While all children have the right to development, securing this right in the individual case requires a careful assessment and response to the developmental needs of the child, including specific needs of support to enjoy this right in practice.

Article 12 sets out the ***right of the child to be heard***. The right to be heard entails the child's right to form and express his or her opinion and to have the own views heard and given due weight in accordance with

<sup>8</sup> Committee on the Rights of the Child, General guidelines regarding the form and content of initial reports to be submitted by States Parties under Article 44, paragraph 1(a), of the Convention, [CRC/C/5](#), 30 October 1991, p. 4.

<sup>9</sup> Committee on the Rights of the Child, General Comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, CRC/C/GC/14, 29 May 2013, para. 4.



the age and maturity of the child. This right applies in all decisions and actions concerning the child, including in the home and family-life, in the community, in day-care and at school, in relation to service provision and in the context of administrative and judicial proceedings. Children have different needs to make their views heard and to be listened to, some children may be timid, others may have hearing or speaking impairments, some children may need an interpreter. Some children may be used to forming and expressing their opinions, for others this may be more difficult. The right to be heard applies individually and collectively to groups of children and the child population more generally, it has therefore also a social and political dimension.<sup>10</sup>

## 2) Guidance on the best interests principle by the Committee on the Rights of the Child

13. In 2013, the Committee on the Rights of the Child published the General Comment No. 14 on the right of the child to have his or her best interests taken as a primary consideration.<sup>11</sup> In this General Comment, the Committee explains the best interests principle and provides legal, procedural and practical guidance on its application, including the procedure for assessing the best interests of the child and giving it due consideration in decisions and actions concerning the child.

14. The General Comment explains the principle as a three-fold concept, a substantive right, a fundamental, interpretive legal principle, and a rule of procedure<sup>12</sup>:

1. As a *substantive right*, Article 3.1 is considered directly applicable and can be invoked before a court. Recognising the best interests of the child as a substantive right means that the child has the right that the own best interests are assessed and given primary consideration in decisions or actions concerning the child. Assigning weight to the best interests of a child is particularly important in cases where decision-makers are considering the interests of the child alongside other interests, which may be conflicting. The Committee on the Rights of the Child explains that the wording “shall” used in UNCRC Article 3.1 means that States have a strong legal obligation and “(...) may not exercise discretion as to whether children’s best interests are to be assessed and ascribed the proper weight as a primary consideration.”<sup>13</sup>
2. As a *fundamental, interpretive legal principle*, the best interests of the child are guiding the application of laws and their interpretation. In cases where decision-makers can exercise discretion or there is room for interpretation of a specific law, the interpretation which most effectively serves the best interests of the child shall be applied.
3. As a *rule of procedure*, the principle implies that decision-making processes concerning children individually or collectively, in particular those aimed at determining the best interests of a child or a group of children, need to be transparent and explain the possible impact of the decision on the child or a relevant group of children, taking into account possible consequences in the short-, medium- and longer-term.

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<sup>10</sup> See: Committee on the Rights of the Child, General Comment No. 12 (2009) on the right of the child to be heard, CRC/C/GC/12, 1 July 2009.

<sup>11</sup> Committee on the Rights of the Child, *General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration*, [CRC/C/GC/14](#), 29 May 2013.

<sup>12</sup> Committee on the Rights of the Child, *General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration*, [CRC/C/GC/14](#), 29 May 2013, para. 6.

<sup>13</sup> Committee on the Rights of the Child, *General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration*, CRC/C/GC/14, 29 May 2013, para. 36.

15. The Committee on the Rights of the Child explains in General Comment No. 14 that the best interests principle “is aimed at ensuring both the full and effective enjoyment of all the rights recognised in the Convention and the holistic development of the child. (...) It recalls that there is no hierarchy of rights in the Convention; all the rights provided for therein are in the ‘child’s best interests’ and no right could be compromised by a negative interpretation of the child’s best interests.”<sup>14</sup> The Committee noted further that the way adults understand or interpret the best interests of the child can never override the obligation to respect the rights of the child as set out by the UN Convention.<sup>15</sup>

16. The Committee on the Rights of the Child clarifies also the meaning of giving the best interests of the child “primary consideration”, which requires balancing the rights and best interests of the child and the rights of other persons in the individual case. Conflicts or potential conflicts between them should be resolved individually by harmonising the different rights and interests involved and assigning weight to each of them. In this balancing exercise, the rights and best interests of the child have a high priority and should be given larger weight. The Committee justifies that the best interests of the child should not be just one of several considerations due to the “special situation of the child: dependency, maturity, legal status and, often, voicelessness. Children have less possibility than adults to make a strong case for their own interests and those involved in decisions affecting them must be explicitly aware of their interests. If the interests of children are not highlighted, they tend to be overlooked.”<sup>16</sup>

### 3) Best interests determination procedure: from assessment to a sustainable solution

17. Giving primary consideration to the best interests of the child is not only a general principle of the UN Convention on the Rights of the Child, it is also guaranteed by the EU Charter of Fundamental Rights (Article 24.2) and a fundamental principle of the Council of Europe Committee of Ministers Guidelines on child-friendly justice.<sup>17</sup> The best interests of the child, therefore, are firmly established as a guiding principle in civil proceedings in member states of the Council of Europe and the EU. To ensure respect for this principle in decision-making processes, the child’s best interests need to be duly assessed and given weight. In civil court proceedings, the best interests determination procedure aims at ensuring this in practice, in a substantial and procedural sense.

18. This section explores the typical steps of the best interests determination procedure in civil court proceedings – the best interests assessment, the decision-making process and the periodic review and adaptation of decisions, as well as procedural safeguards to be respected where a competent authority makes decisions on the best interests of the child in the context of legal proceedings.

19. In civil court proceedings, the competent authority is a court of law. To what extent it is competent to make decisions on the best interests of the child, however, depends on the nature of the proceedings and the circumstances of the case. There are fundamental differences between civil

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<sup>14</sup> Committee on the Rights of the Child, General Comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, CRC/C/GC/14, 29 May 2013, para. 4.

<sup>15</sup> Committee on the Rights of the Child, General Comment No. 13 (2011) on the right of the child to freedom from all forms of violence, CRC/C/GC/13, 18 April 2011, para. 61. Committee on the Rights of the Child, General Comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, CRC/C/GC/14, 29 May 2013, para. 4.

<sup>16</sup> Committee on the Rights of the Child, General Comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, CRC/C/GC/14, 29 May 2013, paras. 36-40.

<sup>17</sup> Council of Europe (2010), [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#), III.B.

court proceedings under public and private law: In parental separation proceedings under private law, the parents are responsible for assessing the best interests of their child, making decisions and reviewing them over time in accordance with their child's best interests. Courts of law are competent to ascertain that parents' decisions give due consideration to the best interests of the child. Depending on the circumstances of the case, a competent authority may make decisions aimed at securing the best interests of the child, for instance by ordering interim measures, enforcing compliance with decisions or ordering the parents' use of specific services. In care proceedings under public law, on the other side, the court or another competent authority is responsible for all stages of the best interests determination procedure, from assessment to the identification and implementation of a sustainable solution in the best interests of the child, although parents may continue holding responsibility for some decisions concerning the child.

20. In some cases, parental separation and care proceedings may coincide. Irrespective of the nature of the proceedings, courts of law and parents may collaborate with different service providers, guardians and (legal) representatives, and will enable the meaningful participation of the child in the proceedings. In addition, children of a certain age, typically in adolescence, enjoy legal capacity to take certain decisions themselves, for instance regarding independent living or medical treatment. In practice, this can lead to a complex division of decision-making authority between courts of law, parents, children, services providers and representatives in civil court proceedings, which need to be clearly mapped out to ensure the best interests determination procedure respects principles of legality and proportionality.

*(a) Best interests assessment*

21. The Committee on the Rights of the Child underlines that a best interests determination builds on assessments conducted by a multi-disciplinary team of well-trained professionals with appropriate judicial involvement.<sup>18</sup>

22. The best interests assessment is a consolidated case assessment process aimed at gathering and ascertaining information about the child and family. It lays the foundation for decisions and measures aimed at meeting the child's needs and securing his or her rights. The best interests assessment is necessarily a multidisciplinary assessment and requires the concerted collaboration of different state agencies, service providers and specialists. It includes, as a minimum, the following assessments:

- child hearing;
- assessment of the child's situation, background and needs;
- social inquiry and family assessment, including parental capability assessment;
- risk and security assessment;
- mapping sources of support, skills and resources for empowerment, and
- gathering evidence, where appropriate, for instance through forensic examinations and a forensic child interview;
- continued assessments and monitoring during follow-up services to enable an adjustment of service provision in accordance with the child's evolving situation.

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<sup>18</sup> Committee on the Rights of the Child, General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art.3, para. 1), [CRC/C/GC/14](#), 2013, par. 64.

23. Professionals and officials involved in the best interests assessment should have access to a compendium of evidence-based and child-centred methods and tools suitable for conducting the relevant assessments. It is a recognised good practice to set out in law those factors that should guide the best interests assessment to ensure consistency with the rights and needs of the child (*see the example of Ireland in Part II, guidance on the best interests determination procedure*).<sup>19</sup>

24. The best interests assessment aims at a comprehensive, accurate and up-to-date understanding of the child's situation as basis for the decision-making process, to ensure the decision respects the rights and needs of the individual child and supports the child in his or her development.<sup>20</sup>

25. The rights of the child, as afforded under the United Nations Convention on the Rights of the Child, the European Convention on Human Rights (ECHR), EU law, and other international and European standards, set out the overarching framework for the best interests assessment. The rights of the child are universal and apply to all children; they do not need to be assessed as such, however, children may require different levels of support to be able to enjoy their rights. To this end, the best interests assessment aims at identifying the child's needs to understand what type of services and measures are necessary to secure the rights of the individual child effectively and without discrimination. The child's needs include universal and individual needs, normal and specific needs. The best interests assessment therefore is always an individual assessment with due consideration of the child's age and evolving capacities and all relevant factors in the circumstances of the case.

26. Which factors should be considered in a best interests assessment, this question has been addressed by the Committee on the Rights of the Child and the European Court of Human Rights (ECtHR). In General Comment No. 14, the Committee identifies a list of factors to guide the best interests assessment, emphasising that they are non-exhaustive and non-hierarchical (*see **Errore. L'origine riferimento non è stata trovata.***).<sup>21</sup>

**Box 3: Committee on the Rights of the Child: factors guiding the best interests assessment**

27. In its General Comment No. 14 (2013), the Committee on the Rights of the Child advises that the best interests assessments should aim at assessing the following factors:

- the child's views,
- the child's identity,
- preservation of the family environment and maintaining relations,
- care, protection and safety of the child,
- situation of vulnerability,
- the child's right to health,

<sup>19</sup> Skivenes M. and Sørsdal L. M. (2018), [The Child's Best Interest Principle across Child Protection Jurisdictions](#), *Human Rights in Child Protection*, pp. 59-88. Wenke, D., [Legal instrument on the protection of the best interests of the child in domestic law proceedings by public authorities to limit parental responsibilities or place a child in care](#), *Feasibility study*, Council of Europe, 2021.

<sup>20</sup> Committee on the Rights of the Child, General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, CRC/C/GC/14, 29 May 2013, para. 4. Committee on the Rights of the Child, General Comment No. 13 (2011) on the right of the child to freedom from all forms of violence, CRC/C/GC/13, 18 April 2011, para. 61.

<sup>21</sup> Committee on the Rights of the Child, General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art.3, para. 1), [CRC/C/GC/14](#), 2013, Chapter IV.B, V.A.1 and par. 44. See further: Council of Europe, [The Best Interests of the Child](#), *A dialogue between theory and practice*, 2016, p. 149.

- the child's right to education.<sup>22</sup>

28. These factors are considered non-exhaustive and do not represent a hierarchy, as their relevance and weight may vary from case to case. The factors reflect, in a nutshell, the rights and needs of the child, as set out under the UN Convention on the Rights of the Child.

29. The ECtHR observed that the case assessment has to take into account a range of factors, including factual, emotional, psychological, material and medical factors. It underlined the importance of assessing a case with diligence taking into account the dynamics of the situation and new evidence that may become available during the proceedings. As a general rule, national courts are responsible for assessing the evidence before them. Recognising the primordial interest of the child in the decision-making process, the ECtHR notes also that national authorities have to undertake a thorough examination of the family situation and perform a genuine balancing exercise between the interests of the child and the family, based on the case assessment.<sup>23</sup> The assessment of the facts and evidence in the case constitutes the basis on which the national court makes a decision, giving sufficient reason for its decision.<sup>24</sup>

*(b) Decision-making on the best interests of the child*

30. In the decision-making stage, all the factors that have been assessed and verified in the course of the best interests assessment are balanced and given weight. This process can be highly sensitive, as different rights, needs and interests may be in conflict. In balancing the rights and needs of the child, the rights and responsibilities of each parent and of any other party involved in the case, as well as the responsibilities of the state towards the child and parents, the decision-maker should give primary consideration to the best interests of the child. The Committee on the Rights of the Child explains that “the child's interests have high priority and [are] not just one of several considerations. Therefore, a larger weight must be attached to what serves the child best.”<sup>25</sup>

31. The Committee advises that the “the purpose of (...) making a decision on the best interests of the child is to ensure the full and effective enjoyment of the rights recognised in the Convention and its Optional Protocols, and the holistic development of the child. (...) In balancing different elements, the age and maturity of the child should be taken into consideration.”<sup>26</sup>

32. The decision-making process should consider possible consequences of the decision on the child in a positive or negative sense and in the short, medium and longer term.<sup>27</sup> The ECtHR affirms the need to assess the consequences on the child when assigning weight to different factors. It states in *Jansen v. Norway* that “the potential negative long-term consequences [for the child] of losing contact with her mother ... and the positive duty to take measures to facilitate family

<sup>22</sup> Committee on the Rights of the Child, General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art.3, para. 1), [CRC/C/GC/14](#), 2013, Chapter 1.

<sup>23</sup> *Haddad v. Spain*, no. 16572/17, § 63, 18 June 2019, *Strand Lobben and Others v. Norway [GC]*, no. 37283/13, §§ 213, 220 and 224, 10 September 2019

<sup>24</sup> *B.B. and F.B. v. Germany*, nos. 18734/09 and 9424/11, 14 March 2013.

<sup>25</sup> Committee on the Rights of the Child, General Comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, CRC/C/GC/14, 29 May 2013, para. 39.

<sup>26</sup> Committee on the Rights of the Child, General Comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, CRC/C/GC/14, 29 May 2013, para. 81-82, 83.

<sup>27</sup> Committee on the Rights of the Child, General Comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, CRC/C/GC/14, 29 May 2013, para. 6.c.



reunification as soon as reasonably feasible were not sufficiently weighed in the balancing exercise”.<sup>28</sup>

33. The balancing process, which aims at assigning weight to the different factors, should be guided by fundamental child rights principles:

1. *The child's safety*: Where support and protective services are unable to remediate an identified risk to the child, such a risk constitutes a threat or danger to the child and should have a particular strong weight in decisions on the best interests of the child.
2. *The right of the child to be brought up by his or her parent(s)*: decisions and measures in the best interests of the child should aim at supporting children, parents and other family members in preventing separation or working towards reunification after separation, except where this is not in the best interests of the child.
3. *Continuity and stability in the child's care*: decisions and measures should enable continuity and stability in regard to as many factors as possible, as is consistent with the best interests of the child, such as care arrangements, family relations and direct contact, social relations and peer contacts, relevant professionals such as social workers, caretakers and medical staff working with and for the child, living arrangements and place of residence, education and other relevant factors.<sup>29</sup>

34. In view of the sensitivity of this balancing exercise, decisions on the best interests of the child in civil court proceedings should explain in a clear and transparent way how the relevant factors have been assessed, verified and assigned weight. The Committee on the Rights of the Child explains that a decision on the best interests of the child “must show that the right has been explicitly taken into account. In this regard, States parties shall explain how the right has been respected in the decision, that is, what has been considered to be in the child's best interests; what criteria it is based on; and how the child's interests have been weighed against other considerations, be they broad issues of policy or individual cases.”<sup>30</sup> The decision should also explain how the views of the child have been heard and given due weight and, where a child has not been heard, the reasons should be explained.<sup>31</sup>

*(c) Periodic review and adaptation*

35. Where parents make decisions on the best interests of their child, they would typically review and adapt their decisions over time, in accordance with the child's development and evolving capacities. Where a competent authority makes the decision, such as a court of law or social service providers, the review and adaptation of decisions, which parents would undertake naturally, falls within their responsibility and must be regulated.

36. In the context of civil court proceedings under family law, review and adaptation aim at ensuring that decisions, measures and any services provided to the child and family are meaningful and effective and that any risks or threats to the child are identified and addressed in a timely manner.

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<sup>28</sup> *Jansen v. Norway*, no. 2822/16, § 57, 6 September 2018.

<sup>29</sup> United Nations High Commissioner for Refugees, United Nations Children's Fund, *Safe and Sound, What States can do to ensure respect for the best interests of unaccompanied and separated children in Europe*, 2014.

<sup>30</sup> Committee on the Rights of the Child, General Comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, CRC/C/GC/14, 29 May 2013, para. 6.c.

<sup>31</sup> Council of Europe, [Guidelines](#) of the Committee of Ministers of the Council of Europe on child-friendly justice, 2010, IV.D.49.

The review and adaptation stage offers an opportunity to support the family in the process towards gradually using less services. The mechanisms in place for review and adaptation should ensure that the developments in the case are assessed periodically and that the findings are taken into account in a timely manner to adapt decisions, measures and services accordingly.

37. Review and adaptation should continue as long as it takes to achieve a sustainable, rights-based solution for the child. A final evaluation shall show that the identified solution is indeed in the best interests of the child.

*(d) Procedural safeguards*

38. Where a court of law or another competent authority makes decisions on the best interests of a child as part of administrative or judicial proceedings, it must ensure that procedural safeguards are in place, which are sensitive to the rights and needs of the individual child, including any specific needs of the child. Procedural safeguards reflect principles of rule of law and due process, as set out in international and European law, guidance and recommendations.<sup>32</sup>

- 1) **Child-friendly information:** The child has the right to seek, receive and impart information with continuity before, during and after proceedings. Officials and professionals should ensure that the child receives information in a language that the child understands<sup>33</sup>, in a manner that is adapted to the child's age and maturity and sensitive to the child's gender and culture.<sup>34</sup>
- 2) **Right to be heard:** The child has the right to form and express his or her own views and the child's views should be given due weight at all stages of the proceedings, including regarding the manner, in which the child participates in the proceedings and is heard. The child should receive appropriate support to ensure a genuine and meaningful opportunity to be heard, including a hearing in a child-friendly environment, by a specifically trained professional, (legal) representation and, where applicable, qualified interpretation and cultural mediation.<sup>35</sup>
- 3) **Guardianship:** Where the child's parents are not able or not available to exercise parental responsibility and represent the child in the proceedings, or where conflicting interests may undermine the parent(s) capacity to do so, the child has a right to representation by a guardian. The guardian's role is to complement the limited legal capacity of the child instead of or in addition to the parents and to represent and promote the best interests of the child in all matters concerning the child.<sup>36</sup>
- 4) **Legal representation:** In addition to the guardian, the child should be provided with a legal representative where the interests of the child and other parties in the proceedings may be

<sup>32</sup> Committee on the Rights of the Child, General Comment No. 14 (2013), par. 87.

<sup>33</sup> UN Convention on the Rights of the Child, Article 17. International Covenant on Civil and Political Rights, Article 19. Committee on the Rights of the Child, General Comment No. 6 (2005), par. 25. Committee on the Rights of the Child, General Comment No. 12 (2009). Committee on the Rights of the Child, General Comment No. 14 (2013), par. 90. See also: Council of Europe, *European Convention on the Exercise of Children's Rights*, 1996, Article 1.2, Article 3.

<sup>34</sup> Guidelines of the Committee of Ministers of the Council of Europe on Child Friendly Justice, 2010, Guideline IV. A. 2.

<sup>35</sup> UN Convention on the Rights of the Child, Article 12. International Covenant on Civil and Political Rights, Article 14. Committee on the Rights of the Child, General Comment No. 6 (2005), par. 25. Committee on the Rights of the Child, General Comment No. 12 (2009). Committee on the Rights of the Child, General Comment No. 14 (2013), par. 90.

<sup>36</sup> United Nations Convention on the Rights of the Child Articles 14.2, 18. Committee on the Rights of the Child, General Comment No. 6 (2005), par. 21, 24, 25, 33-38, 55, 63, 69, 72, 89, 95, 99. Committee on the Rights of the Child, General Comment No. 14 (2013), par. 44, 86, 90, 96. Council of Europe Committee of Ministers, *Effective Guardianship for Unaccompanied and Separated Children in the Context of Migration*, Recommendation [CM/Rec\(2019\)11](#) of the Committee of Ministers, 2019.

in conflict.<sup>37</sup> The legal representative supports the child in accessing child-friendly information, ensures that the child's views are heard and given due weight and that the rights of the child are respected.<sup>38</sup>

- 5) **Administrative or judicial review:** Decisions on the best interests of the child should be subject to periodic review and adaptation, in view of the evolving capacities of the child, the evolving situation of the child and family and any changing circumstances of the case. In addition, children should be able to benefit from administrative or judicial review where the child can rectify or present new information or documentation.<sup>39</sup>
- 6) **Legal remedies:** Decisions on the best interests of the child should be subject to administrative or judicial oversight and appeal. Legal remedies should be child-sensitive and effectively accessible to the child and his or her legal representative, where applicable in accordance with the child's role in the proceedings. To enable the child to access an appeal mechanism, the child should receive representation by a qualified lawyer free of charge.<sup>40</sup>

39. The Council of Europe Committee of Ministers Guidelines on child-friendly justice and the General Comment No. 14 of the Committee on the Rights of the Child provide additional guidance on adapting the principles of rule of law and due process to the rights and needs of the child:

- i) The best interests assessment, the decision-making process and any review or adaptation should be initiated and completed in timely manner, using exceptional diligence.<sup>41</sup>
- ii) Decisions on the best interests of the child should be based on information and facts that have been gathered and ascertained or verified.<sup>42</sup>
- iii) The decision-making process should be documented and the decisions should be motivated by clear and transparent reasoning.<sup>43</sup>
- iv) The decision and all supporting documentation should be made available and explained promptly to the child and his or her parent(s) or guardian and, where applicable, legal representative. The child should receive support in reading and understanding the decision and it is good practice to make the decision available in child-friendly language.

40. In accordance with the Committee of Ministers Guidelines on child-friendly justice, children who participate in or are otherwise concerned by civil law proceedings and whose best interests are under assessment by a competent authority, should have effective access to a complaints mechanism to report any infringements against the rights of the child in the context of the proceedings or any related measures or services. A complaints mechanism should be accessible within the state administration, in institutions and organisations, and independently, and ensure

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<sup>37</sup> Committee on the Rights of the Child, General Comment No. 14 (2013), par. 96.

<sup>38</sup> United Nations Convention on the Rights of the Child Articles 12.2, 37.d, 40. International Covenant on Civil, Cultural and Political Rights Articles 13, 14.2 b. Committee on the Rights of the Child, General Comment No. 14 (2013), par. 90. Council of Europe, *European Convention on the Exercise of Children's Rights*, 1996, Articles 1.2, 4, 5, 9, 10.

<sup>39</sup> Committee on the Rights of the Child, General Comment No. 14 (2013), par. 98.

<sup>40</sup> European Convention on Human Rights, Article 13. International Covenant on Civil and Political Rights, Articles 2, 13, 14(5). EU Charter, Article 47. Committee on the Rights of the Child, General Comment No. 14 (2013), par. 98.

<sup>41</sup> Committee on the Rights of the Child, General Comment No. 14 (2013), par. 93. Council of Europe, Guidelines on Child-friendly Justice, 2011, IV.D.4.

<sup>42</sup> Committee on the Rights of the Child, General Comment No. 14 (2013), par. 92.

<sup>43</sup> Committee on the Rights of the Child, General Comment No. 14 (2013), par. 97.



effective follow-up to the complaints it receives, for instance in the case of inappropriate conduct of an official or professional or where decisions are not implemented.<sup>44</sup>

#### 4) The best interests principle as a guide towards proportionality

41. The UN Convention on the Rights of the Child (UNCRC) sets out the rights of the child, obligations of state authorities, as well as duties and responsibilities of private actors – so-called third parties under the Convention – such as parents and guardians or private service providers.

42. The child has the right to be cared for by his or her parents and not to be separated from the family, except where this would be in the best interests of the child (UNCRC Articles 7 and 9). Family relations are considered an element of the child's identity, alongside the child's name and nationality, which the State has to undertake to preserve (UNCRC Article 8). In situations where the child does not live with one or both parents, the child has the right to maintain personal relations and direct contact on a regular basis with both parents (UNCRC Article 9). These rights apply also in situations of cross-border family separation (UNCRC Article 10).

43. The primary responsibility for the upbringing and development of a child rests with the child's parents who enjoy a certain degree of self-determination and discretion in exercising their parental responsibilities and duties. In doing so, the best interests of the child will be their basic concern (UNCRC Article 18.1). Where the parents are unable or unavailable to provide for their children, this responsibility is passed to a legal guardian (UNCRC Article 18). Parents and legal guardians are responsible for ensuring, within their abilities and financial capacities, that living conditions are adequate to the child's physical, mental, spiritual, moral and social development (UNCRC Article 27). Article 5 clarifies that the parental rights, duties and responsibilities to provide appropriate direction and guidance diminish in accordance with the child's evolving capacities of autonomous thinking and acting, of discernment and decision-making.

44. States have obligations towards parents and children. They must assist parents in exercising their childcare and child-rearing responsibilities and intervene when parents do not fulfil their duties and responsibilities. Under UNCRC Article 3.2, States should ensure that children enjoy the protection and care necessary for their wellbeing, taking into account the rights and duties of the parents. UNCRC Articles 18 and 27 set out parental responsibilities and provide for parallel obligations of the State to support parents through social and financial assistance, childcare facilities and services, and other support programmes. Article 19 provides for the development of social support programmes for children and their caregivers to prevent and respond to all forms of violence, exploitation and neglect of children. Article 26 sets out the right of the child to benefit from social security. Under Article 37, the use of cruel, inhuman or degrading treatment or punishment against children is prohibited in all situations and contexts, including in the home, in schools and institutions.

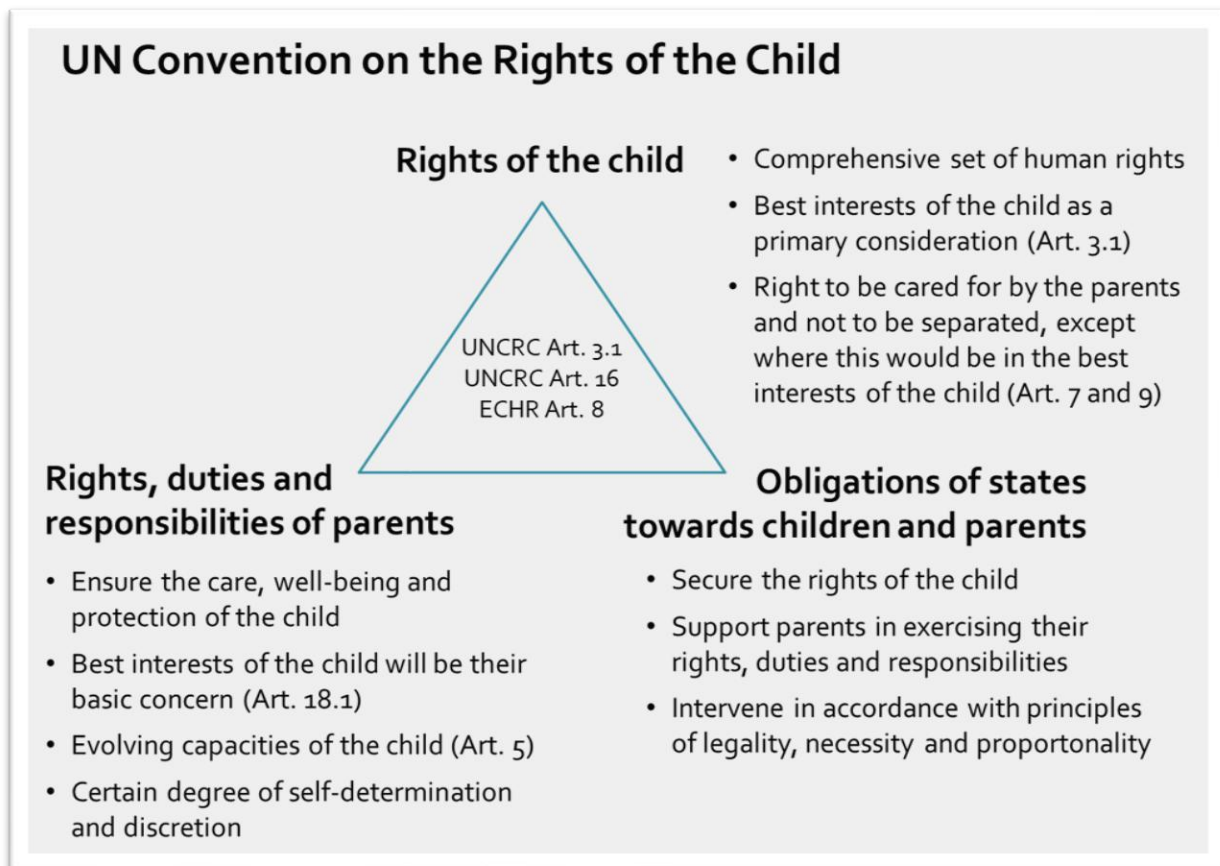
45. In exercising their obligations towards parents and children, States have to respect the principle of proportionality and shall not interfere with the right to respect for private and family life (ECHR Article 8, UNCRC Article 16) in an arbitrary manner. The UNCRC regulates this complex interplay of rights, roles and responsibilities. It considers parental rights, duties and responsibilities to provide for the care, protection and well-being of the child as limited in time, as determined by the evolving

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<sup>44</sup> UN Convention on the Rights of the Child, Article 12. United Nations Committee on the Rights of the Child, General Comment No. 2 (2002). United Nations General Assembly, National Institutions for the Promotion and Protection of Human Rights, A/RES/48/134, 1993.

capacities of the child, and limited in scope, as determined by the best interests of the child.<sup>45</sup> The best interests principle plays a fundamental role in qualifying these limitations and functions (see Figure 1).

**Figure 1: The best interests of the child in civil proceedings: triangle of rights and responsibilities**



## 5) European Court of Human Rights: principles emerging from case law

46. The European Court of Human Rights (ECtHR) has tried numerous cases concerning the best interests of the child in civil proceedings. They typically concern violations of Article 8 on the right to respect for private and family life of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). The Court assesses if decisions made by domestic courts are compliant with the ECHR. However, the Court's case law refers to other international and European standards as well, such as the UN Convention on the Rights of the Child, as well as recommendations and guidance developed by the Council of Europe, such as the Committee of Ministers Guidelines on child-friendly justice, and, occasionally, the general comments or concluding observations of the Committee on the Rights of the Child.<sup>46</sup> The Court considers the ECHR and the

<sup>45</sup> Ruggiero, Roberta, Diana Volnakis and Karl Hanson, The inclusion of 'third parties': The status of parenthood in the Convention on the Rights of the Child, *Children's Rights Law in the Global Human Rights Landscape, Isolation, inspiration, integration?*, Edited by Eva Brems, Ellen Desmet and Wouter Vandenhoe, Routledge Research in Human Rights Law, 2017, pp.71-89, pp. 82-83. See also: Jonathan Law, Elizabeth A. Martin, A Dictionary of Law, 7<sup>th</sup> edition, Oxford University Press, 2014.

<sup>46</sup> See for instance: Wallová and Walla v. the Czech Republic, No. 23848/04, 26 October 2006. Cited in: Council of Europe, [The Best Interests of the Child](#), A dialogue between theory and practice, 2016, p. 111.

UNCRC as “living instruments” to be interpreted in light of the dynamic evolution of social and family structures and children’s roles in society.<sup>47</sup>

47. Over the years, the Court’s case law has established several principles that are central to securing the best interests of the child in civil proceedings.

*(a) The best interests of the child as a substantive right*

48. The Court’s case law recognises the best interests of the child as a substantive right, as affirmed also by the Committee of the Rights of the Child in its General Comment No. 14. This means that state authorities have an obligation to protect the child against harm to his or her health and development. State authorities are responsible to do everything to enable the child and family to preserve their relations and, where applicable, to rebuild and reunite the family, except where it is contrary to the best interests of the child because the family has proved particularly unfit. Family ties can only be severed under very exceptional circumstances.<sup>48</sup> The Court states that the best interests of the child are of paramount importance and must be a primary consideration in all decisions concerning children.<sup>49</sup>

*(b) Best interests determination as an established procedure*

49. The Court underlines that national authorities have to apply a formal procedure when they are assessing and giving primary consideration to the best interests of the child in their decisions. These formal processes need to respect certain procedural safeguards. The Court’s case law affirms the guidance of the Committee on the Rights of the Child, which calls for a transparent and objective best interests determination procedure.<sup>50</sup> In proceedings concerning children, in particular where the best interests of the child are determined with regard to the limitation of parental responsibility or a child’s placement in care, states have to ensure that procedural safeguards are practical, effective and child-sensitive.<sup>51</sup>

50. As a general rule, national courts are responsible for assessing the evidence in a specific case and ascertaining the relevant facts with diligence. The Court underlines that national courts have to consider the dynamics of the situation of a parent and any new evidence that may become available during the proceedings.<sup>52</sup>

51. The Court recognises the right of parents to fully present their case and to be involved in the decision-making process. Their involvement must be sufficient to provide them with the requisite

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<sup>47</sup> Council of Europe, [Report on the Protection of Children’s Rights](#), *International standards and domestic constitutions*, European Commission for Democracy through Law (Venice Commission), Adopted by the Venice Commission at its 98<sup>th</sup> Plenary Session, Venice, 21-22 March 2014, pp. 13-14. Justice Turkovic, Presentation of the Case Law of the European Court of Human Rights relevant to the best interests of the child in domestic law proceedings concerning parental separation, the limitation of parental responsibility and the placement of a child in care, Second Meeting of the Committee of Experts CJ/ENF-ISE, 14 December 2020.

<sup>48</sup> Gnahoré v. France, No. 40031/98, 19 September 2000, para. 59. Strand Lobben and others v. Norway, No. 37283/13, 10 September 2019, para. 207.

<sup>49</sup> Chbihi Loudoudi and Others v. Belgium, No. 52265/10, 16 December 2014, para. 131. Strand Lobben and others v. Norway, No. 37283/13, 10 September 2019, para. 204.

<sup>50</sup> Committee on the Rights of the Child, *General Comment No. 14 (2003) on the right of the child to have his or her best interests taken as a primary consideration*, CRC /C/GC/14, 29 May 2013, par. 87. See: Strand Lobben and others v. Norway, No. 37283/13, 10 September 2019, para. 207.

<sup>51</sup> Haddad v. Spain, No. 16572/17, 18 June 2019, para. 72. Strand Lobben and others v. Norway, No. 37283/13, 10 September 2019, para. 207. Committee on the Rights of the Child, *General Comment No. 14 (2003) on the right of the child to have his or her best interests taken as a primary consideration*, CRC /C/GC/14, 29 May 2013, par. 85.

<sup>52</sup> Haddad v. Spain, No. 16572/17, 18 June 2019, para. 61, 63. Strand Lobben and others v. Norway, No. 37283/13, 10 September 2019, para. 213, 220, 224.

protection of their interests.<sup>53</sup> When examining the decision-making process of a national court, the Court aims at determining whether the competent authorities got to know the views and interests of the child's natural parents and took them duly into account and whether the parents were able to access any remedies available to them in due time.<sup>54</sup> The national court has to give sufficient reason for its decision, drawing on the facts and evidence ascertained in the case.<sup>55</sup>

52. The Court noted that respect for family life requires timeliness. To be effective, respect for family life requires that future relations between the parent and child be determined solely in the light of all relevant considerations and not by the mere effluxion of time. Any procedural delay will result in the *de facto* determination of the issue submitted to the court.<sup>56</sup>

53. In a recent judgement against Slovenia, the Court reiterated that the decision of the domestic court has to conduct "an in-depth examination of the entire family situation and a whole series of factors, in particular factors of a factual, emotional, psychological, material and medical nature, and made a balanced and reasonable assessment of the respective interests of each person, with a constant concern for determining what the best solution would be for the child. Failure to conduct such examination will amount to a violation of Article 8" (ECHR).<sup>57</sup> As the Court underlined that domestic court should hear the child in person when examining the family situation.<sup>58</sup>

54. The Court noted further that "Article 8 requires that the domestic authorities should strike a fair balance between the interests of the child and those of the parents, and that, in the balancing process, particular importance should be attached to the best interests of the child, which, depending on their nature and seriousness, may override those of the parents. Accordingly, a parent cannot be entitled under Article 8 to have such measures taken as would harm the child's health and development (...). On the other hand, it is in the child's best interests to maintain ties with their family, except in cases where the family has proven itself particularly unworthy: breaking this bond effectively cuts the child off from their roots. As a result, the child's interests dictate that only truly exceptional circumstances can justify severing family ties, and every effort should be made to maintain a personal relationship (...)." <sup>59</sup>

*(c) Right to respect for private and family life in civil proceedings: legality, necessity and proportionality of measures*

55. The Court clarifies that Article 8 ECHR aims at protecting the individual against arbitrary interference in private and family life by a public authority.<sup>60</sup> In view of the triangle of rights and responsibilities at stake in family law proceedings (see *Figure 1*), securing the right to respect for private and family life of children, parents and other family members concerned by the proceedings is particularly important and sensitive (Article 8 ECHR).

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<sup>53</sup> See: *see, for example, W. v. the United Kingdom*, § 64; *T.P. and K.M. v. the United Kingdom [GC]*, no. 28945/95, § 72, ECHR 2001-V (extracts); *Neulinger and Shuruk*, § 139; and *Y.C. v. the United Kingdom*, no. 4547/10, § 138, 13 March 2012. Cited in: *Strand Lobben and others v. Norway*, No. 37283/13, 10 September 2019, para. 212.

<sup>54</sup> See for instance, *W. v. the United Kingdom*, 8 July 1987, § 63, Series A no. 121, and *Elsholz* § 52. Cited in: *Strand Lobben and others v. Norway*, No. 37283/13, 10 September 2019, para. 212.

<sup>55</sup> *B.B. and F.B. v. Germany*, Nos. 18734/09 and 9424/11, 14 March 2013. Cited in: Council of Europe, p. 112.

<sup>56</sup> *Strand Lobben and others v. Norway*, No. 37283/13, 10 September 2019, para. 211-212.

<sup>57</sup> *X and others v. Slovenia*, No. 27746/22 and 28291/22, 19 December 2024, § 150.

<sup>58</sup> *X and others v. Slovenia*, No. 27746/22 and 28291/22, 19 December 2024, §§ 170, 173-175.

<sup>59</sup> *X and others v. Slovenia*, No. 27746/22 and 28291/22, 19 December 2024, § 151.

<sup>60</sup> *Ignaccolo-Zenide v. Romania*, No. 31679/96, 25 January 2000, para. 94. *Keegan v. Ireland*, No. 16969/90, 26 May 1994, para. 49.

56. The Court established in its case-law that “the mutual enjoyment by parent and child of each other’s company constitutes a fundamental element of family life, and domestic measures hindering such enjoyment amount to an interference with the right protected by (... Article 8). Any such interference constitutes a violation of this Article unless it is “in accordance with the law”, pursues an aim or aims that is or are legitimate under its second paragraph and can be regarded as “necessary in a democratic society””.<sup>61</sup>

57. An interference can be regarded as “necessary in a democratic society” when it pursues the legitimate aim of protecting the rights of others, for instance, protecting a child who has suffered harm. This requires that the reasons adduced to justify the measures were “relevant and sufficient” and the decision-making process to determine the measures of interference was fair and afforded due respect to the interests safeguarded by Article 8.<sup>62</sup> An interference may be necessary when it corresponds to a pressing social need and is proportionate to the legitimate aim pursued. The Court underlines, however, that a fair balance has to be struck between the legitimate interests involved in the case, which may be competing.<sup>63</sup> The best interests principle shall guide the assessment by national authorities of the proportionality of the measures taken.<sup>64</sup>

58. The Court’s case law clarifies that family life requires cohabitation, as a rule, as well as “legal or factual elements indicating the existence of a close personal relationship”. In assessing whether “family life” exists in cases where family life is not recognised by law, the Court will examine *de facto* family ties, such as cohabitation, the length of the relationship and, in the case of couples, a demonstrated commitment to each other by having a child together.<sup>65</sup> In view of these considerations, the Court explains that “the notion of “family” in Article 8 concerns marriage-based relationships, and also other *de facto* “family ties”, including between same-sex couples, where the parties are living together outside marriage or where other factors demonstrated that the relationship had sufficient constancy (...).”<sup>66</sup> The Court considered also that “intended family life may, exceptionally, fall within the ambit of Article 8, in particular in cases in which the fact that family life has not yet fully been established was not attributable to the applicant: where the circumstances warrant it, “family life” must extend to the potential relationship which may develop between a child born out of wedlock and the natural father. Relevant factors that determine the existence in practice of close personal ties in these cases include the nature of the relationship between the natural parents and a demonstrable interest in, and commitment from, the father to the child both before and after the birth (...).”<sup>67</sup>

59. The Court underlines further that “[r]egard for family unity and for family reunification in the event of separation are inherent considerations in the right to respect for family life under Article 8 (...).”<sup>68</sup>

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<sup>61</sup> See, among others, *Strand Lobben and Others v. Norway* [GC], no. 37283/13, § 202, 10 September 2019 and *K. and T. v. Finland* [GC], no. 25702/94, § 151, ECHR 2001-VII.

<sup>62</sup> *R.K. and A.K. v. the United Kingdom*, No. 38000/05, 30 September 2008, para. 32-37. *Strand Lobben and others v. Norway*, No. 37283/13, 10 September 2019, para. 202-203. *Blyudik v. Russia*, No. 46401/08, 25 June 2019, para. 75.

<sup>63</sup> *Strand Lobben and others v. Norway*, No. 37283/13, 10 September 2019, para. 203.

<sup>64</sup> *Chbihi Loudoudi and Others v. Belgium*, No. 52265/10, 16 December 2014, para. 131.

<sup>65</sup> European Court of Human Rights, *Guide on Article 8 of the European Convention on Human Rights, Right to respect for private and family life, home and correspondence*, Updated on 31 August 2022, para. 296-297. See further: *Paradiso and Campanelli v. Italy* [GC], § 140 and *Oliari and Others v. Italy*, § 130.

<sup>66</sup> European Court of Human Rights, *Guide on Article 8 of the European Convention on Human Rights, Right to respect for private and family life, home and correspondence*, Updated on 31 August 2022, para.

<sup>67</sup> European Court of Human Rights, *Guide on Article 8 of the European Convention on Human Rights, Right to respect for private and family life, home and correspondence*, Updated on 31 August 2022, para.. 297.

<sup>68</sup> European Court of Human Rights, *Guide on Article 8 of the European Convention on Human Rights, Right to respect for private and family life, home and correspondence*, Updated on 31 August 2022, para.. 295. See further: *Strand Lobben and Others v. Norway* [GC], § 204.

Once the existence of a family tie with a child is established, “the State must act in a manner calculated to enable that tie to be developed and legal safeguards must be established that render possible as from the moment of birth, or as soon as practicable thereafter, the child’s integration in his family (...).”<sup>69</sup>

60. Even though Article 8 does not set out explicit procedural obligations, it emerges from the Court’s case law that “the decision-making process involved in measures of interference must be fair and sufficient to afford due respect to the interests safeguarded by Article 8 (...), for instance in relation to children being taken into care (...) and the withdrawal of parental responsibility and consent to adoption (...).”<sup>70</sup> The Court noted further that “in cases in which the length of proceedings has a clear impact on the applicant’s family life, a more rigorous approach is called for, and the remedy available in domestic law should be both preventive and compensatory (...).”<sup>71</sup>

61. Where children are concerned, the Court explains that “Article 8 requires that the domestic authorities strike a fair balance between the interests of the child and those of the parents and that, in the balancing process, particular importance should be attached to the best interests of the child, which, depending on their nature and seriousness, may override those of the parents (...).”<sup>72</sup>

62. As is well-established in the Court’s case-law, the best interests of the child are of paramount importance in all decisions concerning children. In consequence, the Court explains that “(...) there is an obligation on States to place the best interests of the child, and also those of children as a group, at the centre of all decisions affecting their health and development” (...).”<sup>73</sup> In *Vavříčka and Others v. the Czech Republic* [GC], the Court reasoned that “the decision to apply the “best interests of the child” test in a case cannot be said to fall outside the margin of appreciation afforded to States in striking a balance between the protection of the right to life of patients’ and the protection of their right to respect for their private life and their personal autonomy (...).”<sup>74</sup>

63. In view of the Courts case law, it is possible to conclude that the best interests determination procedure provides the factual and evidence base on which the competent authority determines if and to what extent an interference with the right to respect for private and family life is lawful, necessary and proportionate in the circumstances of the case.

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<sup>69</sup> European Court of Human Rights, *Guide on Article 8 of the European Convention on Human Rights, Right to respect for private and family life, home and correspondence*, Updated on 31 August 2022, para. 300. See further: *Kroon and Others v. the Netherlands*, § 32.

<sup>70</sup> European Court of Human Rights, *Guide on Article 8 of the European Convention on Human Rights, Right to respect for private and family life, home and correspondence*, Updated on 31 August 2022, para.. 306. The quoted text makes reference to: *Petrov and X v. Russia*, § 101; *Q and R v. Slovenia*, § 96; *W. v. the United Kingdom*, §§ 62 and 64; *McMichael v. the United Kingdom*, § 92; *T.P. and K.M. v. the United Kingdom* [GC], §§ 72-73; *Strand Lobben and Others v. Norway* [GC], §§ 212-213, 220.

<sup>71</sup> European Court of Human Rights, *Guide on Article 8 of the European Convention on Human Rights, Right to respect for private and family life, home and correspondence*, Updated on 31 August 2022, para.. 306. The quoted text makes reference to: *Macready v. the Czech Republic*, § 48; *Kuppinger v. Germany*, § 137.

<sup>72</sup> European Court of Human Rights, *Guide on Article 8 of the European Convention on Human Rights, Right to respect for private and family life, home and correspondence*, Updated on 31 August 2022, para. 323. See further: *Abdi Ibrahim v. Norway* [GC], § 145.

<sup>73</sup> European Court of Human Rights, *Guide on Article 8 of the European Convention on Human Rights, Right to respect for private and family life, home and correspondence*, Updated on 31 August 2022, para. 322. The quoted text makes reference to: *Vavříčka and Others v. the Czech Republic* [GC], §§ 287-288; *Neulinger and Shuruk v. Switzerland* [GC], § 135 and, *X v. Latvia* [GC], § 96.

<sup>74</sup> European Court of Human Rights, *Guide on Article 8 of the European Convention on Human Rights, Right to respect for private and family life, home and correspondence*, Updated on 31 August 2022, para. 311. The quoted text makes reference to: *Parfitt v. the United Kingdom* (dec.), §§ 46 and 51.

*(d) Preventive measures and family support*

64. The Court recognises the role of the social welfare authorities to assist persons in difficulty, which applies also in civil proceedings, for instance where parents are unable to meet the needs and care for their child. Social welfare authorities are responsible for providing preventive and family support services to parents and children concerned by proceedings.<sup>75</sup>

65. In cases where a child is placed in alternative care, the Court recognises the right of the parents to receive services from national authorities in support of family reunification as soon as reasonably feasible.<sup>76</sup> Such support shall be provided in an effective and coherent manner. The competent national authorities have a duty to exercise constant vigilance to ensure the conduct of service providers is effective to implement relevant decisions. As an example, service providers have to take action to facilitate effective contact between the parents and the child placed in alternative care, in accordance with the best interests of the child.<sup>77</sup> Any obstacles to easy and regular contact, such as geographical distance and restrictions, are considered to weaken family ties and, in consequence, the possibility for family reunification.<sup>78</sup> Where such obstacles are responsible for a situation of family breakdown, the competent authority may not decide to authorise adoption on the grounds of the absence of bonds between the parents and the child.<sup>79</sup>

66. In care proceedings, except in situations of adoption, the decision to place a child in alternative care should always be considered a temporary measure with the ultimate aim of family reunification as soon as circumstances permit.<sup>80</sup> The Court notes that the passage of time may lead to irreversible consequences for the relationship between the child and the parent with whom the child does not live. Swift implementation is therefore necessary for a measure to be adequate. When a considerable amount of time has passed since the child was placed in care, however, the interest of the child not to have his or her family situation changed once again may override the general objective of family reunification with the child's parents.<sup>81</sup>

67. The Court has stated repeatedly that Article 8 is connected with positive obligations of the state towards parents. For the right to respect for family life to be effective, state authorities have an obligation to take measures to support parents in exercising their parental rights and responsibilities, for instance, where family reunification after placement is under consideration. The State's positive and negative obligations towards children and parents have not been defined in absolute terms, however, the Court underlines, that the competent authority enjoys a certain margin of appreciation when seeking a fair balance between the interests of the individual and of the community where they are in conflict.<sup>82</sup> This margin of appreciation depends on the nature of the issues and the seriousness of the interests at stake in a specific case, such as, on the one hand, the importance of protecting a

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<sup>75</sup> Haddad v. Spain, No. 16572/17, 18 June 2019, para. 68.

<sup>76</sup> Olsson v. Sweden (No. 2), No. 74/1991/326/398, 30 October 1992, para. 90. Ignaccolo-Zenide v. Romania, No. 31679/96, 25 January 2000, para. 94. Keegan v. Ireland, No. 16969/90, 26 May 1994, para. 49. Strand Lobben and others v. Norway, No. 37283/13, 10 September 2019, para. 205.

<sup>77</sup> Scozzari and Giunta v. Italy, No. 39221/98 and 41963/98, 13 July 2000, para. 181.

<sup>78</sup> Olsson v. Sweden (No. 1), No. 10465/83, 24 March 1988, para. 81.

<sup>79</sup> Strand Lobben and others v. Norway, No. 37283/13, 10 September 2019, para. 208-209.

<sup>80</sup> Olsson v. Sweden (No. 1), No. 10465/83, 24 March 1988, para. 81.

<sup>81</sup> Strand Lobben and others v. Norway, No. 37283/13, 10 September 2019, para. 208-209. Jansen v. Norway, No. 2822/16, 6 September 2018, para. 88-93, 90. K.A. v. Finland, No. 27751/95, 14 January 2003, para. 138. Haddad v. Spain, No. 16572/17, 18 June 2019, para. 54.

<sup>82</sup> Ignaccolo-Zenide v. Romania, No. 31679/96, 25 January 2000, para. 94. Keegan v. Ireland, No. 16969/90, 26 May 1994, para. 49.



child in a situation that is assessed as seriously threatening his or her health or development and, on the other hand, the aim to reunite the family as soon as circumstances permit.<sup>83</sup>

68. In case proceedings, working towards family reunification after the placement of a child in alternative care, where this has been established to be in the best interests of the child, requires preparation and co-operation. National authorities are responsible for doing the utmost to facilitate the co-operation of all actors concerned, including the parents. In doing so, competent authorities have to take account of the rights and freedoms of all persons concerned, notably the children's interests and their rights under Article 8 ECHR. The possibilities of applying coercive measures are limited. In assessing a case, the Court considers whether the national authorities have made efforts to arrange the necessary preparations for family reunification as can reasonably be demanded under the special circumstances of each case.<sup>84</sup>

69. While recognising a wide margin of appreciation of national authorities in striking a balance between the interests of individuals and the community, the Court underlines that a strict scrutiny is required when imposing limitations, such as restrictions of parental rights of access, as they entail the danger that the family relations between a young child and one or both parents would be effectively curtailed.<sup>85</sup>

70. In certain instances, the Court attached weight to whether the authorities had attempted to take less drastic measures at first, such as family support services or other preventive measures, and whether these proved unsuccessful before deciding on a child's placement in alternative care.<sup>86</sup> In assessing the cases before it, the Court took several matters into consideration, such as matters of personal attitudes, the quality of cooperation of different actors involved in a case and the quality of influence that service providers and caretakers have on the child. It also assessed formal matters, such as whether a decision to place a child in care had a time-limit.<sup>87</sup> The Court underlined that competent authorities must examine the situation periodically, as a minimum, to see whether there has been any improvement in the family's situation.<sup>88</sup>

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<sup>83</sup> Jansen v. Norway, No. 2822/16, 6 September 2018, para. 88-93, 90.

<sup>84</sup> Olsson v. Sweden (No. 2), No. 74/1991/326/398, 30 October 1992, para. 90.

<sup>85</sup> Sahin v. Germany, No. 30943/96, 8 July 2003, para. 65. Fröhlich v. Germany, No. 16112/15, 26 July 2018, para. 41. Sommerfeld v. Germany, No. 31871/96, 8 July 2003, para. 63. K.A. v. Finland, No. 27751/95, 14 January 2003, para. 138-139. Johansen v. Norway, No. 17383/90, 7 August 1996, para. 64. A.D. and O.D. v. United Kingdom, No. 28680/06, 16 March 2010, para. 83.

<sup>86</sup> See for instance, *Olsson (no. 1)* §§ 72-74; *R.M.S. v. Spain*, no. 28775/12, § 86, 18 June 2013, § 86; and *Kutzner v. Germany*, no. 46544/99, § 75, ECHR 2002-I. Cited in: Strand Lobben and others v. Norway, No. 37283/13, 10 September 2019, para. 211-212.

<sup>87</sup> Scozzari and Giunta v. Italy, No. 39221/98 and 41963/98, 13 July 2000, para. 215.

<sup>88</sup> K.A. v. Finland, No. 27751/95, 14 January 2003, para. 139.



## PART II: CASE STUDIES

71. This second part of the report presents a selection of working methods, tools and service models suitable to implement the best interests of the child in civil proceedings. Inspired by examples of practice from Council of Europe member and observer states, they are based on international and European standards and informed by research and by the knowledge and experience of professionals.

72. The project coordination group led the selection of case studies in cooperation with the Interministerial Working Group of Slovenia, based on the project inception report.<sup>89</sup> The preparatory research carried out in the context of the joint project identified a need for a stronger systemic approach in securing the best interests of the child in civil proceedings. Where possible, therefore, the case studies attempt to explore the experiences of states in introducing specific working methods, tools and approaches using a systemic approach.

73. The case studies are organised in five main groups; each group presents examples of working methods and tools suitable to secure the best interests of the child in civil proceedings (see *Box 4*).

### **Box 4: Specific working methods, tools and service models suitable to secure the best interests of the child in civil proceedings: case study themes**

#### **1) Guidance and tools for the best interests determination procedure:**

- Legal guidance on the best interests assessment (Ireland);
- Working together to safeguard children and framework assessment of children in need (UK)
- Children's Needs in Focus (Sweden)
- Interdisciplinary guidelines on the best interests of the child (Austria)
- Five steps towards a decision in the best interests of the child (Belgium)
- A best interests determination procedure sensitive to culture (Finland, Ireland)

#### **2) Guidance on hearing children in civil proceedings:**

- Evidence-based protocols guiding the interview of children in legal proceedings
- Forensic child interviewing: research-based recommendations by the European Association of Psychology and Law
- Family judges hearing the child directly in civil proceedings: example of Germany
- Signs of safety: a method for building partnership with children and parents in child protection cases
- National strategies and toolkit for child and youth participation: example of Ireland

#### **Guidance and tools for specific assessments:**

- Guidelines for court-appointed experts: Council of Europe guidelines and examples of member states

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<sup>89</sup> Reference to inception report

- Multi-agency risk assessment of children (Finland)
- Screening tools to assess the risks of children and parents participating in alternative dispute resolution
- Trauma symptom checklist for children and young children

### **3) Support services for parents and families:**

- Positive parenting programmes (Canada, Estonia and Norway)
- Family group conferences (the Netherlands and Norway)
- Family therapy methods
- Support tools for parents whose children are victims of violence (UK)

### **4) Support services for parents and children concerned by parental separation:**

- Information and counselling of separating parents and their children
- Digital information platform for children concerned by parental separation
- Group consultations for children concerned by parental separation

### **5) Legal professionals working with children in civil proceedings: training, specialisation and support:**

- Legal requirements for the specialisation of legal professionals: example of Georgia
- Legal requirements for the specialisation of family judges, lawyers and guardians *ad litem*: example of Germany
- Youth Lawyer Commission of the Flemish Bar Association: example of Belgium
- Advanced Studies in International Children's Rights: example of the Netherlands
- Specialised training of guardians *ad litem*: example of Ireland
- Psychological support for family judges: Council of Europe guidelines and examples of member states

## 1) Guidance and tools for the best interests determination procedure

74. Understanding the best interests of the child and giving them due weight in civil proceedings, in substantial and procedural terms, is a complex and highly sensitive process that requires the close collaboration of courts of law, social and child protection services, legal and other professionals involved in the case, as well as the child and the family.

75. In view of the significant and potentially life-changing impact civil law proceedings may have on the child and family, as well as the complexity of the best interests principle, officials and professionals require specialised knowledge, methods and guidance. Devising guidance on the best interests determination procedure and a compendium of practical assessment tools, therefore, is one of the most important measures for the implementation of the rights of the child in civil proceedings.

76. As outlined in Part I, the best interests determination procedure consists of three phases:

- a comprehensive case assessment (*best interests assessment*);
- the *decision-making process*, which includes a balancing of the best interests of the child with the rights and responsibilities of the parents and any other parties in the case, giving due consideration to the obligations of the state towards the child and the parents; and
- the *review and adaptation* phase, in which the best interests assessment is repeated periodically and adaptations are made to ensure decisions and measures continue securing the rights and meeting the needs of the child.

77. In civil proceedings under public law, such as care proceedings, the best interests determination procedure is led by a competent authority, which is responsible for all steps of the procedure. The competent authority is usually a court of law or a social welfare or child protection authority, although national legal systems differ, and different authorities and services may be in charge. The competent authority may change at different stages of the proceedings: before proceedings, social services may be in charge of making decisions, during proceedings a court will be the main competent authority, although social services may have competence to decide on specific measures, and in the follow-up phase, certain decisions may be in the responsibility of a court of law, others in the hand of social services.

78. In proceedings under private law, such as parental separation proceedings, the parents are typically in charge of the best interests determination procedure, whereas a competent authority may come in to ascertain that the parents' decisions are indeed in accordance with the best interests of the child.

79. This chapter presents examples of member states' practice regarding the best interests determination procedure in civil law proceedings. It explores examples of legal, policy and practical guidance and relevant methods and tools. The examples are relevant for all steps of the best interests determination procedure: the assessment, the decision-making and follow-up:

- Legal guidance on the best interests assessment (Ireland);
- Working together to safeguard children (UK);
- Children's Needs in Focus (Sweden);
- Interdisciplinary guidelines on the best interests of the child (Austria);
- Five steps towards a decision in the best interests of the child (Belgium);

- Strategies for making the best interests determination procedure sensitive to culture (Finland, Ireland).

## Legal guidance on the best interests determination by a court of law: example of Ireland

80. The best interests assessment is a consolidated case assessment process which aims to gather and ascertain information about the child and family and lay the foundation for any decisions and measures in the case. Due to its broad scope, the best interests assessment requires the collaboration of different state agencies, service providers and specialists. The Committee on the Rights of the Child underlines that a best interests determination builds on assessments conducted by a multi-disciplinary team of well-trained professionals with appropriate judicial involvement.<sup>90</sup>

81. The assessments shall enable the competent authority to understand the needs of the individual child and measures required to secure his or her rights. To guide the competent authority in devising all relevant assessments, the Committee on the Rights of the Child issued a list of criteria to be taken into account for the best interests determination (see Box 3, Chapter I.3.a).

82. The Committee's guidance may have been inspired by Council of Europe member states who pioneered in setting out in law the criteria for determining the best interests of the child, and others followed this example.<sup>91</sup> Research shows that defining these criteria by law helps to ensure that the best interests determination procedure takes account of all the rights and needs of the child in his or her individual situation and context. It supports competent authorities in assessing the needs of the child in a comprehensive way. Legally binding criteria reduce the level of discretion of the decision-making authority, link the assessment to specific rights of the child and sensitise decision-makers to the complexity of the assessment.<sup>92</sup>

83. In Ireland, the Child and Family Relationships Act of 2015 was amended in 2022 to provide for specific factors which shall guide courts of law in conducting a best interests determination procedure (see Box 5). Among the Council of Europe member states, the Irish law is one of the most comprehensive and detailed examples of legal criteria for the best interests assessment. It applies to care proceedings and parental separation proceedings.

84. The list of factors set out in the national law of Ireland are particularly detailed and comprehensive as they capture a broad range of needs, the rights of the child as set out by the UN Convention on the Rights of the Child, including the right to form and express an opinion freely and to be heard, as well as the willingness and ability of the parents to care for the child and meet the child's needs, and other factors such as household violence.

<sup>90</sup> Committee on the Rights of the Child, General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art.3, para. 1), [CRC/C/GC/14](#), 2013, par. 64.

<sup>91</sup> See for instance: Austria, General Civil Code, paragraph 138. Finland, Child Welfare Act (417/2007), Chapter 1, Section 4(2). Ireland, Child and Family Relationships Act 2015; Child Care (Amendment Act) 2022. Romania, Law no. 272/2004 regarding the protection and promotion of the rights of the child. Spain, Law on the Legal Protection of Minors of 1996, Article 2. Wenke, D., [Legal instrument on the protection of the best interests of the child in domestic law proceedings by public authorities to limit parental responsibilities or place a child in care](#), Feasibility study, Council of Europe, 2021, pp. 38-42.

<sup>92</sup> Skivenes M. and Sørdsal L. M. (2018), [The Child's Best Interest Principle across Child Protection Jurisdictions, Human Rights in Child Protection](#), pp. 59-88.

**Box 5: Legal criteria for the best interests assessment – example of Ireland**

85. The Irish Children and Family Relationships Act of 2015<sup>93</sup> sets out the following factors to guide the best interests determination by a court of law:

- (1) In determining for the purposes of this Act what is in the best interests of a child, the court shall have regard to all of the factors or circumstances that it regards as relevant to the child concerned and his or her family.
- (2) The factors and circumstances referred to in subsection (1) include:
  - a) the benefit to the child of having a meaningful relationship with each of his or her parents and with the other relatives and persons who are involved in the child's upbringing and, except where such contact is not in the child's best interests, of having sufficient contact with them to maintain such relationships;
  - b) the views of the child concerned that are ascertainable [...];
  - c) the physical, psychological and emotional needs of the child concerned, taking into consideration the child's age and stage of development and the likely effect on him or her of any change of circumstances;
  - d) the history of the child's upbringing and care, including the nature of the relationship between the child and each of his or her parents and the other relatives and persons referred to in paragraph (a), and the desirability of preserving and strengthening such relationships;
  - e) the child's religious, spiritual, cultural and linguistic upbringing and needs;
  - f) the child's social, intellectual and educational upbringing and needs;
  - g) the child's age and any special characteristics;
  - h) any harm which the child has suffered or is at risk of suffering, including harm as a result of household violence, and the protection of the child's safety and psychological well-being;
  - i) where applicable, proposals made for the child's custody, care, development and upbringing and for access to and contact with the child, having regard to the desirability of the parents or guardians of the child agreeing to such proposals and co-operating with each other in relation to them;
  - j) the willingness and ability of each of the child's parents to facilitate and encourage a close and continuing relationship between the child and the other parent, and to maintain and foster relationships between the child and his or her relatives;
  - k) the capacity of each person in respect of whom an application is made under this Act
    - i) to care for and meet the needs of the child,
    - ii) to communicate and co-operate on issues relating to the child, and
    - iii) to exercise the relevant powers, responsibilities and entitlements to which the application relates.
- (3) For the purposes of subsection (2)(h), the court shall have regard to household violence that has occurred or is likely to occur in the household of the child, or a household in which

<sup>93</sup> Ireland, Children and Family Relationships Act 2015, Part V, Section 31. Child Care (Amendment Act) 2022.

the child has been or is likely to be present, including the impact or likely impact of such violence on:

- a) the safety of the child and other members of the household concerned;
- b) the child's personal well-being, including the child's psychological and emotional well-being;
- c) the victim of such violence;
- d) the capacity of the perpetrator of the violence to properly care for the child and the risk, or likely risk, that the perpetrator poses to the child.

(4) For the purposes of this section, a parent's conduct may be considered to the extent that it is relevant to the child's welfare and best interests only.

(5) In any proceedings to which section 3(1)(a) applies, the court shall have regard to the general principle that unreasonable delay in determining the proceedings may be contrary to the best interests of the child.

(6) In obtaining the ascertainable views of a child for the purposes of subsection (2)(b), the court—

- a) shall facilitate the free expression by the child of those views and, in particular, shall endeavour to ensure that any views so expressed by the child are not expressed as a result of undue influence, and [...].

(7) In this section 'household violence' includes behaviour by a parent or guardian or a household member causing or attempting to cause physical harm to the child or another child, parent or household member, and includes sexual abuse or causing a child or a parent or other household member to fear for his or her safety or that of another household member.

**Source:** Ireland, Children and Family Relationships Act 2015, Part V, Section 31.

## Working together to safeguard children: example of the United Kingdom

86. In the United Kingdom, 'Working together to safeguard children' is a national guidance document for the best interests determination procedure in child protection casework and civil proceedings. It uses a multidisciplinary and interagency approach. A core component of the guide, the Framework Assessment of Children in Need was developed in the UK as a structure for the assessment of children and their families in need of support. The method is a social service tool, which adopts a comprehensive ecological approach to assess the child's situation in the context of the family and community. It is based on the ecological model of human development and theories of child development.<sup>94</sup>

<sup>94</sup> See: Bronfenbrenner 1979 Bronfenbrenner, Urie. 1992. "Ecological Systems Theory." In Six Theories of Child Development. Revised Formulations and Current Issues, edited by Vasta Ross, 187–201. London: Jessica Kingsley. Jones, David. 2010. "Assessment of Parenting." In The Child's World: Assessing Children in Need, edited by Jan Horwath, 282–304. London: Kingsley.

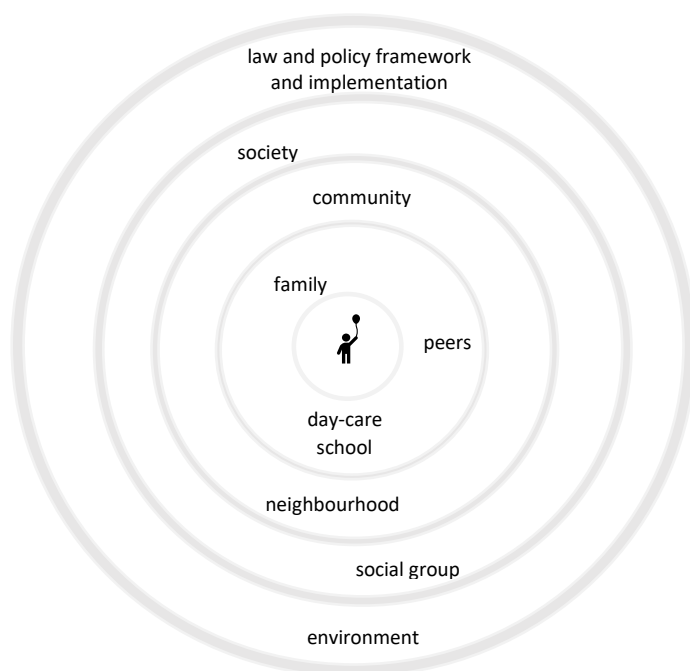
87. The child's ecology refers to the context and relationships of the child at different levels as illustrated in Figure 2. The child's personality and characteristics are at the centre of the model, surrounded by child's closest relationships in the family, with peers, in day-care or at school, and in the community. Broader social and political dimensions and the environment where the child lives are also relevant as they may influence the daily life, choices and opportunities of the child and family. In social work practice, the child's interaction with each of these dimensions is assessed as a basis for understanding how they influence the child's situation, risks and resilience.

88. The Framework Assessment of Children in Need translates the ecological model to a triangle, which visualises how the method applies the child's ecology in considering three main dimensions: the developmental needs of the child; the parental capacities to care for and meet the needs of the child; and the family situation and social environment (see Figure 3).

89. The assessment method guides social workers step by step through the comprehensive case assessment and clarifies the roles and responsibilities of all relevant agencies, services and practitioners involved in the case. It provides guidance in gathering and analysing information and for the decision-making process, in regard to the following key dimensions:

- the child's physical, psychological, emotional, cognitive and educational situation and needs,
- the quality of the child's social and family relationships,
- the parents' skills and their capability to care for the child, to respond to the child's needs and to build positive relationships, as well as
- the family's social and economic situation and social environment.

**Figure 2: The child's ecology**<sup>95</sup>



90. The assessment method was developed in 1999 and periodically reviewed and updated thereafter, also based on child consultations. It is part of the 'working together to safeguard children' guidance for the cooperation of local authorities, the local integrated care board and the police, as well as all other agencies and organisations who have functions relating to children. The guidelines support them in implementing their statutory duties under the Children Act (1989 and 2004). Compliance with the guidelines is mandatory, unless in situations where exceptional circumstances arise.<sup>96</sup>

<sup>95</sup> Bronfenbrenner, U., Ecological model of development.

<sup>96</sup> HM Government, [Working together to safeguard children](#), A guide to multi-agency working to help, protection and promote the welfare of children, 2023, pp. 7-9.

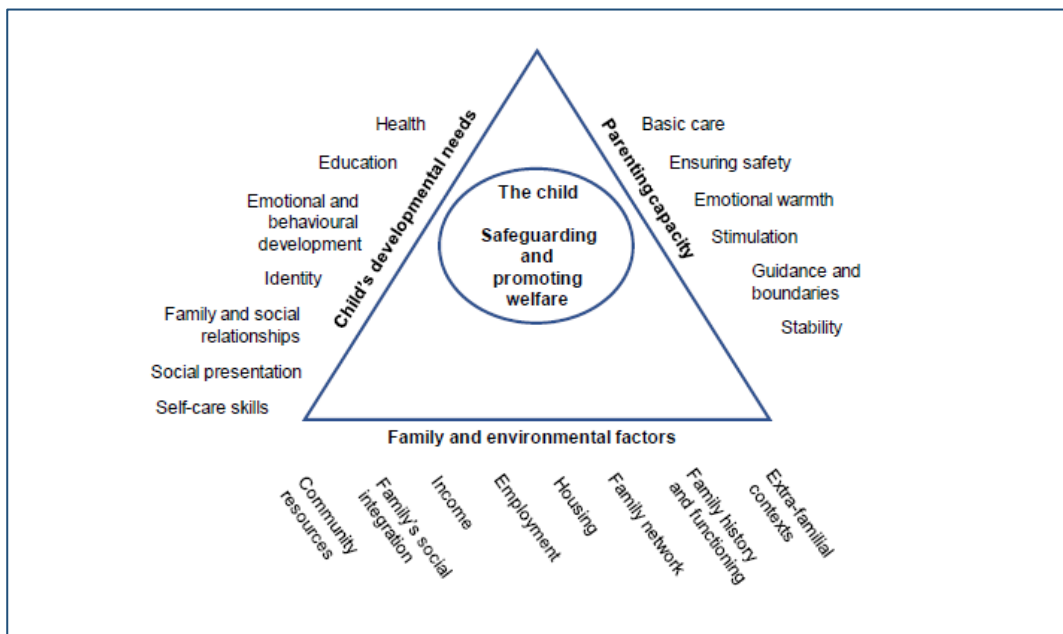


91. The guidelines build on a multidisciplinary and interagency approach which is child-centred. They define principles for working with children, parents and other carers to guide social workers and other professionals and officials involved in the case in working sensitively with them and to respect their individual needs, their personalities, situations and backgrounds. The aim is to build positive relationships and a trusting cooperation.<sup>97</sup>

92. The main principles of social care and child safeguarding services are as follows:

- children's welfare is paramount,
- children's wishes and feelings are sought, heard, and responded to,
- children's social care works in partnership with whole families,
- children are raised by their families, with their family networks or in family environments wherever possible,
- local authorities work with other agencies to effectively identify and meet the needs of children, young people and families,
- local authorities consider the economic and social circumstances impacting children, young people and families.<sup>98</sup>

**Figure 3: Assessment framework for children in need<sup>99</sup>**



**Source:** United Kingdom: HM Government, *Working together to safeguard children*, 2023.

### Timeliness

93. The guidelines set out a maximum duration for the assessment while recognising that the timeframe for the assessment should be determined by the child's needs and the nature and level of any risk of harm. Within one working day after referral, the responsible local authority should

<sup>97</sup> HM Government, [Working together to safeguard children](#), A guide to multi-agency working to help, protection and promote the welfare of children, 2023, pp. 14-16.

<sup>98</sup> HM Government, [Working together to safeguard children](#), A guide to multi-agency working to help, protection and promote the welfare of children, 2023, p. 11.

<sup>99</sup> HM Government, [Working together to safeguard children](#), A guide to multi-agency working to help, protection and promote the welfare of children, 2023, p. 57.



acknowledge receipt of the referral and decide about the immediate response and next steps. The assessment must be concluded within 45 working days after the referral. Where the circumstances of the case warrant it, emergency measures can be taken.<sup>100</sup>

#### *Multidisciplinary and interagency approach*

94. The guidance is based on a multidisciplinary and interagency approach with the child at the centre. The casework is a coordinated multidisciplinary and interagency process under the leadership of a social worker of the local authority and a multi-agency team working with the family. The guidelines set out a clear operational framework for their cooperation.<sup>101</sup>

95. The guidelines identify specific expectations of multidisciplinary and interagency work, which apply to all agencies and practitioners involved in child safeguarding, including local authorities, police, health services, education providers, childcare settings, probation services, juvenile justice services, as well as voluntary and third sector organisations. Expectations are defined specifically for the different levels of state agencies and organisations: chief executives, senior and middle management, as well as practitioners. For each level, the guidance identifies specific expectations regarding collaboration, learning, resource allocation, inclusion and confronting common challenges in a collaborative manner. To facilitate the cooperation in a case, the guidelines regulate the process for data sharing.<sup>102</sup>

96. In cases where a child is suffering or likely to suffer significant harm, the guidelines provide for a strategy discussion to draw up an individual plan for the child and to plan for any urgent or emergency measures. The strategy discussion is a multi-agency meeting involving the social and child protection services of the local authority, as well as the police, health care and other agencies and services involved in supporting the child. A strategy discussion is convened typically after the referral or notification of a child at risk or at any other time when deemed necessary, including during the assessment process.

#### *Multiagency child protection case conference*

97. Many local authorities apply the 'working together to safeguard children' guidance by convening multiagency child protection case conferences to conduct the strategy discussion and to ensure a co-ordinated follow-up. The case conference co-ordinates a joint case assessment and planning of the agencies and professionals involved in the case to safeguard the child and promote his or her welfare. The multiagency case conference method is a model for drawing up a pre-proceedings intervention plan for children and families or for the individual care planning process in the context of care proceedings.

98. In the London Safeguarding Children Procedures, as an example, the first case conference is organised within 15 working days of a strategy discussion and thereafter periodically to review the case.<sup>103</sup> All agencies are obliged by law to participate in the conference or, when in exceptional

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<sup>100</sup> HM Government, [Working together to safeguard children](#), A guide to multi-agency working to help, protection and promote the welfare of children, 2023, pp. 58-59.

<sup>101</sup> HM Government, [Working together to safeguard children](#), A guide to multi-agency working to help, protection and promote the welfare of children, 2023, p. 62.

<sup>102</sup> HM Government, [Working together to safeguard children](#), A guide to multi-agency working to help, protection and promote the welfare of children, 2023, pp. 16-20.

<sup>103</sup> This sub-section is based on the guidance issued by the Hounslow Safeguarding Children Partnership, as an example. See: Hounslow Safeguarding Children Partnership, [HSCP Multi-agency case conference guidance](#), when and why child protection case conference are held.

circumstances they are unable to attend, send a report. The procedures of the conference are regulated by the 'working together to safeguard children' guidance and any local procedures.

99. In preparation for a case conference, each agency must prepare a report on the child and family and discuss it at least two working days prior to the case conference with the parents and, where appropriate, with children aged 12 years or older. Each agency must update the report periodically and discuss it with parents and children at least three working days prior to any review conference. The discussion with the parents and, where appropriate, the child is important to inform them as service users, to support them in understanding the concerns about the child's care and welfare and give them an opportunity to ask questions, and to prepare them for their participation in the case conference and any review conference.

100. The agencies use a reporting framework to structure their reports and share them with the lead child protection agency two days prior to the first case conference and five days prior to review conferences.

101. Parents and, where appropriate, children aged 12 years or older have a right to participate in the case conference and their participation is encouraged. All agencies participating in the conference must document the child's views and how the child has been involved and heard in the case conference process. The case conference procedure includes specific tools to ensure the child's views are heard and given due weight in the assessment and planning process and in any review.

102. Once all information has been shared during the conference, each participating agency shares its own views on the risks to the child and whether they consider a child protection plan necessary. Based on these views, the case conference then decides together if they consider the child at risk of significant harm and whether a child protection plan should be made. If a child protection plan is considered necessary, the case conference identifies those agencies that should form the core group to lead the planning processes. The members of the core group are responsible for developing the child protection plan, ensuring its implementation, review and monitoring progress. The core group convenes at specific intervals, with a first meeting scheduled 10 working days after the initial child protection case conference, then again six weeks later for a first review and subsequently at least every two months or more frequently depending on the age and needs of the child.

103. The London Safeguarding Children Procedures provide a comprehensive package of practice guidance for agencies responding to the needs of children and families in specific situations. Practice guidance is available, for example, for a range of different forms of violence against children, or violence by children, accessing information from abroad, disabilities, extremist ideology, circumcision and female genital mutilation, forced marriage, children home alone or not attending school, harmful behaviour and self-harm, 'honour' based violence, mental health and substance abuse, teenage parents, child exploitation and trafficking.<sup>104</sup> The compendium of practice guidance is available online and constitutes a valuable resource for social workers and practitioners.

#### *Local adaptation and implementation*

104. In over 20 years of experience with the 'working together to safeguard children' guide, the approach and methodology has been revisited and adapted periodically in light of research findings and experience of local authorities and practitioners. One of the adaptations made was to allow local

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<sup>104</sup> London Safeguarding Children Partnership, [London safeguarding children procedures](#), 2022.

authorities a certain level of discretion in applying the guidance in a manner that is meaningful and suitable to local practice and peculiarities, giving room to local expertise and innovation. Today, therefore, the national guidance document sets out a framework for implementation at the local level, including by defining the responsibilities of local authorities in drawing up local protocols for assessment and support, as well as matters of governance and administration that the local actors need to comply with in a manner considered suitable for the local context.<sup>105</sup>

### Children's Needs in Focus (BBIC): example of Sweden<sup>106</sup>

105. In Sweden, the Children's Needs in Focus programme (*Barns behov i centrum / BBIC*) sets out standards and guidance for social workers to ensure the welfare and care of children and support families in childcare and child rearing. The overall goal of the BBIC programme is to ensure children have access to the support and protection they need to grow up in safety. The programme offers a systemic approach for social service delivery and structures the case management process to support social workers in focusing on the child's needs and unique situation. Where a child supported by social services reaches the age of adulthood, the programme guides social workers in providing continued support until the young person reaches the age of 21. The programme empowers service providers as it guides them in ensuring quality and complying with legal regulations; it gives them legal certainty in their actions and decisions.<sup>107</sup>

106. The BBIC programme uses a slightly adapted version of the Framework Assessment of Children in Need developed first in the UK (see *Figure 3*) and regulates in detail the process of assessment, decision-making and follow-up, including, where applicable, the review and adaptation of decisions and measures over time. The assessment triangle and a set of seven principles are the cornerstones of the BBIC programme. The principles are based on research and Swedish law and define the methodology of BBIC:

- the rights of the child as a foundation of social service provision for children and families;
- the best interests of the child as a primary consideration;
- equal opportunities for every child;
- participation of the child and parents;
- collaboration with other professionals;
- reducing risks and difficulties for the child and the parents and strengthening their resources and resilience;
- a holistic view on the child and his or her situation.<sup>108</sup>

107. The National Board of Health and Welfare<sup>109</sup> introduced the BBIC programme as a pilot project in seven municipalities in 1999. After one year of testing the method, another seven municipalities

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<sup>105</sup> HM Government, [Working together to safeguard children](#), A guide to multi-agency working to help, protection and promote the welfare of children, 2023, pp. 53-55. Munro, E., *The Munro review of child protection: final report*, Department for Education, UK Government, 2011.

<sup>106</sup> This section is based on a contribution by Helena Stålhammar, Socialstyrelsen, Sweden, 16 September 2024, as well as: Socialstyrelsen, [Social barnavård i förändring, Slutrapport från BBIC-projektet](#) [Social childcare in change, Final report from the BBIC project], 2008.

<sup>107</sup> Socialstyrelsen, [Barns behov i centrum](#), BBIC [Children's Needs in Focus], published 13 November 2018, last update 20 May 2024.

<sup>108</sup> Socialstyrelsen, [Barns behov i centrum](#), BBIC [Children's Needs in Focus], published 13 November 2018, last update 20 May 2024.

<sup>109</sup> Socialstyrelsen, [The National Board of Health and Welfare](#), 2015.

joined the project. In 2006, the National Board of Health and Welfare decided to institutionalise the programme as part of regular operations in social services for children and families. In 2006, more than 50% of the municipalities were working with it and by 2013, 97% of the municipalities used BBIC.

108. The BBIC programme started as a Swedish translation of the Framework Assessment of Children in Need developed in the UK. The National Board of Health and Welfare collaborated with the municipalities and their local social service boards who piloted the method and provided feedback to the National Board. The experience of local authorities and practitioners informed the adaptation of the method to the Swedish law and policy framework and child protection system.

109. As lead agency, the National Board of Health and Welfare initiated the development, dissemination and continuous review of the BBIC programme in Sweden. It has been supporting municipalities and social workers in using the programme. The programme is laid out in a manual (*Grundbok*), which describes the method and defines the fundamental principles for its implementation. The BBIC manual introduces the theoretical background of the ecological and child-centred assessment method and regulates in detail the process of assessment, decision-making and follow-up. It includes a compendium of tools that social workers can use to assess the child's needs, such as interview guides, a risk assessment method, checklists and scales to guide the identification of specific measures. To standardise the administrative work required of public authorities conducting a best interests determination procedure, the National Board of Health and Welfare developed a software that social workers use to document each step in the process.

110. The BBIC programme is complemented by a methodology specialised on children affected by disabilities. The Individual Needs at the Centre (IBIC) method guides social workers in assessing the specific needs of support in the daily lives of children at all ages. It offers social workers access to a set of specific materials and tools for the case assessment and casework.<sup>110</sup>

111. The National Board of Health and Welfare is responsible for quality assurance and regulates the training, licensing and networking elements of the BBIC programme. It oversees the licensing to authorise the local social welfare boards of municipalities in using the programme; the license is based on an agreement between the local social welfare board and the National Board of Health and Welfare and free of charge. The National Board offers train the trainers courses and provides all training materials that licensed trainers use for delivering training to social workers in the municipalities. The trained social workers are organised in 27 regional BBIC networks in Sweden. The networks facilitate training, information and exchange among practitioners at the regional level. Three to four times per year, the National Board of Health and Welfare organises network meetings for all regional representatives.

112. The BBIC programme has been evaluated periodically and shown to deliver numerous positive results. It has helped to strengthen the role of the child in the case management process.<sup>111</sup> The BBIC assessment structure has helped social services to gather more systematic information in all three dimensions of the assessment triangle, i.e. the child's developmental needs, the parents' capacity and their family and environment. The assessments following the BBIC method led social

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<sup>110</sup> Socialstyrelsen, [Individens behov i centrum, IBIC](#) [Individual needs at the centre, IBIC], published 18 February 2022.

<sup>111</sup> United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fifth Periodic Report of States Parties due in 2011: Sweden, CRC/C/SWE/5, 5 May 2014, par. 213-214. Council of the Baltic Sea States, *Family Support and Alternative Care, The Baltic Sea States Regional Report*, 2015, pp. 34-35.

workers to make more frequent contacts with professionals working with the child in childcare, school and health care, in accordance with the method's multidisciplinary and interagency approach. The structured assessment led to a stronger consideration of the assessed factors in the case analysis. Social workers, however, perceived the increased demand on documentation and administration as a challenge. Research showed further that it was important to find an appropriate balance for the participation of the child and the parents, that young and very young children require specific support to enable social workers to give due weight to their views or perspectives, and that social workers require sufficient time for the assessment process.<sup>112</sup>

### **Interdisciplinary guidelines on the best interests of the child: example of Austria<sup>113</sup>**

113. In Austria, interdisciplinary guidelines on the best interests determination procedure and an associated digital resource centre are available for child protection workers and other professionals working with children involved in civil proceedings.<sup>114</sup> The guidelines are based on the Austrian Federal Child and Youth Welfare Act (2013), which sets out criteria for the best interests assessment in §138. They have been informed by research and professional experience.

114. A team of two professionals developed the guidelines in a voluntary initiative with the motivation to offer a more structured approach to decision-making concerning children. Over the years, the guidelines have gained increasing recognition and more and more actors have started using them in social work practice. The Austrian federal state of Tyrol was the first to adopt the guidelines as a regional standard.

115. The authors of the guidelines, a social worker and former head of a youth welfare office and a child psychologist who also acts as an expert in child protection proceedings, had observed that while decisions made by officials and professionals have a significant impact on the lives of children and families, decision-makers often had to rely on their personal interpretation of complex criteria. A set of quality standards and practical guidelines would help to reduce the level of discretion and thus the perceived burden on decision-makers. They would also help to ensure that assessments, decisions and follow-up are based on legal and ethical standards. In fact, European research and the experience of other Council of Europe member states shows that quality standards and guidelines make sensitive decision-making processes more transparent for service users and tend to increase the confidence officials and professionals have in their own decisions.<sup>115</sup>

116. Against this background, the authors started developing, testing and reviewing a set of guidelines in their own work practice before presenting them at a conference for social diagnostics at the St. Pölten University of Applied Sciences in 2018. Given the innovative value of the guidelines and the strong interest of other professionals, the authors set up a digital platform presenting the guidelines and an online resource centre of standards, tools and methods. The digital platform aimed to facilitate the dissemination and use of the materials by professionals throughout Austria, solicit feedback and encourage professional exchange to inform a continued process of development. Choosing this format was sensitive as there was no organisational or institutional support to the development of guidelines at the time.

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<sup>112</sup> Matscheck, D., Berg Eklundh, L., Does BBIC make a difference? Structured assessment of child protection and support, *Nordic Social Work Research*, Vol. 5, Issue 3, 2015.

<sup>113</sup> This section is based on a contribution by Hannes Henzinger and Georg Mitterer, authors of the interdisciplinary guidelines on the best interests of the child and founders of the digital platform, 9 October 2024.

<sup>114</sup> [Interdisziplinäre Leitlinie Kindeswohl](#) [Interdisciplinary Guidelines on the Best Interests of the Child].

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117. The interdisciplinary guidelines were developed against the background of the first country-wide evaluation of the Federal Child and Youth Welfare Act in 2018. Adopted in 2013, the federal law aimed to enhance the protection of children against violence in the family, to prevent risks in childcare and everyday parenting and to strengthen the participation of children and parents in services and decisions concerning them. The evaluation recommended, among others, to strengthen the participation of children and parents in child protection service provision and identified a need for the development and implementation of national quality standards for child protection work, which follow a common set of principles and guidelines.<sup>116</sup>

118. In the early phase of working with the interdisciplinary guidelines, the authors observed a significant shift of focus. They had noted that case assessments tended to focus on parental capacities and identified parents' mistakes or omissions as the main threats to the child's welfare and safety. This approach led to confrontations with parents, as discussions centred on the shortcomings in their parenting rather than collaboratively planning necessary changes for the child's well-being. With the guidelines, the assessments began to focus more consistently on the needs of the child, using the criteria for the best interests of the child as basis, which are set out in §138 of the Federal Child and Youth Welfare Act. This shift of focus inspired a new orientation of the youth office's applications to court. They started to place the child's needs and care at the centre, as a common responsibility, in addition to identifying parental capacities and needs. In addition, the applications took account of the family's resources and the possibility of activating additional sources of support and resilience for them.

119. By applying the criteria for the best interests assessment set out in law, the interdisciplinary guidelines help to ensure that assessments and decisions are aligned with the legal framework, which is binding for all professionals and officials involved in a case. The guidelines are targeted at officials and professionals who make decisions concerning children and parents before, during and after civil proceedings. Professionals in childcare, education and health, who have doubts about the safety and welfare of a child, can use the guidelines to assess the level of risk to the child and whether the nature of the risks warrants a report to the youth welfare office. For social and child protection workers, the guidelines provide hands-on guidance on the best interests assessment. Should the initiation of judicial proceedings be indicated in a case, the youth office can use the guidelines for writing an application to the court and making a statement on the best interests of the child in accordance with the criteria set out in law and the identified needs of the child. By offering a common framework of assessment, the interdisciplinary guidelines facilitate the communication between child protection officials, lawyers and the judiciary, other professionals involved in the case, as well as children and parents.

120. The guidelines help to strengthen the opinions prepared by child psychologists who act as court-appointed experts, as they guide them in considering all criteria of the best interests of the child set out in law. They guard against overreaching expert recommendations regarding normative decisions, such as decisions on parental responsibility, guardianship or contact arrangements, which are a non-delegable responsibility of the court. Making decisions in child protection cases is also associated with considerable emotional strain – also for judges. The burden of decision-making can be reduced by posing questions to experts, that delegate normative decisions – which is not

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<sup>116</sup> Kapella, O., Rille-Pfeiffer, C., Schmidt, E.-M., *Evaluierung des Bundes-Kinder- und Jugendhilfegesetzes (B-KJHG) 2013, Zusammenfassender Bericht aller Module und Beurteilung [Evaluation of the federal child and youth welfare act (B-KJHG) 2013, Summary report of all modules and assessment]*, Oesterreichisches Institut für Familienforschung [Austrian Institute for Family Studies], Universität Wien [University of Vienna], 2018, pp. 7, 120-122.



uncommon. To meet the expectations of the court, experts often provide answers that not only extend beyond their defined role in the proceedings but also exceed the limits of the empirically established body of knowledge in their field, making recommendations that pre-empt or at least suggest a decision by the court. By adhering to the guidelines, experts provide the court with a comprehensive evaluation of the child's individual needs, the family's available resources, and the likely outcomes of potential interventions. This approach not only keeps experts firmly within their area of expertise but also equips the court with a transparent foundation for decision-making – one that is clear and accessible to all parties, thereby promoting inclusive participation.

121. When receiving an expert opinion based on a clinical diagnosis, the judge will have to make a legal categorisation of the clinical opinion to ensure the risk prognosis for the child is based on law and not only on the opinion of a single professional. The criteria for the best interests assessment set out in law provide legal guidance to ensure decisions are based on a child-centred ecological analysis of the case and adopt a holistic perspective focused on the rights and needs of the child, as well as the rights, duties and responsibilities of the parents and the obligation of the state to support the child and parents and intervene in respect of the principle of proportionality.

122. The authors of the guidelines observed that this paradigm shift has a potential to gradually contribute to a new service culture. Where the focus of assessments and decisions was placed strongly on the parents' low capacities and their omissions in childcare, the relationship between parents, child protection services and the court tended to be more conflictual; more attention was given to verifying whether there was proof for the alleged omissions of the parents and to what degree the state's interference with family life was justified based on the available evidence. By focusing on the needs of the child, the interdisciplinary guidelines help to generate a stronger sense of collaboration between all parties and participants in the case, that is, the youth office, the parents and lawyers, as well as the court. They were more often aligned towards a shared goal, that is, to care for and meet the needs of the child and secure his or her best interests. By working with the guidelines, the child protection services gradually took on a role of a solution-oriented facilitator in the case, rather than a caseworker instructing parents. The authors of the guidelines observed that child protection workers using the guidelines felt more confident about their roles, assessments and decisions, while parents and lawyers tended to be more open to collaboration when a case went to court.

123. The guidelines aspire to prevent the initiation of care proceedings, where possible, by supporting child protection workers in collaborating with the parents to reach consensus about the needs of the child and identify possible sources of support to meet the identified needs. The guidelines set out clear criteria for identifying the goals that need to be reached to prevent court proceedings. This clarity is important for parents and children to develop a sense of ownership of measures and decisions concerning them and may help to motivate parents to become independent of services by child protection authorities.

124. The guidelines can be accessed from a website, which serves as a resource centre for officials and professionals in the child protection field.<sup>117</sup> The digital resource centre clarifies key terms and concepts regarding the best interests of the child. It informs about the relevant legislation and provides access free of charge to a set of tools, such as methods for case assessment, including needs and risk assessments, for different groups of professionals and contexts. The guidelines incorporate expertise from a range of sectors, in particular social work, psychology and law. The

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<sup>117</sup> [Interdisziplinäre Leitlinie Kindeswohl](#) [Interdisciplinary Guidelines on the Best Interests of the Child].

interdisciplinary approach of the guidelines reflects the understanding that the best interests of the child are *per se* an interdisciplinary concept as it relates to all the rights and needs of the child which are closely interrelated. The process for assessing and making decisions on the best interests of the child therefore requires the collaboration of different professionals. The participation of the child, the parents and the family in the assessment and decision-making processes is a fundamental principle of the guidelines.

125. Since the digital platform became operational in 2018, the interdisciplinary guidelines have received a lot of attention and are increasingly used by service providers. There is a growing demand for training, including from private service providers and from universities who have expressed an interest in including training on the guidelines in social work curricula. Some private social service providers have aligned their child protection service practice with the guidelines. In 2024, the *Land Tyrol*, one of nine Austrian federal states, incorporated the interdisciplinary guidelines on the best interests of the child in the regional handbook for child protection services. In the same year, the first training course on the interdisciplinary guidelines was held for the social workers employed by the Tyrolean youth offices. The authors of the interdisciplinary guidelines continue offering training and would welcome learning through research and evaluation to inform the further development and dissemination of the guidelines, the digital platform and associated training.

126. Considering the aspiration of the Federal Child and Youth Welfare Act of 2013 to promote common quality standards for child protection work, the interdisciplinary guidelines on the best interests of the child offer a valuable resource on which to build. They clearly have a potential to support the systematic implementation of the law in the day-to-day child protection practice, using an interdisciplinary approach. An official recognition by the state, as well as a strategy for research and evaluation, would lay an important basis for the continued development and consistent use of interdisciplinary guidelines in Austria.

### Five steps towards a decision in the best interests of the child: example of Belgium

127. In Belgium, the Flemish Department for Culture, Youth and the Media and the Children's Rights Knowledge Centre (KeKi) published a guide for practitioners on how to make decisions in the best interests of the child in five steps.<sup>118</sup> The guide is targeted at professionals and volunteers working with children in child protection and childcare, youth work, education and justice and provides guidance on every-day decision making in the best interests of the child. It aims at supporting the users in understanding the needs of the child and making better decisions for and with the child. The guide is proposed for informal and formal decision-making, such as choosing a school for a child with specific needs; deciding about the placement of a child in alternative care; taking the views of a child into account in the context of parental separation; responding to drug abuse by children in a youth centre; or other decisions concerning health care or leisure time activities of children. It guides decisions concerning individual children or small groups of children, such as siblings, school classes or members of a youth club.

128. The guide aims at supporting professionals and volunteers in gaining confidence in making decisions that give due consideration to the best interests of the child, in respecting the rights of the child or children and avoiding arbitrary or uninformed decisions. It guides them in how to involve the child in the decision-making process and understand what is important for the child. The guide

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<sup>118</sup> Department for Culture, Youth and the Media and the Children's Rights Knowledge Centre (KeKi), [\*In 5 Stappen naar een Beslissing in het Belang van het Kind\*](#) [In five steps towards a decision on the best interests of the child], 2021.



supports professionals and volunteers in balancing the best interests of a child and the interests of others involved in the case.

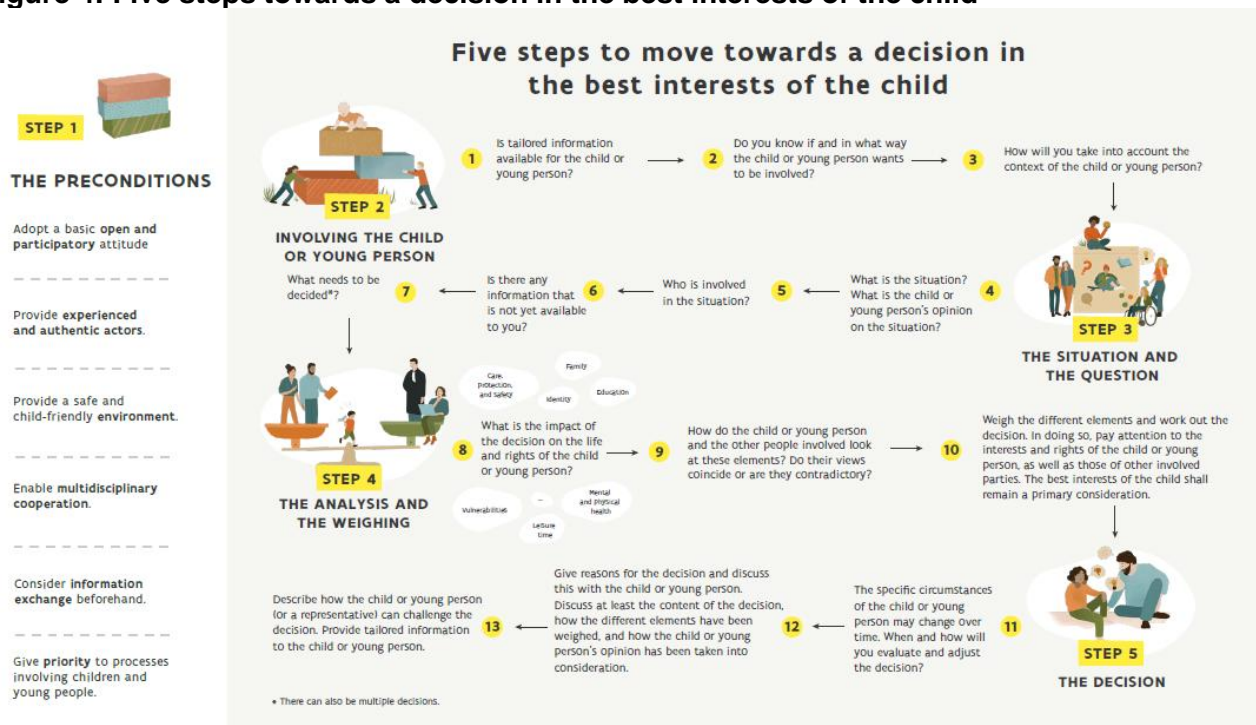
129. The five-step process shall help the professional or volunteer to critically reflect on his or her own attitudes and work and to strive for decisions that are sustainable and meaningful for the child. It offers a flexible plan that can be adjusted to the organisation or agency that uses it and encourages dialogue and reflection rather than providing a pre-determined checklist.

130. The five steps address a preparatory phase and four subsequent steps: the preparatory phase aims at establishing the preconditions for assessing the case, involving the child and relevant others. The other four steps include

- the appropriate involvement of the child,
- the assessment of the situation and any questions that need to be clarified,
- the analysis of the gathered facts, giving them weight and considering the interests of the child and relevant others, and, finally,
- the decision and any review of the decision over time.

131. The guide is available online and includes a manual, a set of handouts for each step and forms to support the process of identifying the questions to be asked in a specific case, making the assessments which are needed to respond to the questions, as well as an infographic (see Figure 4).

**Figure 4: Five steps towards a decision in the best interests of the child**<sup>119</sup>



**Source:** Flamish Department for Culture, Youth and the Media and the Children's Rights Knowledge Centre (KeKi).

<sup>119</sup> Flamish Department for Culture, Youth and the Media and the Children's Rights Knowledge Centre (KeKi), [Five steps to move towards a decision in the best interests of the child, infographic](#), undated.

132. The Flemish Department for Culture, Youth and the Media and the Children's Rights Knowledge Centre developed the guide based on the General Comment No. 13 (2014) of the Committee on the Rights of the Child and support the dissemination of a Flemish translation of the General Comment.

### **A best interests determination procedure sensitive to culture: examples from Finland and Ireland**

133. For social workers and courts of law, making decisions in the best interests of the child may be particularly challenging where the children and families concerned have a different cultural and linguistic background from their own. This may be the case where families or family members belong to a minority or indigenous group, are migrants or asylum seekers. The rights of the child are universal and apply to all children without discrimination, just as the rights, duties and responsibilities of parents. The way these rights are applied, however, requires respect for the individual background and identity of the persons concerned and for their right to preserve and develop the own identity. Personal views of what makes a good childhood may vary among individuals and groups of persons, and their cultural backgrounds may influence their views.<sup>120</sup>

134. In the best interests determination procedure, balancing all the rights and needs of the child, the rights and responsibilities of the parents and the obligations of state authorities towards them, therefore, requires particular sensitivity to culture. State agencies can support social workers by providing a framework that safeguards the cultural rights of individuals and specialised training and guidance for officials and professionals working for and with them. This section presents examples from Finland and Ireland that aspire to strengthen the consideration for the cultural identity of persons belonging to minority or indigenous groups.

135. In Finland, the National Board of Health and Welfare developed specialised social services to support families in the Sámi Homeland in Northern Finland. The social workers providing these specialised services speak the Sámi language or are part of the Sámi people. They have been trained to take the cultural identity of Sámi families and their specific resources into account in the assessment, service provision and case management and pay particular attention to creating support networks for families in need. The social workers have been trained to ensure that Sámi children are placed in their own linguistic and cultural environments where placement in alternative care is determined to be in the best interests of the child. When the Sámi Parliament conducted an inquiry into the quality of social services and childcare, it found that the use of specialised social services has led to positive outcomes for children and families, even in areas where many families required social service and childcare support and the rate of placements in alternative care was high.<sup>121</sup>

136. The Government of Ireland decided to dedicate one section of the National Traveller and Roma Inclusion Strategy 2017-2021 to family support and alternative care for children. The Strategy mandated the Child and Family Agency to ensure its policies, services, procedures and practice give due consideration to human rights and principles of equality and non-discrimination. In practice, this required the Agency to review the regulations and practice of alternative care for children to ensure that the best interests determination procedure in care proceedings takes due account of the cultural

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<sup>120</sup> Skivenes, Marit and Line Marie Sørdsal, [The Child's Best Interest Principle across Child Protection Jurisdictions](#), *Human Rights in Child Protection*, 2018, pp. 59-88.

<sup>121</sup> United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Fourth reports of States parties due in 2008, Finland, CRC/C/FIN/4, 26 May 2010, par. 215-219.

rights of the child. The Agency consulted with the Traveller and Roma communities on culturally appropriate care placements for Traveller and Roma children and took their views into account for the development of an implementation plan of the national child protection legislation and relevant strategies.<sup>122</sup>

### **Key considerations for promoting guidance on the best interests determination procedure**

137. Based on the experience of member states, the following key considerations are proposed for a regulated framework and a multidisciplinary and interagency service culture in the best interests determination procedure:

#### **➤ *Setting out in law the factors for the best interests assessment***

138. Setting out in law the factors to be assessed and taken into account in a best interests determination procedure is decisive for a procedure closely oriented at the rights and needs of the child. A set of legal factors, which is binding upon all professionals and officials involved in the case, helps to make the assessment process more transparent and fosters a common language and understanding of the best interests of the child. Legal guidance sensitises decision-makers to the complexity of the assessment and reduces the level of discretion in decision-making on the best interests of the child.

#### **➤ *Promoting multidisciplinary and interagency co-operation in law, policy and practice***

139. The Committee on the Rights of the Child recommends that a best interests determination procedure should follow a multidisciplinary approach. The Council of Europe Committee of Ministers Guidelines identify a multidisciplinary approach as one of the general elements of child-friendly justice.<sup>123</sup>

140. Research has evidenced the multiple benefits of multidisciplinary and interagency co-operation in the child protection field and recognised the numerous challenges in achieving effective co-operation in practice. The benefits include improved outcomes for children and parents, their improved participation and a better focus on their needs. Effective co-operation has been shown to reduce public service costs by enabling early intervention and preventive services and mobilising social support networks, which helps to prevent more expensive interventions, such as a child's placement in alternative care. Co-operation models lead to evidenced benefits for state agencies and service providers, such as an increased level of job satisfaction due to better outcomes combined with reduced levels of case overload and burnout. The organisational and inter-personal requirements for effective multidisciplinary and interagency co-operation are still under-researched. There is, however, a growing body of evidence that identifies cognitive,

<sup>122</sup> Wenke, D., [Legal instrument on the protection of the best interests of the child in domestic law proceedings by public authorities to limit parental responsibilities or place a child in care](#), Feasibility study, Council of Europe, 2021, p. 53.

<sup>123</sup> Council of Europe (2010), [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#), IV.A.5. Committee on the Rights of the Child, General Comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, CRC/C/GC/14, 29 May 2013, paras. 47, 64, 76, 94.

relational and behavioural skills as key requirements, as well as joint multi-professional training to support the staff of different agencies in working together.<sup>124</sup>

141. In working together, state agencies, service providers and practitioners learn to consider their own professional roles within a continuum of measures for the child. They learn to integrate their own mandate in a joined-up mandate focused on the needs and rights of the child. Joint multidisciplinary and interagency training is key for professionals to try and adopt the child's perspective and understand their own professional tasks in a continuum of tasks carried out by other officials and professionals following a logic determined by the best interests of the child. A collaborative case assessment and analysis supports the transition from a single-sector approach to a multidisciplinary and interagency service culture.

142. To ensure a multidisciplinary and interagency approach in the best interests determination procedure, the co-operation should be regulated by law and policy, as appropriate in the national context. National guidance documents, cooperation agreements or protocols should be in place to ensure the effective organisation of co-operation at all levels.

➤ *Devising national guidance for the best interests determination procedure*

143. Member states have achieved measurable progress by devising national guidance on the best interests determination procedure based on multidisciplinary and interagency co-operation. National guidance strengthens the participation of children and parents, makes the case assessment and analysis more systematic and strengthens multidisciplinary and interagency co-operation. It can contribute to a more effective implementation of the national legal framework and enhances the sense of confidence of professionals and officials making decisions.

144. National guidance documents should clearly regulate the framework for multidisciplinary and interagency cooperation in the best interests determination procedure by clarifying roles and responsibilities of state and non-state actors at all levels of the state administration. A lead national agency is key for ensuring that the national guidance is fully integrated into the national child protection system, with appropriate training and licensing, and the appropriate involvement of the judiciary. Multidisciplinary and interagency cooperation should be regulated at the local level in municipalities and in the operational case work. Where relevant, it may need to be regulated at the regional level of the state administration. Where appropriate, local authorities should enjoy the necessary level of discretion in implementing national guidance and organising the practical aspects of co-operation within their specific local context while respecting a common legal framework.

145. It may be appropriate to develop guidance on the best interests determination procedures for different contexts, such as the case assessment and care planning in child protection work before judicial proceedings are initiated, the best interests determination procedure during procedures with the appropriate involvement of the judiciary, and for less formal decision-making in daily situations where professionals or volunteers make decisions with and for children concerning, for instance, education, youth work, health or medical care.

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<sup>124</sup> Alfandari, R., Taylor, B.J., Community-based multi-professional child protection decision making: Systematic narrative review, *Child Abuse and Neglect*, Vol. 123, 2022.

146. National guidance on the best interests determination procedure should be embedded in a framework for joined training, consultation and continuous review and development of the guidance materials.

➤ ***Developing a compendium of assessment methods and tools***

147. National guidance on the best interests determination procedure should be complemented by a compendium of assessment methods and tools. Officials and professionals should have access free of charge to all methods and tools typically used for a best interests assessment procedure. They should receive training and supervision in using the methods and tools, which should be subject to periodic review and adaptation. Where possible, methods and tools should use a multidisciplinary and interagency approach.

148. The national guidance on the best interests determination procedure should generally enable professionals and officials to handle any case they receive, as service providers and competent authorities may need to deal with a wide variety of cases, including unusual and specific cases for which training and specialisation can hardly prepare them. To support them in being prepared for this challenging task, it is good practice for lead agencies to make available a compendium of specific assessment methods and tools based on evidence and the experience of professionals who have dealt with such cases. Training, supervision and technical assistance should be available from the lead agency or another appropriate body to support local authorities and service providers in using these assessment methods and tools when needed.

➤ ***Consulting children, parents, officials and practitioners in the review and adaptation of national standards, guidance and tools***

149. Member states have made good experience in consulting with children, parents, service providers and state authorities when developing, evaluating and updating national standards concerning the best interests determination procedure in civil proceedings. Consultations and reviews should be carried out periodically and involve children and parents, as well as officials and professionals, from different groups, including of minority and indigenous groups and persons with specific needs.

## **2) Guidance on hearing children in civil proceedings**

150. The UN Convention on the Rights of the Child sets out the right of the child to be heard in all matters concerning the child, including in the context of administrative and judicial proceedings. The child's views shall be given due weight, in accordance with the age and maturity of the child (UNCRC Article 12). The right to be heard is a general principle of the Convention and a fundamental principle of child-friendly justice.<sup>125</sup>

151. In its General Comment No. 12 (2009), the Committee on the Rights of the Child provides guidance on the implementation of the right to be heard. It advises states to presume that a child has the capacity of forming his or her own views. In consequence, states should provide for the hearing of a child's views in all matters concerning the child, unless in situations where it is contrary

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<sup>125</sup> Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (2010), III.A.; IV.D.3.



to the best interests of the child. Where a competent authority decides to not hear a child, the decision should be motivated based on the best interests assessment.<sup>126</sup>

152. The Committee underlines that the UN Convention on the Rights of the Child affords to each child who is capable of forming his or her own views the right to express those views freely. It notes that research demonstrates how “children’s levels of understanding are not uniformly linked to their biological age.”<sup>127</sup> On this basis, the Committee discourages states from setting out age limits in law or in practice, which would restrict the child’s right to be heard.<sup>128</sup>

153. In fact, research has evidenced that children are generally able to give accurate accounts of their experiences even at a young age, even though the child’s capacity of free narration and ability to resist suggestive questions or other forms of influence evolves significantly with age. Research findings show that support is crucial to enable children to share their memories and views freely and accurately: they should be heard in a child-friendly environment, by specifically trained and experienced child interviewers and using evidence-based methods appropriate to the child’s age and level of understanding.<sup>129</sup> The timing and length of the hearing should take account of the needs of the child and his or her attention span.<sup>130</sup>

154. In principle, therefore, every child should be given an opportunity to be heard in civil proceedings concerning the child, without making the child hearing a duty imposed on the child.<sup>131</sup> Some children may require assistance in forming and expressing their views, for instance, due to young age, language differences or a low level of understanding or disability.<sup>132</sup> The Committee on the Rights of the Child underlines that children with communication impairments or disabilities should be supported in expressing their views, including through the use of appropriate communication technology, in accordance with Article 7 of the Convention on the Rights of Persons with Disabilities.<sup>133</sup>

155. A child therefore may be heard either directly by the competent authority or by a representative or a trained professional. Competent authorities and professionals hearing a child in the context of civil proceedings should have the necessary training and skills and be independent of the child’s parents or other parties in the proceedings.

156. The Committee on the Rights of the Child noted that the right to express views ‘freely’ requires competent authorities or professionals to ensure that the child can express his or her own views

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<sup>126</sup> Committee on the Rights of the Child, General Comment No. 12 (2009), The right of the child to be heard, CRC/C/GC/12, 1 July 2009, para. 21.

<sup>127</sup> Committee on the Rights of the Child, General Comment No. 12 (2009), The right of the child to be heard, CRC/C/GC/12, 1 July 2009, para. 29

<sup>128</sup> Committee on the Rights of the Child, General Comment No. 12 (2009), The right of the child to be heard, CRC/C/GC/12, 1 July 2009, para. 21.

<sup>129</sup> 9 Lamb, Michael E., Orbach, Y., Hershkowitz, I., Esplin, P.W., Horowitz, D., [Structured forensic interview protocols improve the quality and informativeness of investigative interviews with children](#): A review of research using the NICHD Investigative Interview Protocol. Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (2010), IV.D.5.

<sup>130</sup> Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (2010), IV.D.6. para. 66, 67. CRC, General Comment No. 12 (2009), The right of the child to be heard, CRC/C/GC/12, 1 July 2009, para. 24.

<sup>131</sup> Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (2010), IV.D.3.46.

<sup>132</sup> Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (2010), III.D.2.

<sup>133</sup> Committee on the Rights of the Child, General Comment No. 12 (2009), The right of the child to be heard, CRC/C/GC/12, 1 July 2009, para. 21 and 78. Article 7 of Convention on the Rights of Persons with Disabilities affords that in all actions concerning children with disabilities, the best interests of the child shall be a primary consideration. States parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realise that rights.

without pressure and can choose whether or not he or she wants to exercise the right to be heard. The child should not be manipulated or subjected to undue influence or pressure when forming and expressing the own views.<sup>134</sup>

157. In its caselaw, the ECtHR has extensively commented on the right of the child to be heard, including in the best interests determination procedure.<sup>135</sup> For children of sufficient age, the Court tends to favour the judge hearing the child in person in cases under Article 8 ECHR, however, depending on the age and maturity of the child, interviews by experts could be considered appropriate to secure the child's right to be heard. In this case, the judge's decision should refer to the expert's report.<sup>136</sup>

158. The competent authority or professional hearing the child should ensure the child receives child-friendly information about the hearing and is prepared for it. In particular, children should be informed that even though their views are important and will be given due weight, they are not the only factor determining the outcome of the proceedings and the child is not responsible for the decision in the case. The ECtHR observed that the views of children may change over time and that, where a child has objections, for instance regarding the contact with a parent, the child's views must be given due weight in considering and examining all other factors in the case. The child has no veto power and his or her views are not necessarily sufficient to override the parents' interests.<sup>137</sup>

159. The hearing of the child is a key element of the best interests determination procedure in civil proceedings. It is of cross-cutting relevance and children have a right to form and express their views at all stages of proceedings – prior to the commencement of proceedings where a family is assisted by service providers; during proceedings when a competent authority is making decisions concerning the child and family; and in any follow-up after proceedings.

160. This case study presents examples of specific assessment tools and methods in use in member states:

- Evidence-based protocols guiding the interview of children in legal proceedings;
- Forensic child interviewing: research-based recommendations by the European Association of Psychology and Law;
- Hearing children in civil proceedings: guidance for family court judges: example of Germany;
- Signs of safety method for building partnership with children and parents in child protection cases;
- National strategies and toolkit for child and youth participation: example of Ireland.

## Evidence-based protocols guiding the interview of children in legal proceedings

161. In Europe, the child interview in legal proceedings has received increasing attention in the context of the development of Barnahus and similar multidisciplinary and interagency service models

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<sup>134</sup> CRC, General Comment No. 12 (2009), The right of the child to be heard, CRC/C/GC/12, 1 July 2009, para. 22-23.

<sup>135</sup> ECtHR, [Sahin v. Germany](#) [GC], no. 30943/96, §§ 70 and 72, ECHR 2003-VIII, [Sommerfeld v. Germany](#) [GC], no. 31871/96, ECHR 2003-VIII (extracts).

<sup>136</sup> ECtHR, *M. and M. v. Croatia*, no. 10161/13, § 181, ECHR 2015 (extracts); *C v. Croatia*, no. 80117/17, § 78, 8 October 2020; and for the relevant international instruments, *M.K. v. Greece*, no. 51312/16, §§ 91-92, 1 February 2018 and *C v. Croatia*, cited above, § 76.

<sup>137</sup> ECtHR, *Zelikha Magomadova v. Russia*, no. 58724/14, §115, 8 October 2019. ECtHR, *K.B. and others v. Croatia*, no. 36216/13, § 143 14 March 2017.



for child-friendly justice.<sup>138</sup> Council of Europe standards regulate the hearing of the child in the context of legal proceedings: the Committee of Ministers Guidelines on child-friendly justice (2010) apply to all contexts where children are in contact with the justice system, whereas the Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse (Lanzarote Convention, 2007) sets out specific standards for children who are victims of sexual violence or exploitation. Both instruments provide for a limitation of the number of interviews of children, which should be conducted by the same professional. They set standards for the training of professionals hearing children.<sup>139</sup> The Guidelines on child-friendly justice recommend the use of interview protocols that take into account different stages of the child's development to underpin the validity of children's evidence. Such protocols guide professionals in avoiding suggestive or leading questions and thereby enhance the reliability of a child's statement.<sup>140</sup>

162. The National Institute of Child Health and Human Development (NICHD) protocol developed in the United States is an evidence-based protocol for forensic child interviews which is widely used in Council of Europe member states.<sup>141</sup> Evidence-based means that the protocol's effectiveness has been demonstrated through empirical research: it improves the quality of child interviews and enables the interviewer to create an meaningful and genuine opportunity for the child to be heard, in accordance with the child's age and level of development and taking account of the child's experiences and any trauma. A multidisciplinary team of researchers developed the NICHD protocol based on research on children's memory, language and communication skills, social knowledge, suggestibility, the effects of stress and trauma, as well as the behaviour and communication of the interviewer.<sup>142</sup>

163. The NICHD protocol is offering a clear structure of the child interview: the interview starts with an introductory phase where the interviewer builds rapport, followed by a narrative phase in which the child speaks about the substance, and ends with the closing phase. The protocol gives examples of questions to be used in each phase, including open-ended and non-leading questions, as well as free-recall prompts. It guides the interviewer in using techniques for obtaining detailed, accurate and reliable information from the child. Following the protocol helps the interviewer to respect ethical standards throughout the interview.

164. Whereas evidence-based protocols such as the NICHD protocol have been developed primarily for forensic interviews with children conducted in criminal investigations and proceedings, the value they offer has been recognised in other contexts where children are heard in legal proceedings and

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<sup>138</sup> Grejer S. and Wenke D., [Barnahus, a European journey, Mapping study on multidisciplinary and interagency child-friendly justice models responding to violence against children in Council of Europe member states](#), Council of Europe, 2023.

<sup>139</sup> Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (2010), IV.D.6.66 and 67. Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse (CETS No. 201, 2007), Article 35.1.d and e.

<sup>140</sup> Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (2010), IV.D.6.71.

<sup>141</sup> Lamb, Michael E., Orbach, Y., Hershkowitz, I., Esplin, P.W., Horowitz, D., A structured forensic interview protocol improves the quality and informativeness of investigative interviews with children: a review of research using the NICHD Investigative Interview Protocol, *Child Abuse and Neglect*, Vol. 31, Issue 11-12, November – December 2007, pp. 1201-1231. Ball, E., Ball, J., La Rooy, D., The National Institute of Child Health and Human Development (NICHD) Protocol, Interview guide, 2017. NICHD Protocol, International Evidence-Based Investigative Interviewing of Children, <http://nichdprotocol.com/>. Grejer S. and Wenke D., [Barnahus, a European journey, Mapping study on multidisciplinary and interagency child-friendly justice models responding to violence against children in Council of Europe member states](#), Council of Europe, 2023.

<sup>142</sup> Lamb, Michael E., Orbach, Y., Hershkowitz, I., Esplin, P.W., Horowitz, D., Structured forensic interview protocols improve the quality and informativeness of investigative interviews with children: A review of research using the NICHD Investigative Interview Protocol, *Child Abuse and Neglect*, 2007, 31(11-12): 1201–1231.

where service providers have conversations with children on sensitive matters. The use of evidence-based interviewing protocols, as well as training on the research-based rules and principles they embody, therefore, is highly relevant for best interests determination procedures and for civil proceedings concerning children.<sup>143</sup>

165. In care proceedings, for example, the children concerned may be victims of violence. In some proceedings, criminal proceedings against the perpetrator of violence may be initiated and the child's statement is then a critical piece of evidence in both proceedings. In some situations where parents are separating, service providers or competent authorities may find out about violence committed against a child. Parental separation and care proceedings may be coinciding in some families. The principles and rules of an evidence-based protocol can therefore guide the training and practice of professionals who hear children in the context of civil proceedings.

### **Forensic child interviewing: research-based recommendations by the European Association of Psychology and Law<sup>144</sup>**

166. In 2024, the European Association of Psychology and Law published a set of ten recommendations to guide the development of science-based child interview practice. The recommendations are based on state-of-the-art research on forensic child interviewing and the experience, knowledge and evidence generated by professional forensic interviewers of children who are victims of sexual and/or physical violence. Recognising that forensic child interviews are conducted mainly in the context of criminal proceedings, the European Association of Psychology and Law underlines that the principles of these protocols and the recommendations made are relevant also for other contexts where children are in contact with the justice system, including for hearing children concerned by civil proceedings.<sup>145</sup>

167. The recommendations were developed against the background that the child's statement is important evidence in cases where violence against a child has been committed or alleged, and it may be the only evidence available in a case. Obtaining an accurate and reliable statement of the child is of particular importance to ensure the child's safety and protection where an act or risk of violence is acute and to prevent wrongful conviction of a perpetrator. Where the alleged perpetrator is a parent, there is also a risk of wrongful family separation. Where allegations of sexual or other violence are made in the context of parental separation proceedings, the child interview can be decisive for investigating the allegations and making decisions on parental responsibilities.

168. Despite the strong international and Council of Europe standards regulating the right of the child to be heard in legal proceedings and the solid body of evidence in this field, the practice of hearing children in administrative and judicial proceedings differs within and between Council of Europe

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<sup>143</sup> Wenke, D., *Listen Up! Creating conditions for children to speak and be heard, Professional communication with children at risk of exploitation and trafficking – experiences and lessons learned from the Baltic Sea Region*, Council of the Baltic Sea States, 2019. Korkman, J., Otgaar, H., Geven, L.M., Bull, R., Cyr, M., Herskowitz, I., et al., White paper on forensic child interviewing: research-based recommendations by the European Association of Psychology and Law, *Psychology, Crime & Law*, 2024, 1–44.

<sup>144</sup> This section is based on: Korkman, J., Otgaar, H., Geven, L.M., Bull, R., Cyr, M., Herskowitz, I., et al., White paper on forensic child interviewing: research-based recommendations by the European Association of Psychology and Law, *Psychology, Crime & Law*, 2024, 1–44.

<sup>145</sup> Korkman, J., Otgaar, H., Geven, L.M., Bull, R., Cyr, M., Herskowitz, I., et al., White paper on forensic child interviewing: research-based recommendations by the European Association of Psychology and Law, *Psychology, Crime & Law*, 2024, 1–44.

member states. The use of evidence-based protocols and the special training of professionals hearing children is not yet guaranteed in practice across the region.<sup>146</sup>

169. In view of this highly fragmented situation, the European Association of Psychology and Law developed the recommendations to contribute to strengthening a practice of high-quality forensic interviews in accordance with state-of-the-art research findings. The recommendations aim to encourage the use of evidence-based protocols for all children who are heard in the context of legal proceedings, irrespective of the child's age or cognitive and social characteristics.

#### *Recommendation 1: understanding child victims and witnesses*

170. Child interviewers should understand the numerous factors that can influence a child's reluctance to disclose an act of violence. Children may not perceive what happened to them as violence, they may feel embarrassed or ashamed to speak out, they may be afraid of consequences of their disclosure, such as punishment, family breakdown and separation from a parent, and may feel a responsibility to protect the perpetrator. In a forensic interview setting, children usually are able to overcome any reluctance and tend to disclose.

171. Child interviewers should be trained to understand child development and how it influences children acting as witnesses. They need to be sensitive to the child's suggestibility, ability to share memories in free recall and to structure a narrative. Professionals interviewing a child need to be able to assess the ability and suggestibility of the child and phrase questions in a language and manner that is adapted to the individual child. When a child is questioned by professionals not having the necessary skills and qualifications, as well as by parents or other family members, there is a risk that leading and suggestive questions influence the child's statement and memory. Questioning by non-qualified professionals or private persons should therefore be prevented as far as possible.

#### *Recommendation 2: evidence-based child interviewing*

172. The European Association of Psychology and Law recommends the "use of empirically validated and researched protocols ... to maximise the opportunities of investigative interviewers to gather reliable information in a child-friendly manner".<sup>147</sup> The NICHD protocol has been validated extensively by researchers, including in meta-analyses. The results show that interviewers using this protocol use more open-ended questions and fewer suggestive or forced-choice questions, and obtain a more detailed child statement. A key element of the protocol, rapport building with the child and providing socio-emotional support help the child to feel more comfortable during the interview and to make more accurate and complete disclosures.

173. Interviews with children should be carefully prepared through an interview plan. The plan should identify an objective for the interview and be drawn up based on the information on the child and the alleged or investigated act of violence. In the preparation phase, the interviewer should use this information to develop different hypotheses to be tested during the interview.

174. The interviewer should assess the child's capacity to be interviewed, considering the child's age and his or her cognitive and communicative abilities, as well as any communication challenges.

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<sup>146</sup> Korkman, J., Otgaar, H., Geven, L.M., Bull, R., Cyr, M., Herskowitz, I., et al., White paper on forensic child interviewing: research-based recommendations by the European Association of Psychology and Law, *Psychology, Crime & Law*, 2024, 1–44.

<sup>147</sup> Korkman, J., Otgaar, H., Geven, L.M., Bull, R., Cyr, M., Herskowitz, I., et al., White paper on forensic child interviewing: research-based recommendations by the European Association of Psychology and Law, *Psychology, Crime & Law*, 2024, 1–44, Recommendation 2.

A well-trained and experienced forensic interviewer will be able to interview children aged four and above, based on a careful assessment of the child prior to the interview. However, children should not be interviewed about events that happened before they developed the ability to speak.

175. The preparation of the interview serves also to determine whether there are any indications that interviewing the child could be contrary to his or her best interests. Where it is known that a child has been subject to heavy influence and coaching prior to the interview, for example, the possible gains and harms of interviewing this child should be carefully balanced against each other, giving primary consideration to the best interests of the child.

176. Preparing the interview helps the interviewer in the rapport building phase. Research has provided evidence that rapport building at the beginning and supporting the child throughout the interview contribute to motivating the child's disclosure, increase the amount of information the child shares and their accuracy, improve the communication between interviewer and child, and helps the child to cope with anxiety and other negative emotions. The interviewer must be sensitive in adapting the rapport building and support provided to the individual needs of the child while taking account of the child's cultural background.

#### *Recommendation 3: preparation of the child and phases of the interview*

177. Evidence-based protocols structure the child interview in different phases and guide the interviewer step by step through each phase. The phases typically include four phases: In the *introduction phase*, the interviewer builds rapport with the child and introduces the child to the requirements and rules of the interview, such as telling the truth, not guessing and telling the interviewer if there is anything the child does not understand. In the second phase, the interviewer *introduces the topic of concern*, for instance by asking the child if he or she understands the reason for the interview, without disclosing any specific information about the investigated act. In the *substance phase*, the interviewer invites the child to share his or her memories of the topic of concern and to narrate in free recall. The interviewer will use open prompts and gradually use more focused questions to elicit additional details. In the *closure phase*, the interviewer asks the child if there is anything more he or she would like to add. The interviewer asks the child how he or she feels and if he or she has any questions. The interviewer informs the child about what happens next and how the child may contact any support persons. Before ending the interview, the interviewer engages the child in a conversation about neutral topics.

#### *Recommendation 4: the mindset of the interviewer and hypothesis testing*

178. Research has evidenced that the beliefs and mindsets of interviewers may lead to a biased interview as the interviewer may be inclined to prioritise information that is consistent with his or her beliefs and neglect other information. Interviewers may be biased in how they phrase questions and to what extent they consider different possible explanations to a suspected act of violence.

179. Formulating and testing different hypothesis is recommended to redress the harmful impact of any personal bias. This method has been validated in forensic and clinical interviewing and decision-making. In the preparation of the interview plan, interviewers are encouraged to formulate and investigate different hypotheses in a specific case to strive for objectivity. During the interview itself, the interviewer will use the information the child shares to refine, supplement or revise any hypothesis.

#### *Recommendation 5: recording of the interview*

180. Child interviews should be video-recorded and the recording should be admitted as evidence if legal proceedings are initiated in the case. The recording is not only evidence of the child's statement itself, but also of the method by which it has been obtained.

181. The video-recording of child interviews and admitting them as evidence in legal proceedings are standards set out by the Committee of Ministers Guidelines on child-friendly justice (2010) and the Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse (Lanzarote Convention, 2007).<sup>148</sup>

*Recommendation 6: number of persons present at the interview*

182. Based on the current state of scientific evidence, it is recommended that the child interview should be conducted by one professional who conducts the interview and is present in the same room as the child. If needed, assistance can be provided by an interpreter.

183. Some member states have established a practice of having two professionals co-conducting the interview, such as a police officer and a social worker, or allowing the presence of a social worker or another intermediary or support person during the interview. Even though more research will be needed to corroborate evidence, the current state of evidence indicates that the presence of additional persons, other than a single forensic interviewer, has a negative impact on the accuracy and level of detail of the child's statement.

*Recommendation 7: cultural aspects*

184. Research shows that culture does have an impact on how children interact with adults and how they narrate memories. Studies indicate, however, that the gender and cultural background of the interviewer, as well as non-verbal communication, are likely to affect the child interview. In the preparation of the interview it is recommended, therefore, that the interviewer takes cultural aspects into consideration and consults with an interpreter or cultural mediator where relevant.

185. Where an interpreter is required, the quality of interpretation is critical to enable a high-quality forensic interview. Interpreters should be specifically trained and have the necessary accreditation to assist in forensic child interviews. They should be familiar with child development, the impact of violence and trauma on the child's memory and communication and on the use of evidence-based forensic interviewing protocols for children. Interviewers should also be trained on working with interpreters in these situations.

*Recommendation 8: dolls, body diagrams and drawing during the interview*

186. Based on research findings, the use of dolls, including anatomically detailed dolls and body diagrams in a forensic interview setting is discouraged as it may influence the accuracy of a child's statement. Drawing may be useful as a tool to help a child share specific details; however, drawings made by a child during an interview should not be interpreted or used as evidence.

*Recommendation 9: online interviews*

187. In some situations, online interviews have been used to hear a child, for instance due to long distance or other obstacles to having the child and the interviewer in the same location. In some situations, an interpreter may be connected online, for instance where a suitable professional is not

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<sup>148</sup> Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (2010), , IV.D.6.65. Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse (CETS No. 201, 2007), Article 35.2.

available in the place of the interview. Preliminary research indicates positive experience with online interviews, however, further research is recommended to expand the knowledge and evidence base on this practice.

#### *Recommendation 10: training of interviewers*

188. Forensic child interviewers should receive specific training, including initial and continued training, to develop and continuously update their knowledge and skills on child development, suggestibility and memory, as well as rapport building and supporting a child during the interview. Training should combine theory and practice and focus on a specific evidence-based interviewing protocol. It should be embedded into a longer-term training process ensuring on-the-job support and supervision in working with the interviewing protocol. Feedback on the practice should be provided immediately and individually and include a detailed assessment of the interviewer's style of communication and the phrasing of questions.

#### **Judges hearing the child directly in civil court proceedings: example of Germany**

189. In 2021, the Federal Parliament of Germany adopted an Act to combat sexual violence against children, which introduced changes to the civil procedural law concerning child protection cases and care proceedings. The Act establishes, among others, the principle that children must be heard in person, regardless of their age, and lays down qualification requirements for family judges and guardians *ad litem* for children involved in care proceedings.

190. The law reform introduced a provision requiring a personal hearing of the child in child protection and family law proceedings irrespective of the child's age.<sup>149</sup> The amended law requires the court to hear a child in person and gain a personal impression of the child. In parental separation proceedings, the court can only refrain from doing so in very limited and justified exceptional cases, for example, where a very young infant is clearly unable to express his or her preferences or wishes regarding the subject matter of the proceedings. However, this exception does not apply in child protection and care proceedings; the court must always gain a personal impression of the child.

191. To support the implementation of the law by family court judges, the National Council against Sexual Violence against Children and Adolescents developed a practical guide to support family courts in hearing children and applying child-friendly justice criteria in the proceedings.<sup>150</sup> The practical guide builds on the Council of Europe Committee of Ministers Guidelines on child-friendly justice and the UNCRC. It is targeted primarily at judges and provides recommendations for the child-friendly organisation of civil proceedings. It can be used also by other actors involved in the proceedings, such as child protection workers, guardians *ad litem* and lawyers, as well as court administrations.

192. The National Council identified a need for this guide as decisions in child protection and family law proceedings tend to have a significant impact on the lives of children and their parents, and children often experience family court proceedings as stressful. It is important, therefore, that children are recognised as independent individuals in the proceedings and that their views and

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<sup>149</sup> Germany, Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit (FamFG) [Act on Proceedings in Family Matters and in Matters of Non-Contentious Jurisdiction], Section 159.

<sup>150</sup> Nationaler Rat gegen sexuelle Gewalt an Kindern und Jugendlichen [National Council against Sexual Violence against Children and Adolescents], [Praxisleitfaden zur Anwendung kindgerechter Kriterien für das familiengerichtliche Verfahren](#), Empfehlung von kinderrechtsbasierten Standards in Kindschaftssachen [Practical guide to the application of child-friendly criteria for family court proceedings Recommendation of child rights-based standards in child custody matters], 2022.

concerns are heard. The guide recognises that children tend to appreciate being actively involved in proceedings concerning them.

193. The guidelines are non-binding; they provide orientation without interfering with the independence of the judiciary. They were developed through a consultative process involving judges, lawyers, child and youth welfare services, health care services, guardians *ad litem*, as well as the Council of Survivors of sexual violence advising the National Council, child protection organisations, counselling services, research institutes and court administrations.<sup>151</sup>

194. The guide is written in the first-person perspective to address judges directly as primary target group. It provides orientation on the following themes, complemented by legal references to national law and jurisprudence, as well as international and European standards:

- establishing the facts in civil proceedings while giving due consideration to the best interests of the child,
- hearing the child in the course of the proceedings (*see text excerpt in Box 6*),
- ensuring the child receives qualified support before, during and after the proceedings,
- providing child-friendly information on the rights of the child and the proceedings,
- preparing the child hearing,
- organising the hearing in a child-friendly way,
- ensuring proceedings are timely and communicate the decision on the merits,
- enabling an interdisciplinary approach during proceedings,
- considering the qualification and training of officials and professionals.

#### **Box 6: Guidance for family judges on hearing the child in proceedings<sup>152</sup>**

Many children are keen to have an influence on the proceedings. I consistently uphold the child's right to be heard. I take the child's views into account at every stage of the proceedings.

I take account of the procedural capacity of children aged 14 and older in proceedings that concern them and in which they assert a right to which they are entitled under civil law (Section 9 (1) No. 3 FamFG), including their procedural rights and opportunities to act, including any right to inspect files (Section 13 FamFG).

I proactively explain to the child that his or her views are important to me, but that he or she is not obliged to express his or her views. I point out that the child can speak out and disclose any infringements against his or her rights, and that the child can approach me or other professionals to speak about their needs and concerns.

I listen to the child personally and obtain a personal impression of the child (§ 159 FamFG).

<sup>151</sup> Nationaler Rat gegen sexuelle Gewalt an Kindern und Jugendlichen [National Council against Sexual Violence against Children and Adolescents], [Praxisleitfaden zur Anwendung kindgerechter Kriterien für das familiengerichtliche Verfahren](#), Empfehlung von kinderrechtsbasierten Standards in Kindschaftssachen [Practical guide to the application of child-friendly criteria for family court proceedings Recommendation of child rights-based standards in child custody matters], 2022, pp. v-vi.

<sup>152</sup> Translated text extract from: Nationaler Rat gegen sexuelle Gewalt an Kindern und Jugendlichen [National Council against Sexual Violence against Children and Adolescents], [Praxisleitfaden zur Anwendung kindgerechter Kriterien für das familiengerichtliche Verfahren](#), Empfehlung von kinderrechtsbasierten Standards in Kindschaftssachen [Practical guide to the application of child-friendly criteria for family court proceedings Recommendation of child rights-based standards in child custody matters], 2022, pp. 8-9.



I also consider hearing the child when reaching an amicable settlement.

Before hearing a child repeatedly, I check whether it is necessary and consider the advantages (e.g. building trust) and disadvantages (e.g. burdens) of a repeated hearing.

If, by way of exception, i.e. to the extent permitted by law (Section 159 (2) FamFG), I refrain from a hearing or do not obtain a personal impression, I will give reasons for this in the decision (Section 159 (3) FamFG). Insofar as there is no reason to fear any disadvantages for the development, upbringing or health of the child, I will inform the child of my decision and reasons, if necessary through the guardian *ad litem*, and give the child the opportunity to comment.

When deciding whether to hear the child, I will consult with the guardian *ad litem* or the youth welfare officer, if necessary. I document the findings resulting from the consultation in the files.

The personal interview and gaining a personal impression of the child are particularly important for children with disabilities. I inform myself in advance about their specific symptoms, characteristics and functional impairments and take their special needs into account (Article 23 UNCRC). Depending on their needs, I consider the accessibility of the location, any assisted communication and easy language or a sign language interpreter. I make the hearing understandable, perceptible and comprehensible for the child. If there are language barriers, I call in a professional interpreter.

**Source:** National Council against Sexual Violence against Children and Adolescents, *Practical guide to the application of child-friendly criteria for family court proceedings, Recommendation of child rights-based standards in child custody matters*, 2022.

## Signs of Safety: a method for building partnership with children and parents in child protection cases

195. Signs of Safety is a relationship-grounded approach to child protection casework developed in Australia in the 1990s, which gradually spread through Europe and other parts of the world. The method guides caseworkers in building a partnership with children and parents when addressing cases of violence against children, or alleged violence. It aims to involve children in the case assessment and planning and strengthen families by analysing risk factors, as well as sources of protection, resilience and safety for the child and family. The method is used with continuity from the initiation of a case through to its conclusion. Several Council of Europe member states use the Signs of Safety method, such as Belgium, Ireland and the UK.<sup>153</sup> In Ireland, the Child and Family Agency Tusla has adopted “Signs of Safety” as a national practice model.<sup>154</sup>

196. The Signs of Safety approach consists of several adaptations made to fit different purposes, which all are registered trademarks. They include the following:

- Signs of Safety is a risk assessment framework that aims to ensure children and families are at the centre of the decision-making and safety planning in child protection cases.
- Signs of Belonging encourages the participation of children in alternative care, as well as their parents, family members and networks to support the process of family reunification or

<sup>153</sup> Signs of Safety, [What is Signs of Safety?](#)

<sup>154</sup> Wenke, D., [Legal instrument on the protection of the best interests of the child in domestic law proceedings by public authorities to limit parental responsibilities or place a child in care](#), Feasibility study, Council of Europe, 2021.

placement in kinship care, or to support the child in staying connected with his or her family and culture where family reunification is not in the best interests of the child.

197. The method has been reviewed and updated repeatedly since its creation. A key driver for its development, the Signs of Safety Gatherings bring together practitioners and leaders in national or local child protection services from all the countries around the world where the method is used and gives them an opportunity for exchanging experience.

198. The Signs of Safety method is owned and promoted by Elia, an international, not-for-profit organisation set up in 2019, which organises training on the method. Licensed trainers and consultants assist child protection agencies, service providers and individual professionals in learning and using the approach and its specific methods in their countries.<sup>155</sup> A digital platform offers access to publications and materials for individual professionals, which are available for free or for purchase, as well as an online library for organisations.<sup>156</sup>

199. The method includes a set of tools to facilitate the participation of children and to ensure the child's view is central to the casework, including assessments and decisions, and the measures taken by social services. The social worker must ensure that the child understands the reason for the social worker's involvement with the family and that the child has the opportunity to meet with his or her social worker and to express his or her views. The social workers are responsible for enabling the child to express the own views and need to support the child in doing so, taking into account the child's age and evolving capacities and any challenges the child may have in communicating and expressing views.

### National strategies and toolkit for child and youth participation: example of Ireland

200. In 2015, Ireland launched a cross-Government National Strategy on children and young people's participation in decision-making (2015-2020), a unique government commitment to the participation of children.<sup>157</sup> Ireland was also one of the pilot countries that applied the Council of Europe Child Participation Assessment Tool in 2016-2017 and provided feedback for its finalisation revision and finalisation (see Box 7).<sup>158</sup>

#### **Box 7: Council of Europe resources on child participation: facilitating the implementation of the child's right to be heard**

201. The Committee of Ministers Recommendation CM/Rec(2012)2 on the participation of children and young people under the age of 18 sets out principles and recommendations to promote the right of the child to participate in all settings, including in communities, in the family and in schools, as well as at the national and European levels. It guides member states in implementing the Recommendation, for instance by creating spaces for child participation and ensuring children are informed about their right to participate and how to exercise it.<sup>159</sup>

<sup>155</sup> Elia, The home of Signs of Safety, [About the licensing program](#).

<sup>156</sup> [Signs of Safety Store](#), [Signs of Safety Knowledge Bank](#).

<sup>157</sup> Tusla, [Child and youth participation toolkit](#), 2016.

<sup>158</sup> Council of Europe Children's Rights, [Child Participation Assessment Tool](#).

<sup>159</sup> Council of Europe, Committee of Ministers Recommendation [CM/Rec\(2012\)2](#) on the participation of children and young people under the age of 18, 28 March 2012. Council of Europe Youth, [Recommendation on the participation of children and young people under the age of 18](#), Adopted on 28 March 2012.

202. To strengthen the right of the child to be heard and to participate, the Council of Europe Children's Rights Division developed a number of resources on child participation. The Council of Europe Child Participation Assessment Tool supports the implementation of the Recommendation CM/Rec(2012)2 by member states. The tool sets out ten indicators that states can use to prepare a baseline assessment of the status of implementation of the Recommendation, to identify measures suitable to advance in the implementation and to measure progress. The assessment tool has a cross-sectorial scope and can be used by all government ministries and institutions, by local authorities, by service providers and the judiciary, as well as the academia, civil society and organisations. The assessment tool was piloted in Estonia, Ireland and Romania and revised based on the experiences during the pilot phase. It is complemented by an implementation guide, which provides a roadmap and methodological guidance for the assessment process.<sup>160</sup>

203. In 2021, the Council of Europe Children's Rights Division launched the Council of Europe Handbook on children's participation "Listen – Act – Change".<sup>161</sup> The handbook is targeted at professionals working with and for children and provides guidance on supporting the participation of individual children, as well as the collective participation of groups of children. It complements the assessment tool and implementation guide for the Recommendation CM/Rec(2012)2.

204. The Irish Child and Family Agency Tusla developed a general children and youth participation training for its staff and a Child and Youth Participation Toolkit to support the child protection work. The Child and Youth Participation Toolkit is targeted at Tusla staff and aims to facilitate participatory practice in child protection work and within the organisation of Tusla. Overall, this approach aims to enable children to access support services that are tailored to their individual needs and situations and to prevent thereby the need for statutory interventions by child protection services.<sup>162</sup> The Toolkit was developed in a process of research, surveys and consultations involving Tusla staff and managers, key stakeholders, community voluntary groups, as well as children and young people.<sup>163</sup>

205. In addition to the toolkit, Tusla developed a participation strategy for children and young people to establish child participation as a cross-cutting theme at all levels and in services of the agency. The toolkit and strategy were developed within the broader Prevention, Partnership and Family Support Programme (PPFS). It requires the Child and Family Agency Tusla to bring about "a culture change at all levels to fulfil its legal obligations in relation to children's rights. It requires a commitment from individual practitioners to upskilling, personal development, reflective practice, openness to learning and growth, and dialogue with colleagues and clients. It requires commitment and leadership at management level including allocation and use of resources to create a truly participatory organisation that is well led, safe and effective. Ultimately, it requires a sharing of power and responsibility between adults and between adults, children and young people."<sup>164</sup>

206. The toolkit and the National Strategy on Children and Young People's Participation in Decision-making (2015-2020) are based on the Lundy model of child participation, which provides guidance for decision-makers on how to operationalise the right of the child to be heard (UNCRC

<sup>160</sup> Council of Europe Children's Rights, [Child Participation Assessment Tool](#).

<sup>161</sup> Council of Europe, ["Listen – Act – Change"](#), *Council of Europe Handbook on children's participation*, prepared by Anne Crowley, Cath Larkins and Luis Manuel Pinto, 2020.

<sup>162</sup> Tusla, [Child and youth participation toolkit](#), 2016, Forword.

<sup>163</sup> Tusla, [Child and youth participation toolkit](#), 2016.

<sup>164</sup> Tusla, [Child and youth participation toolkit](#), 2016, p. 6.

Article 12) in concrete decision-making processes (see Figure 5).<sup>165</sup> It also builds on the Signs of Safety method (see above).

Figure 5: The Lundy Model Checklist<sup>166</sup>

The Lundy Model Checklist	
<p><b>SPACE</b></p> <p><b>HOW:</b> Provide a safe and inclusive space for children to express their views.</p> <ul style="list-style-type: none"> <li>• Have children's views been actively sought?</li> <li>• Was there a safe space in which children can express themselves freely?</li> <li>• Have steps been taken to ensure that all children can take part?</li> </ul>	<p><b>VOICE</b></p> <p><b>HOW:</b> Provide appropriate information and facilitate the expression of children's views.</p> <ul style="list-style-type: none"> <li>• Have children been given the information they need to form a view?</li> <li>• Do children know that they do not have to take part?</li> <li>• Have children been given a range of options as to how they might choose to express themselves?</li> </ul>
<p><b>AUDIENCE</b></p> <p><b>HOW:</b> Ensure that children's views are communicated to someone with the responsibility to listen.</p> <ul style="list-style-type: none"> <li>• Is there a process for communicating children's views?</li> <li>• Do children know who their views are being communicated to?</li> <li>• Does that person/body have the power to make decisions?</li> </ul>	<p><b>INFLUENCE</b></p> <p><b>HOW:</b> Ensure that children's views are taken seriously and acted upon, where appropriate.</p> <ul style="list-style-type: none"> <li>• Were the children's views considered by those with the power to effect change?</li> <li>• Are there procedures in place that ensure that the children's views have been taken seriously?</li> <li>• Have the children and young people been provided with feedback explaining the reasons for decisions taken?</li> </ul>
<p><b>Source: National Strategy on Children and Young People's Participation in Decision-Making, 2015–2020.</b></p>	

207. The toolkit is structured in four main sections aimed at

- creating spaces where children can participate freely and safely;
- giving children an opportunity to express their views and facilitating their voices to be heard, including by providing child-friendly information and a choice of options as to how they might express themselves;
- providing a receptive audience that is prepared to listen to the child or children and informing them to whom their views are communicated; and
- ensuring that children's views have an influence and children receive feedback on how their views have been taken into account and given weight.

208. The toolkit on child and youth participation is complemented by child-friendly information material and specific tools that caseworkers can use to communicate with children on the services they provide. As an example, there is a storybook for 3-7-year-old children who are placed in

<sup>165</sup> Tusla, [Child and youth participation toolkit](#), 2016, p. 8.

<sup>166</sup> Citation from: Tusla Child and Family Agency, *Child and Youth Participation Toolkit Specifically for Statutory Educational Welfare Services*, p. 2. Department of Children and Youth Affairs, [National Strategy on Children and Young People's Participation in Decision-making](#), 2015-2020, Dublin: Government Publications, p. 22.

alternative care; a guide for children placed in foster care targeted at two age groups, 8-12 and 13-18; and a guide on going into residential care for children aged 13-18 years.

209. The 'Me and my care plan review form' combines child-friendly information and a form to facilitate the child's active participation in the periodic care plan review.<sup>167</sup> Children who are placed in alternative care receive each their own copy of this form and can fill it in by themselves or with the help of a person of their choice. The form supports the communication between the child and the social worker. It helps the child to provide structured information and views on his or her situation in care, and helps the social worker to take the child's views into account. The child can fill in basic information on food preferences, hobbies, and needs of help regarding culture or religion, as well as the child's views on his or her own family home and keeping contact, about friends and education. The form asks the child to fill in his or her views regarding the own health, about feeling safe and any concerns, as well as perspectives on the future. The form includes a section regarding the child's social worker to ascertain the child knows his or her social worker and how to contact him or her. One section focuses on the child's care plan review meeting, and the child can express his or her preferences regarding the participation in the meeting, what to say and what support the child needs. Once completed, the child hands over the form to the social worker and can also share views on how the social worker should handle the child's responses and if the social worker may share them with the other participants in the review meeting. The child can also express preferences as to how he or she wishes to be informed about the decisions made at the review meeting.

210. Tusla prepared also a toolkit for parental participation in the services provided by the agency. The toolkit offers guidance on how social workers can support parents in participating actively and positively in the care and education of their children as long as the proceedings are ongoing.<sup>168</sup>

### **Key considerations for promoting the right of the child to be heard in civil proceedings**

211. Based on the experience of member states, the following key considerations are proposed for securing the right of the child to be heard and promoting the participation of children concerned by civil proceedings:

#### **➤ Update research on the status and quality of child participation in civil proceedings**

212. A national research initiative would be helpful to assess the status and quality of children's participation in civil proceedings periodically to understand developments in this field. The research initiative should plan for periodic studies that analyse the law and policy framework and its implementation in practice. It should build on legal analysis, analysis available from literature as well as surveys and consultations involving officials and professionals, children and parents.

213. The Council of Europe child participation assessment tool is available to guide a national assessment on the status and quality of child participation in civil proceedings and service provision.

<sup>167</sup> Tusla, [Me and my care plan review form](#), undated.

<sup>168</sup> Tusla, [Toolkit for parental participation](#), National guidance and local implementation, 2015.



➤ ***Developing a compendium of methods and tools for consulting and hearing children***

214. A national mapping will help to identify available methods and tools for consulting with children and hearing children in the context of service provision and legal proceedings, as well as identifying relevant expertise in state agencies, service providers, the academia, child and youth organisations, among others. A needs analysis should identify the need for tools or toolkits, guidelines and evidence-based interviewing protocols, as well as training. The mapping will be useful to inform the development of a national toolkit to enhance children's participation in service provision, as well as administrative and judicial proceedings.

215. Where relevant, methods and tools available internationally should be reviewed and adapted to the national legal and policy framework and to the social and cultural contexts of children and families concerned by civil proceedings.

➤ ***Develop guidance on hearing children in civil proceedings***

216. The development of guidance on hearing children in civil proceedings should be considered based on the principles and rules of evidence-based protocols for forensic child interviews. Officials and professionals should receive systematic training on hearing children in the context of civil proceedings, based on these guidelines.

➤ ***Develop training on hearing children in civil proceedings***

217. Officials and professionals working with and for children in the context of civil proceedings and service provision should receive training on child-sensitive and age-appropriate communication. Specialised training should be available for officials and professionals who are working directly with children and those who conduct child hearings or interviews in the context of civil proceedings. Professional training and qualification standards should be defined to ensure an appropriate degree of specialisation.

### **3) Guidance and tools for specific assessments**

218. The best interests assessment is a consolidated case assessment process aimed at gathering and ascertaining information about the child and family. It lays the foundation for decisions and measures in the case. The best interests assessment is necessarily a multidisciplinary assessment which requires the concerted collaboration of different state agencies, service providers and specialists. The Committee on the Rights of the Child underlines that a best interests determination procedure builds on assessments conducted by a multi-disciplinary team of well-trained professionals with appropriate judicial involvement.<sup>169</sup>

219. The best interests assessment includes, as minimum, the following specific assessments to obtain a comprehensive understanding of the child's needs in the context of his or her family situation and social environment:

- interview or hearing of the child;
- assessment of the child's situation, background and needs;

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<sup>169</sup> Committee on the Rights of the Child, General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art.3, para. 1), [CRC/C/GC/14](#), 2013, par. 64.

- social inquiry and family assessment, including parental capability assessment;
- risk assessment;
- mapping sources of support, skills and resources for empowerment, and
- gathering of evidence, where appropriate, for instance through forensic medical examinations and a forensic child interview;
- continued assessments and monitoring during follow-up services to enable an adjustment of service provision in accordance with the evolving situation of the child and family.

220. This case study presents examples of specific assessment tools and methods in use in member states:

- Guidelines for court-appointed experts: Council of Europe guidelines and examples of member states
- Multi-agency risk assessment of children (Finland);
- Screening tools to assess the risks for parents and children participating in alternative dispute resolution
- Trauma symptom checklist for children and young children.

221. The examples are indicative of a broader compendium of tools for competent authorities, service providers and experts. They are evidence-based and sensitive to the rights and needs of children at different ages. Where possible, assessment methods should use a multidisciplinary and interagency approach.

### **Guidelines for court-appointed experts: Council of Europe guidelines and examples of member states**

222. In 2014, the European Commission for the Efficiency of Justice (CEPEJ) adopted Guidelines on the role of court-appointed experts in judicial proceedings in Council of Europe member states.<sup>170</sup> The guidance document aims to “provide a reference framework for the legislator, the judge and all parties to a lawsuit as regards the role of a technical expert (...), in cases where the expert is instructed by the court, during the judicial decision process. (...) It is meant to communicate the basic principles concerning the role of the experts in the judicial systems of Council of Europe member states. Furthermore, it identifies principles which clarify the legal interpretation and application of the law concerning the work of those experts during judicial proceedings. Those principles apply to all pre-judicial and judicial proceedings in all areas of law; not only in civil, but also in criminal and administrative, lawsuits.”<sup>171</sup> (see *Box 10*)

223. The guidelines define a court-appointed expert as a technical expert who places at the disposal of courts their scientific and technical knowledge on matters of fact. An expert has to be independent and impartial, act with integrity and meet extremely high standards of expertise.<sup>172</sup> Experts support the judicial decision-making process by helping in the fact-finding as an essential basis for the judicial decisions. An expert may conduct their own fact-finding, as instructed by the judge, or support the judicial decision-maker in the fact-finding process by complementing his or her knowledge. Experts

<sup>170</sup> European Commission for the Efficiency of Justice (CEPEJ), Guidelines on the role of court-appointed experts in judicial proceedings in Council of Europe member states, CEPEJ(2014)14, December 2014.

<sup>171</sup> European Commission for the Efficiency of Justice (CEPEJ), Guidelines on the role of court-appointed experts in judicial proceedings in Council of Europe member states, CEPEJ(2014)14, December 2014, para. 1.

<sup>172</sup> European Commission for the Efficiency of Justice (CEPEJ), Guidelines on the role of court-appointed experts in judicial proceedings in Council of Europe member states, CEPEJ(2014)14, December 2014, para. 1, 6, 10.



can be appointed by the court or by the parties. The appraisal of the facts established by an expert is the only responsibility of the judge or other judicial decision-maker.<sup>173</sup>

224. The guidelines underline the need for rules to ensure a correct fact-finding process and the compliance of experts with the required high standards. Rules should be developed, substantiated and applied to ensure the instruction of the experts by the court or the parties, and to guarantee that experts work in accordance with constitutional principles. Rules regulating the work of experts help to support the focused conduct of the judicial process to ensure a decision can be reached in a timely manner and to regulate the financial dimension of the involvement of experts.<sup>174</sup>

***Box 8: CEPEJ Guidelines on the role of court-appointed experts in judicial proceedings: standards and principles<sup>175</sup>***

225. The guidelines address the following thematic areas:

1. The subject-matter of the expert opinion: tasks of the expert
2. The person acting as expert: natural person or body of persons; staff and employees acting as experts; coordination of several experts in the same case
3. Selection of the expert:
  - selection criteria
  - selection procedure
  - duty of the parties to hear the expert and right to decline him or her
  - instruction of the expert by judicial appointment
  - legal remedies against the appointment for the parties
  - the court's means of control after the appointment and during the selection procedure
4. Requirements for the preparation of the expert opinion (assessment) and its form:
  - appraisal order
  - addressee of the expert opinion
  - fact-finding by experts themselves
  - preparation by local on-site inspection or examination
  - obtaining additional and supplementary reports or assessments
  - requirements concerning the content of the expert opinion
  - verbal or written expert opinion / form of the opinion
  - interim and final report
  - production of the expert opinion within a reasonable time
  - instructions of the court and of the parties

<sup>173</sup> European Commission for the Efficiency of Justice (CEPEJ), Guidelines on the role of court-appointed experts in judicial proceedings in Council of Europe member states, CEPEJ(2014)14, December 2014, para. 2-5.

<sup>174</sup> European Commission for the Efficiency of Justice (CEPEJ), Guidelines on the role of court-appointed experts in judicial proceedings in Council of Europe member states, CEPEJ(2014)14, December 2014, para. 7, 11.

<sup>175</sup> European Commission for the Efficiency of Justice (CEPEJ), Guidelines on the role of court-appointed experts in judicial proceedings in Council of Europe member states, CEPEJ(2014)14, December 2014.

## 5. The expert's duties

- personal duties: assessment in person, independence and impartiality, confidentiality, administration of oath, regular update of knowledge
- procedural duties: render an expert opinion per se, correct procedure, prepare an opinion in reasonable time, foreseeable costs of the expert opinion, duty to appear in court, communication and documentation, duty to take out insurance

## 6. The expert's duties

- personal rights: no right of appointment, right to refuse appointment if biased or unqualified, right to payment in advance, accounting
- procedural rights: possible sanctions for breach of personal or procedural duty, as well as in cases of incorrect or unqualified assessment and an assessment not completed in time

## 7. Possibilities for follow-up to the expertise and sanctions in cases of breach of duty imposed by the court or the parties

## 8. Effects of the expert opinion in the lawsuit or trial

226. In some member states, the quality of expert opinions in civil proceedings under family and child protection law has been an issue of public and academic debate. In Germany, for instance, one of the main challenges that were identified concerned the court order defining the objectives of expert opinions. In many cases, judges delegated part of the judicial questions and decision-making to an expert without judicial qualifications. This practice is not in compliance with the constitution and principles of rule and law and fair trial, which require that the judge makes his or her own judgement in all matters that he or she can judge on the basis of the own competence. To redress these risks, a set of minimum standards for court-appointed experts has been established.<sup>176</sup>

227. A working group was set up to develop minimum standards targeted at experts who prepare opinions in parental separation and care proceedings, as well as the judiciary and lawyers. They aim to give orientation for the preparation of opinions and help judges, lawyers, guardians *ad litem*, child protection professionals, as well as the children and parents concerned by proceedings to understand the process for preparing an opinion and render it more transparent. The minimum standards set up a requirement of an evidence-based and scientific basis for the work of court-appointed experts. They encourage the collaboration of all professionals, officials and private persons involved, as well as training on the minimum standards to promote their dissemination and use.<sup>177</sup>

228. The minimum standards were developed by a multidisciplinary and interagency working group with the participation of professional associations in the legal, psychological and medical fields, the

<sup>176</sup> Bergmann, M., [Zur Qualität familiengerichtlicher Gutachten: Die Pflicht des Sachverständigen zur Überprüfung des richterlichen Beweisbeschlusses im familiengerichtlichen Verfahren](#) [On the quality of family court expert opinions: the expert's duty to review the court's decision on evidence in family court proceedings], 2018, p. 321.

<sup>177</sup> Federal Republic of Germany, Ministry of Justice, [Mindestanforderungen an die Qualität von Sachverständigengutachten im Kindschaftsrecht](#) [Minimum requirements for the quality of experts reports in child custody law], 2nd edition, 2019, pp. 1-3.

Federal Chamber of Lawyers and the Federal Chamber of Psychotherapists, with technical support from the Federal Ministry of Justice and Consumer Protection and the Federal Court of Justice, as well as state ministries of justice.

229. The minimum standards explain the substantial and procedural law regulating expert opinions in family law proceedings, as well as principles emerging from case law. National law regulates the qualifications and appointment of experts, as well as the circumstances under which experts can refuse the mandate. The parties to the proceedings can be heard on the appointed expert.

#### *The role of the court-appointed expert*

230. To be admitted as evidence in court proceedings, a court-ordered expert opinion must be aimed at assessing facts, which lie within the professional qualifications of the experts. As an example, a judge may request a psychological assessment of a parent's capacity to care for and meet the needs of the child; a socio-pedagogical or psychological assessment of the resources and resilience of a family; a medical or psychiatric diagnosis. A judge must not ask a psychological or medical expert to express an opinion on legal or judicial questions.<sup>178</sup>

231. The expert opinion must be limited to assessing facts, which are undisputed. The expert must not be asked to assess the validity or veracity of statements or disputed facts, as this remains entirely within the court's competence. For example, when a parent alleges in parental separation proceedings that a child cries and screams always when the other parent comes to pick up the child, but this is disputed by the other parent, the expert must not take position on the veracity of the statement, even if a third person affirms it. Rather, the expert would be asked to assess the psychological meaning of a child crying always when being handed over from one parent to the other or of the incompatible statements of parents. If the expert identifies inconclusive matters, he or she should request the court to clarify them. The expert opinion should not contain any generalised statements based on the expert's professional experience, and the expert must refrain from making recommendations regarding decisions that fall within the competence of the court.<sup>179</sup>

#### *A clear and binding mandate*

232. When the judge identifies a need for an expert opinion, the decision to appoint an expert should set out the mandate and define the content as well as its limits. The mandate is binding upon the court-appointed expert and any deviation would give grounds to not admitting the expert opinion as evidence, even if the expert justifies it on the grounds of the best interests of the child. The appointed expert is responsible, however, for ascertaining that the mandate falls indeed within his or her area of expertise and for reviewing the mandate from his or her professional point of view for errors and inconsistencies. Where necessary, the expert must ask the court to clarify or specify the mandate. Should a mandate request an expert to assess the validity or veracity of specific evidence or to make a legal or judicial assessment, the expert must ask the court to review the mandate. Where a mandate exceeds the professional expertise of the expert, the expert must refuse it. Where some aspects of the mandate fall into the expertise of a different professional, for instance where a psychologist is appointed to prepare an opinion that requires psychological and psychiatric

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<sup>178</sup> Bergmann, M., [Zur Qualität familiengerichtlicher Gutachten: Die Pflicht des Sachverständigen zur Überprüfung des richterlichen Beweisbeschlusses im familiengerichtlichen Verfahren](#) [On the quality of family court expert opinions: the expert's duty to review the court's decision on evidence in family court proceedings], 2018, pp. 321-322.

<sup>179</sup> Bergmann, M., [Zur Qualität familiengerichtlicher Gutachten: Die Pflicht des Sachverständigen zur Überprüfung des richterlichen Beweisbeschlusses im familiengerichtlichen Verfahren](#) [On the quality of family court expert opinions: the expert's duty to review the court's decision on evidence in family court proceedings], 2018, p. 322.

assessments, the appointed psychologist must request the court to review and rectify the mandate and appoint a second expert to address those matters that lie beyond his or her professional expertise.<sup>180</sup>

233. The expert is responsible solely to respond to the questions formulated in the court order and must not exceed what is specified in the mandate. For example, a court-appointed expert is not authorised to provide advice or counselling to any party or participant in the proceedings or to refer the case to child protection services and request specific services. Where an expert identifies any risks to a child, he or she must inform the court. In urgent cases or emergencies, if the court cannot be contacted, the expert would have to report the case to the competent child protection or law enforcement authorities, however, in such situations the court should consider appointing another expert to write the opinion.<sup>181</sup>

234. In defining the mandate, the court is tasked to not pose questions to the expert that use legal wording as this would invariably require the expert to take a position on legal matters, which is *per se* inadmissible. For example, if the mandate poses the question ‘Which arrangement for parental responsibility – or which contact arrangement – is most conducive to the best interests of the child?’, the expert would be asked to assess the type of arrangements that are possible in the legal framework. This assessment must remain within the competence of the court and cannot be delegated to a non-judicial professional. The expert must not be asked to make a statement on which scenario is more appropriate to give primary consideration to the best interests of the child, as the balancing process required to give due consideration to the best interests of the child is part of the judicial decision-making and requires expertise on the legal framework and consideration for the rights and interests of the (other) parties and the circumstances of the case.<sup>182</sup>

#### *Use of objective and evidence-based methods*

235. The process of assigning weight to the facts and evidence in the case is always the responsibility of the court as competent authority. A court-appointed expert must use objective and scientific methods for the assessment requested by the court. An expert must reject a mandate that requests a subjective balancing and clear recommendations in a case. In some cases, however, experts may be able to pronounce a recommendation that is based on a clear and indisputable fact, for instance when psychiatric treatment is recommended due to a clearly determined risk of suicide. If such a clear statement is not possible, the expert should present the range of possible solutions and their implications, which can be identified based on a scientific assessment.<sup>183</sup>

#### *Qualifications and appointment of experts*

236. By law, court-appointed experts should have a professional qualification in psychology, psychotherapy, (child) psychiatry, medicine, education or social pedagogy. Professionals with a

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<sup>180</sup> Bergmann, M., [Zur Qualität familiengerichtlicher Gutachten: Die Pflicht des Sachverständigen zur Überprüfung des richterlichen Beweisbeschlusses im familiengerichtlichen Verfahren](#) [On the quality of family court expert opinions: the expert's duty to review the court's decision on evidence in family court proceedings], 2018, pp. 323-326.

<sup>181</sup> Bergmann, M., [Zur Qualität familiengerichtlicher Gutachten: Die Pflicht des Sachverständigen zur Überprüfung des richterlichen Beweisbeschlusses im familiengerichtlichen Verfahren](#) [On the quality of family court expert opinions: the expert's duty to review the court's decision on evidence in family court proceedings], 2018, pp. 323-326.

<sup>182</sup> Bergmann, M., [Zur Qualität familiengerichtlicher Gutachten: Die Pflicht des Sachverständigen zur Überprüfung des richterlichen Beweisbeschlusses im familiengerichtlichen Verfahren](#) [On the quality of family court expert opinions: the expert's duty to review the court's decision on evidence in family court proceedings], 2018, pp. 323-326.

<sup>183</sup> Bergmann, M., [Zur Qualität familiengerichtlicher Gutachten: Die Pflicht des Sachverständigen zur Überprüfung des richterlichen Beweisbeschlusses im familiengerichtlichen Verfahren](#) [On the quality of family court expert opinions: the expert's duty to review the court's decision on evidence in family court proceedings], 2018, p. 327.

pedagogical or socio-educational qualification can be eligible if they can demonstrate sufficient diagnostic and analytical knowledge. The minimum standards enlist these qualifications in detail. In addition, knowledge of the applicable substantial and procedural law, as well as clinical and forensic knowledge and practical experience are required. The initial practical experience should be gained under the supervision of an experienced colleague.<sup>184</sup>

237. Experts must be impartial. Where impartiality is not guaranteed, the parties to the proceedings are entitled to refuse a court-appointed expert under the same conditions as they may refuse a specific judge. The expert must check without delay if there are any reasons that could put his or her impartiality in question in the case. The expert must not have any therapeutic, private or professional relation to the parties or a member of their family. Any omission or misconduct of the expert can lead to a loss of his or her entitlement to remuneration.<sup>185</sup>

238. The court is overseeing the work of the expert, by defining the mandate, instructing the expert, setting a time-frame and providing feedback on the expert's opinion. The legal mandate for the expert opinion must be defined with diligence. The court must specify clearly what knowledge it expects to gain from the expert opinion.<sup>186</sup>

#### *Quality of expert opinions*

239. The quality of an expert opinion is determined by two dimensions: the quality of the expert's actions and conclusions, and the quality of the written report. The fundamental principles of quality are comprehensibility, transparency and the use of scientific methods. As long as this basis is respected, the court can request the expert to correct any shortcomings in the other dimensions of quality that may be identified.<sup>187</sup>

#### *Process for preparing an expert opinion*

240. The minimum standards define the process for the preparation of an expert opinion step by step. In accepting a mandate, the expert must ascertain that it falls within the own field of expertise, neutrality and availability within the given timeframe. The expert will then proceed with an analysis of the case files and formulate the clinical or psychological questions, based on the mandate. In a third step, the expert establishes contact with the relevant persons and informs them about the assessments. The formulation of assessment questions, as well as the contacts, may need to be adjusted in light of the findings. The expert may conduct home-visits and request access to information and diagnosis prepared by other professionals.<sup>188</sup>

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<sup>184</sup> Federal Republic of Germany, Ministry of Justice, [Mindestanforderungen an die Qualität von Sachverständigengutachten im Kindschaftsrecht](#) [Minimum requirements for the quality of experts reports in child custody law], 2nd edition, 2019, pp. 4-6. Federal Republic of Germany, Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit (FamFG), §163 Sachverständigengutachten [Act on Proceedings in Family Matters and in Matters of Non-Contentious Jurisdiction (FamFG) § Section 163 Expert reports].

<sup>185</sup> Federal Republic of Germany, Ministry of Justice, [Mindestanforderungen an die Qualität von Sachverständigengutachten im Kindschaftsrecht](#) [Minimum requirements for the quality of experts reports in child custody law], 2nd edition, 2019, pp. 4-6.

<sup>186</sup> Federal Republic of Germany, Ministry of Justice, [Mindestanforderungen an die Qualität von Sachverständigengutachten im Kindschaftsrecht](#) [Minimum requirements for the quality of experts reports in child custody law], 2nd edition, 2019, pp. 4-6.

<sup>187</sup> Federal Republic of Germany, Ministry of Justice, [Mindestanforderungen an die Qualität von Sachverständigengutachten im Kindschaftsrecht](#) [Minimum requirements for the quality of experts reports in child custody law], 2nd edition, 2019, p. 11.

<sup>188</sup> Federal Republic of Germany, Ministry of Justice, [Mindestanforderungen an die Qualität von Sachverständigengutachten im Kindschaftsrecht](#) [Minimum requirements for the quality of experts reports in child custody law], 2nd edition, 2019, p. 11.



241. The procedure used for preparing the expert opinion must be comprehensible and transparent. The opinion must present the connecting facts (especially facts established in the case files), the specific questions which were assessed, the assessment methods, sources of information, the findings of the assessments and the expert's conclusions. The expert must clearly distinguish between the presentation and evaluation of information.<sup>189</sup>

242. In parental separation and care proceedings, an expert will assess, as a minimum, the child and one or both parents. Depending on the family situation and the circumstances of the case, other persons may be involved as well, such as grandparents, stepparents and other relatives, foster parents, the child protection worker, guardian ad litem and other professionals. The participation of persons in the expert's assessments must be voluntary and the expert must inform them prior to their participation that the information they share will be used for the opinion and shared with the court.<sup>190</sup>

243. The minimum standards enlist the typical questions that an expert opinion shall address. They are based on national law and the concept of the best interests of the child. Some questions may require the collaborative assessment by more than one expert, for instance a psychological and psychiatric assessment. Where this is the case, the expert must inform the court about the need for additional expert opinions. The participants in the assessment shall be encouraged to participate on a voluntary basis.<sup>191</sup>

#### *Experts mandated to support parents in reaching an agreement*

244. When the court requests an expert opinion, it can amend the mandate by authorising the expert to support parents in resolving their dispute and reaching an amicable agreement. The court-appointed expert can suggest this possibility to the court. Where this option is pursued, the mandate of the expert includes a mediation role, a peculiarity that is possible only in family law proceedings. The objective and procedure of any mediation must be discussed and agreed with the participants. The aim is to support the parents or other caregivers in cooperating in their caregiving role and to focus on the needs and the best interests of the child. To be eligible for this amended mandate, experts must have special training in methods of dialogue, mediation or family diagnostics.<sup>192</sup>

245. When an expert attempts to engage the parents in mediation or other alternative dispute resolution processes, the expert may inform the parents about the diagnostic results that are relevant for resolving a dispute and reaching agreement. The expert may lead a discussion with the parents with the aim of strengthening their parental responsibility despite any conflicts between the parents or within the family. The overall aim is to develop proposals for the court to consider and implement them, if approved by the court. The court can decide to approve a trial phase in which the parents

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<sup>189</sup> Federal Republic of Germany, Ministry of Justice, [Mindestanforderungen an die Qualität von Sachverständigengutachten im Kindschaftsrecht](#) [Minimum requirements for the quality of experts reports in child custody law], 2nd edition, 2019, p. 7.

<sup>190</sup> Federal Republic of Germany, Ministry of Justice, [Mindestanforderungen an die Qualität von Sachverständigengutachten im Kindschaftsrecht](#) [Minimum requirements for the quality of experts reports in child custody law], 2nd edition, 2019, p. 7.

<sup>191</sup> Federal Republic of Germany, Ministry of Justice, [Mindestanforderungen an die Qualität von Sachverständigengutachten im Kindschaftsrecht](#) [Minimum requirements for the quality of experts reports in child custody law], 2nd edition, 2019, pp. 7-9.

<sup>192</sup> Federal Republic of Germany, Ministry of Justice, [Mindestanforderungen an die Qualität von Sachverständigengutachten im Kindschaftsrecht](#) [Minimum requirements for the quality of experts reports in child custody law], 2nd edition, 2019, pp. 9, 20-22.

implement the proposals they elaborated in the mediation. If the parents do not reach an agreement, the proceedings proceed as planned.<sup>193</sup>

### *Guide for judges*

The minimum standards include a section for judges. It provides a list of questions that judges can use as a checklist to assess if an expert opinion complies with the minimum standards.<sup>194</sup>

## **Multi-agency risk assessment of children: example of Finland**

246. A risk assessment is one of the core assessments to be done in a best interests determination procedure. Risk assessments are used in civil and criminal proceedings, as well as in service provision, to understand the risks a child is facing after violence or where violence is suspected or where children are considered at risk due to other challenges in their family or community. Multi-agency assessments offer a particularly comprehensive approach for assessing the risks of a child.

247. Risk assessments are a mandatory measure under the Council of Europe Convention on preventing and combating violence against women and domestic violence of 2011. Article 51 requires States parties to take the necessary legislative and other measures to ensure that the risks of persons who are victims of offences covered by the Convention are effectively assessed.

248. The Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) recommended that States parties develop a standardised procedure for risk assessments, which should be an integral part of legal proceedings.<sup>195</sup>

249. All relevant authorities must conduct an assessment and devise a safety plan, including for children who are victims or witnesses of such offences. The assessment shall identify the lethality risk, the seriousness of the situation and the risk of repeated violence with the aim to manage any risks and ensure coordinated safety and support.<sup>196</sup>

250. GREVIO recommended a multi-professional human rights-based approach under the responsibility of a single service to gather information from different sources. In view of the dynamic nature of risks, the assessment may need to be repeated periodically as long as proceedings are ongoing in the case. GREVIO called upon States parties to develop guidelines and training to ensure the effective implementation of Article 51.<sup>197</sup>

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<sup>193</sup> Federal Republic of Germany, Ministry of Justice, [Mindestanforderungen an die Qualität von Sachverständigenutachten im Kindschaftsrecht](#) [Minimum requirements for the quality of experts reports in child custody law], 2nd edition, 2019, pp. 9, 20-22.

<sup>194</sup> Federal Republic of Germany, Ministry of Justice, [Mindestanforderungen an die Qualität von Sachverständigenutachten im Kindschaftsrecht](#) [Minimum requirements for the quality of experts reports in child custody law], 2nd edition, 2019, pp. 9, 22-23.

<sup>195</sup> Kostopoulou, Maria-Andriani, *The work of GREVIO in promoting risk assessments in accordance with the Council of Europe Istanbul Convention*, Presentation at 'Preventing secondary and repeat victimisation of child victims of crime: Risk assessments and solutions in the best interests of the child', E-PROTECT II International Workshop, 24 March 2021.

<sup>196</sup> Council of Europe, *Risk Assessment Standards and Methodologies for Diverse Stakeholders in Ukraine: Next steps in implementing international standards to ensure the safety of victims of violence against women and domestic violence*, [Analytical Report](#), 2020. Kostopoulou, Maria-Andriani, *The work of GREVIO in promoting risk assessments in accordance with the Council of Europe Istanbul Convention*, Presentation at 'Preventing secondary and repeat victimisation of child victims of crime: Risk assessments and solutions in the best interests of the child', E-PROTECT II International Workshop, 24 March 2021.

<sup>197</sup> Council of Europe, *Risk Assessment Standards and Methodologies for Diverse Stakeholders in Ukraine: Next steps in implementing international standards to ensure the safety of victims of violence against women and domestic violence*, [Analytical Report](#), 2020. Kostopoulou, Maria-Andriani, *The work of GREVIO in promoting risk assessments in*



251. In Finland, the Lasta-seula model is a multi-agency risk assessment method, which has been developed for cases of children who have experienced violence and need coordinated assistance from different service providers. The assessment is initiated when child welfare services or the police receive a notification about a child who has experienced violence, including corporal punishment, or is at risk. The Lasta-seula model is used in the Finnish Barnahus services.<sup>198</sup>

252. In Finland, all incidents of violence against children must be reported to child protection services and, in almost all cases, also to the police. The introduction of the mandatory reporting in 2015 led to an increase of the caseload and lengthy pre-trial investigations, as well as delays in the proceedings that followed. As delays in proceedings are never in the best interests of the child, the situation urged for enhanced cooperation and coordination between state agencies.

253. To redress this structural weakness, the Finish Institute of Health and Welfare collaborated with the National Police Board to develop a multidisciplinary and interagency approach to decision-making in cases of violence against children investigated by the police. The aim was to enable the police to make informed decisions whether criminal proceedings should be initiated or whether child protection services would be better prepared to respond to the case. To ensure this decision is made in accordance with the best interests of the child, the police, child protection authorities and other state agencies or services involved in the case need to share information on the child in a structured manner and as early as possible.

254. As a result of these considerations, the Finish Institute of Health and Welfare and the National Police Board developed the Lasta-seula model. The development process was initiated in Finland's Southwest Hospital District in 2014-2016. It focused on the need for multidisciplinary and interagency cooperation in investigating cases where violence against children is suspected and the police has initiated pre-trial investigations. A project group was set up to facilitate the cooperation and information sharing between different state authorities and service providers in the development process. The project group included a police officer, a prosecutor, a child welfare expert, a paediatrician, a child psychiatrist, a psychologist and a lawyer. In addition, a working group was set up and entrusted with the hands-on development process. It consisted of two specialised social workers, a family therapist and an expert physician, as well as a secretary. The working group decided to work with a structured clinical assessment method, based on research on risk factors typically associated with violence against children, as well as clinical experience. The objective was to develop an assessment form, which can guide officials and professionals in identifying such risk factors. The more risk factors a child or a family is exposed to, the more vulnerable they are to violence.<sup>199</sup>

255. The risk assessment process consists of a preliminary assessment based on a half-structured risk assessment form and multi-agency meetings to assess the case and make decisions. In addition to the structured decision on whether criminal procedures should be initiated in the case, the method

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accordance with the Council of Europe Istanbul Convention, Presentation at 'Preventing secondary and repeat victimisation of child victims of crime: Risk assessments and solutions in the best interests of the child', E-PROTECT II International Workshop, 24 March 2021.

<sup>198</sup> This section is based on: Leppäkoski, T., Laajasalo, T., Mäkelä, J., Rajala, R., *Askeleita kohti lapsiin kohdistuvan väkivallan riskiarvioinnin työkalua – kartoittava katsaus lapsiin kohdistuvan väkivallan riskitekijöistä* [Steps towards a child violence risk assessment tool – a survey of risk factors for child violence], Journal of Social Medicine, 2021. Fadjukoff, M., Ellonen, N., *Lapsirikosasioiden moniammatillinen esikäsittely huomioitava lainsäädännössä* [Child abuse cases, Multidisciplinary pre-treatment to be taken into account in legislation], Policy brief 2023:39.

<sup>199</sup> Leppäkoski, T., Laajasalo, T., Mäkelä, J., Rajala, R., *Askeleita kohti lapsiin kohdistuvan väkivallan riskiarvioinnin työkalua – kartoittava katsaus lapsiin kohdistuvan väkivallan riskitekijöistä* [Steps towards a child violence risk assessment tool – a survey of risk factors for child violence], Journal of Social Medicine, 2021, 58, 457-474, pp. 457-459.

also aims to inform the coordination of service provision to build a safety network around the child and the family. The Lasta-seula model facilitates the information sharing and cooperation between the police, social welfare and child protection and health care sectors at the early stage of proceedings, directly after a report of violence against a child has been made. Information is gathered primarily from child protection service records, health care records and police files. The overall objective is to ensure that the best interests of the child are a primary consideration in the judiciary, in child protection and in the provision of physical and mental health care services responding to violence against children and preventing it.

256. Filling in the form helps caseworkers to assess the type and level of risks to the child, as well as protection factors for the child and family. The Lasta-seula risk assessment covers 18 risk factors: they include eight factors relating to the parents, three factors concerning the child-parent relationship, five factors concerning the family situation, one factor concerning the child, as well as an assessment of the risk of sexual violence. The factors may be indicative of risks, such as prior service use by the child or family or recurring absences from health care visits, specific characteristics of the child and parents, for instance if parents condone or reject the use of corporal punishment, and clinical diagnosis, such as suspicious injuries of a child, as well as substance abuse or mental health issues of a parent.

257. The combined assessment of risks, threats and barriers concerning the child and family, as well as sources of protection and support or other resources, represents a sound approach to assessing the vulnerability of individuals or groups of persons, taking account not only of difficulties but also of opportunities for empowerment and resilience (see *Box 9*).

258. Research affirmed that working with the form accelerates the assessment, which is especially important in cases of young children and in acute cases. If the risks are high, the caseworker calls for a multi-agency risk assessment meeting. All officials and service providers involved in the case participate in the meeting, in particular child welfare and social services, the police and health care professionals. For the police, for instance, it can be important to collaborate with professionals from the medical field to interpret health related information about a child for the purpose of a criminal investigation. The multi-agency meeting enables a more comprehensive understanding of the child's situation and facilitates decision-making on further steps and measures in the best interests of the child. It guides officials and service providers, for instance, in deciding what type of support should be provided to the child and family; if it is in the best interests of the child to be placed in out-of-home care; if and when to refer a child to a forensic interview at Barnahus; whether pre-trial investigations should be continued in the case or the case should be entrusted to the child protection services without initiating criminal proceedings, or whether the initiation of criminal proceedings is indeed indicated and in the best interests of the child in the specific case.

259. In many cases, the Lasta-seula assessment form is used in the multi-agency meetings convened in Barnahus, which involve the police and prosecutor, the child protection and health care services. They use the information gathered through the Lasta-seula method in their joint decision-making.

260. A growing body of research has generated evidence that using the Lasta-seula method improves the information exchange on the child and the cooperation of different agencies and services involved with the case. It enables a more comprehensive and detailed assessment of the child's needs of protection and support services and supports law enforcement agencies in making better informed decisions on the scope and nature of their investigations.

261. Using the method is challenging, however, as gathering all the information requires time and resources. The form consists of four pages that need to be filled in by data from different agencies and services. Officials and professionals working with the method have criticised its length. Gathering and sharing health care records is particularly complicated due to data protection regulations. A clearer legal framework would be helpful to facilitate the cooperation with the health care sector, considering the importance of health data for an effective assessment of risks and protection needs.

262. In 2023, the Finish Institute of Health and Welfare published the results of research to assess the effectiveness of the Lasta-seula model. The study showed clearly that the multidisciplinary and interagency cooperation in applying the method was associated with faster criminal investigations. The multidisciplinary and interagency approach enabled a broader perspective on the best interests of the child, taking into account background information of the case. Even though today, the model is used increasingly as a normal practice in some cities and regions of Finland in cases where violence against a child is suspected, the study showed also that the method is not yet applied consistently in all the regions.<sup>200</sup>

263. Further research is needed to analyse the usability and functionality of the risk factors included in the form and the effectiveness of the model to reduce repeated victimisation of children and recurring proceedings in the case.<sup>201</sup>

#### **Box 9: How risk and resilience influence vulnerability**

The vulnerability of a child refers to the limited chances of the child to fully exercise his or her rights as afforded under the UN Convention on the Rights of the Child. From a rights-based perspective, vulnerability depends on the number and severity of infringements or violations that a child is or may be exposed to (*the risk*) as well as the child's *resilience*. Risk and resilience are understood according to an ecological model. They interact at multiple levels and are accumulating: personal risk and resilience are closely intertwined with risk and resilience deriving from relationships, socio-political systems and the environment. The child's vulnerability can be caused or increased where a family, a community, service providers or the public administration have a reduced capability to safeguard the child by responding to the child's needs and ensuring respect for the rights of the child in practice.<sup>202</sup>

##### *Risks, barriers and obstacles:*

A risk describes an event or an action that could possibly occur, but which is not certain. Risks could be related to a person's health and wellbeing, social relations, professional and financial situation, or housing situation. Risks can also stem from the environment or climate, they can be

<sup>200</sup> Fadjukoff, M., Ellonen, N., *Lapsirikosasioiden moniammatillinen esikäsitteily huomioitava lainsäädännössä [Child abuse cases, Multidisciplinary pre-treatment to be taken into account in legislation]*, Policy brief 2023:39, pp. 2-3.

<sup>201</sup> Leppäkoski, T., Laajasalo, T., Mäkelä, J., Rajala, R., *Askeleita kohti lapsiin kohdistuvan väkivallan riskiarvioinnin työkalua – kartoittava katsaus lapsiin kohdistuvan väkivallan riskitekijöistä [Steps towards a child violence risk assessment tool – a survey of risk factors for child violence]*, Journal of Social Medicine, 2021, 58, 457-474, p. 457.

<sup>202</sup> Adapted from the definition of vulnerability presented in: Wenke, D. (2011), *Vulnerable children in Switzerland, Safeguarding the rights of every child, A discussion of a systemic approach to the implementation of the Convention on the Rights of the Child*, Swiss Committee for UNICEF, Zürich. Defence for Children International – Italy, Family and Childcare Centre Greece (2014), [IMPACT](#), *Improving monitoring and protection systems against child trafficking and exploitation, Transnational analysis*, Family and Childcare Centre Greece and Defence for Children International - Italy, p. 22. Dercon, S. (2001), *Assessing vulnerability to poverty*, Oxford University. Alwang, J., Siegel, P.B., Jorgensen, S.L. (2001), *Vulnerability: A view from different disciplines*, Social Protection Discussion Paper No. 0115, The World Bank.

related to the actions of others, to the reliability of service provision or policy measures. A risk can affect an individual or groups of persons. Risks often derive from barriers and obstacles that a person is facing.

In response to a risk, a risk assessment can inform risk management and remediating measures. *Ex ante* measures set in before a risky event occurs and take a preventive approach. *Ex post* measures respond when a risky event has occurred and take a remediating approach.<sup>203</sup>

*Resilience, protective factors and sources of support:*

In physics, resilience is understood as the ability of an object or a body to resist an external physical impact. In relation to persons, resilience was first observed as the phenomenon that persons who were confronted with comparable stress situations reacted differently and did not show the same adverse outcomes. Understanding and strengthening resilience factors is therefore considered important to limit the harmful impact of adversity.

Research in social protection, medicine and psychology has analysed how persons cope with adversity, such as poverty, illness or mental health issues.<sup>204</sup> Summarising the findings from these disciplines, resilience can be described as the ability of a person to achieve positive adaptation when confronted with stress or major setbacks. This includes abilities to

- cope with stress;
- cope with disruptive change;
- cope with obstacles and barriers that stand in the way of meeting the own needs or pursuing the own life project;
- mitigate risks;
- maintain positive attitudes and positive relationships; and
- continue constructing and advancing the personal life project.

The initial narrow understanding of resilience as an individual or personal attribute has evolved into a broader, ecological understanding recognising the interaction between internal and external factors. "Individuals take an active role in engaging with protective factors in the environment, in addition to innate assets in their personality. The effective use of protective factors and resources depends on the ability of the individual to creatively interact with and use resources. For example, resilient children are able to capitalise on their assets, such as good interpersonal skills and the ability to engage others, in order to gain social and other support."<sup>205</sup> In addition to the personal capacities and skills, the availability and accessibility of meaningful protective factors and support from the family, community, society and state are essential to help children strengthen their personal resilience. In fact, conducive circumstances are necessary to ensure that a person can use their resilience to activate resources of support and protection.<sup>206</sup>

<sup>203</sup> Swiss Committee for UNICEF (2011), *Vulnerable children in Switzerland, Safeguarding the rights of every child, A discussion of a systemic approach to the implementation of the Convention on the Rights of the Child*, Zürich, Swiss Committee for UNICEF. Featherstone, B. Gupta, A., Morris and K. Warner, J. (2018), [Let's stop feeding the risk monster](#): towards a social model of 'child protection, *Families Relationships and Societies*, Volume 7, Number 1, March 2018, pp. 7-22.

<sup>204</sup> Alwang, J., Siegel, P.B., Jorgensen, S.L. (2001), *Vulnerability: A view from different disciplines*, Social Protection Discussion Paper No. 0115, The World Bank.

<sup>205</sup> Snider, L.M. (2006), *Psychosocial vulnerability and resilience measures for national-level monitoring of orphans and other vulnerable children: Recommendations for revision of the UNICEF Psychosocial Indicator*, UNICEF, p. 15.

<sup>206</sup> Losi, N. (2006), *Lives elsewhere, Migration and psychic malaise*, The international series of psychosocial perspectives on trauma, displaced people, and political violence, Routledge.

## Screening tools to assess the risks for parents and children participating in alternative dispute resolution

264. Family mediation and other alternative dispute resolution (ADR) processes can be used during the course or instead of proceedings. Evidence shows that these methods can be effective in supporting parents and families in resolving disputes and conflicts concerning the care of the child or parental separation. For this reason, they are considered cost-effective. As a general rule, participation in such processes should be voluntary and subject to certain safeguards.

265. A suitability assessment is essential before referring or admitting a case to mediation. It aims to assess the ability of the participants in the ADR process to represent and negotiate their own interests and the interests of the child. A suitability assessment includes a screening to identify acts and histories of violence in a family and, in consequence, to protect victims of violence from inappropriate exposure to the perpetrator in an ADR process. Screening tools guide the mediator or other facilitator of ADR in ascertaining that ADR is appropriate in the case and identifying safety concerns and power imbalances that would make ADR inappropriate.<sup>207</sup>

266. Screening for violence is a legal requirement in member states where the use of mediation is prohibited in cases involving violence. In Slovenia, for instance, the Domestic Violence Prevention Act prohibits the use of any alternative dispute resolution process in proceedings concerning any form of violence (Article 22e).

267. Research has identified a number of factors that increase the effectiveness of screening for violence: in particular the use of an effective standardised screening tool; a robust screening procedure; as well as training of professionals conducting the screening and allocation of resources.<sup>208</sup> Research shows further that it is appropriate for service providers to ask parents and children specific questions about exposure to violence. When asked specifically about it, parents and children tend to speak out more easily. For service providers, including specific questions on violence in screening tools enhances the chances of identifying incidents or risks of violence and enables them to gather more detailed information about the family situation and any risks.<sup>209</sup>

268. Where violence has been alleged, several factors should be considered, such as the severity and frequency of the alleged domestic violence, the alleged perpetrator and victim(s), the physical and mental health of the parents and the child, and any risks or threats.<sup>210</sup> When screening for violence, mediators should not only ask about incidents or experiences of violence but also about emotional abuse and about the level of fear a parent has felt or still feels. Research showed that

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<sup>207</sup> This text section is based on two key sources: McCutcheon, R., Addressing domestic violence in mediation: the need for more uniformity and research, *Harvard Negotiation Law Review*, 2021. Holtzworth-Munroe, A., Beck, C.J.A., Applegate, A., The Mediator's Assessment of Safety Issues and Concerns (MASIC): A Screening Interview for Intimate Partner Violence and Abuse Available in the Public Domain, *Family Court Review*, 48(4), pp. 646-662.

<sup>208</sup> McCutcheon, R., Addressing domestic violence in mediation: the need for more uniformity and research, *Harvard Negotiation Law Review*, 2021.

<sup>209</sup> Hultmann, Ole, Children Exposed to Intimate Partner Violence and/or Abused, Findings from Swedish research projects in child psychiatry and child protection work, University of Gothenburg, National Consultation Sweden, 8 May 2017. Anders Broberg, Ulf Axberg, Åsa Cater, Maria Eriksson, Ole Hultmann & Clara Iversen, iRisk – Utveckling av bedömningsinstrument och stödinsatser för våldsutsatta barn [Development of assessment tools and support measures for vulnerable children]. Cited in: Wenke, D., Service Providers as Champions for Non-Violent Childhoods, Service provision for children and parents to end corporal punishment, Non-Violent Childhoods Project, Council of the Baltic Sea States, 2018, p. 18.

<sup>210</sup> Hague Conference on Private International Law, Mediation, Guide to good practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, 2012, pp. 72-77. International Social Service, Charter for International Family Mediation Processes, a collaborative process, 2017, pp. 5-7.

persons who experienced domestic violence suffered fear not only of physical violence but also of verbal, psychological and emotional abuse, and where such abuse occurs daily, its effects were more distressing and longer lasting than those of physical attacks.<sup>211</sup>

269. Emotional abuse can take many different forms; it “includes threats to harm a person or pet or threats to self-harm and blame the partner. Understanding the impact of abusive behaviour on the abused person and on children who witness or overhear it is a key factor in assessment. An abused person may experience fear and humiliation to such an extent that it impairs their ability to assess the risks they continue to face. It is helpful to ask individuals if they can rate the level of fear they are experiencing on a scale of 1–10.”<sup>212</sup> In addition, specific questions should be asked about the child’s safety and well-being, acts of violence against the child and whether the child has witnessed violence between the parents.

270. There is currently no uniform approach or standardised practice in the use of screening tools in Europe, and not all facilitators and providers of ADR services use screening tools for the suitability assessment. The Mediator’s Assessment of Safety Issues and Concerns (MASIC) has been developed specifically to address this gap. The tool was developed for countries where screening for intimate partner violence is mandatory in parental separation proceedings, such as Australia, Canada and the U.S.A. It is increasingly used in Council of Europe member states, such as Belgium and the Netherlands.<sup>213</sup> In the Netherlands, the tool was piloted between 2015 and 2017 in the Central and West Brabant region, with positive outcomes: professionals who used the method noted that it helped them to understand the conflict between parents and identify violence and, on that basis, they were able to understand if mediation was appropriate in the case and which type of measures would help to increase safety in the family. Professionals are able to work with the MASIC tool after a single four-hour training session. Parents reported that they experienced the MASIC interview as positive and it helped them to gain a deeper insight into the reasons for their separation.<sup>214</sup>

271. MASIC guides the mediator through a personal interview with each parent to assess the presence and frequency of indicators associated with different forms of domestic violence and to assess the suitability of mediation or other ADR in view of the specific form of violence identified. The tool is screening for seven forms of violence and comprises a risk assessment: psychological abuse, coercive controlling behaviours, threats of severe violence, physical violence, severe physical violence, sexual violence and stalking. The tool has been tested and was found to lead to more frequent identification of domestic violence than other screening approaches. Initial evidence confirms its internal consistency, as well as the reliability and validity of its results.<sup>215</sup>

272. MASIC is considered a promising screening tool, which has to undergo further testing and evaluation, including with specific attention to the rights and safety of the child. It is freely available

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<sup>211</sup> Bagshaw, D., *Disclosure of Domestic Violence in Family Law Disputes: Issues for Family and Child Mediators*, Conflict Management Research Group, University of South Australia, 2001. Cited in: Parkinson, L., *Family Mediation*, Fourth edition, Lexis Nexis, 2020, pp. 67-68.

<sup>212</sup> Parkinson, L., *Family Mediation*, Fourth edition, Lexis Nexis, 2020, pp. 67-68.

<sup>213</sup> See for instance: Elpida, [The MASIC method. Structured research on intimate partner violence](#). Conflictsheiding [High Conflict Divorce], *MASIC training: Gestructureerd onderzoek naar partnergeweld [MASIC training: Structured research on intimate partner violence]*, 2024.

<sup>214</sup> Conflictsheiding [High Conflict Divorce], *MASIC training: Gestructureerd onderzoek naar partnergeweld [MASIC training: Structured research on intimate partner violence]*, 2024.

<sup>215</sup> Pokman, V., Rossi, F.S., Holtzworth-Munroe, A., Applegate, A.G., Beck, C.J.A., D’Onofrio, B.M., *Mediator’s Assessment of Safety Issues and Concerns (MASIC): reliability and validity of a new intimate partner violence screen*, *Assessment*, 21(5), 2014, pp. 529-542.



in the public domain.<sup>216</sup> In addition to the screening in the context of the suitability assessment prior to mediation, research findings recommend that screening is continued throughout the mediation process as this enhances the possibility of identifying acts or risks of violence that were not detected in the initial screening.<sup>217</sup>

## Trauma symptom checklists for children and young children

273. Children concerned by civil proceedings may have experiences of stress and violence that can lead to adverse outcomes in the immediate and longer-term. Officials and professionals working with families in the context of civil proceedings require training, skills, sufficient time and sensitivity to help children to speak about their experiences and emotions that are worrying them and disclose violence. The trauma symptom checklist for children and young children is a scientific tool that helps to identify such experiences and whether they have led to trauma.

274. Children involved in parental separation and care proceedings are likely to experience behaviours and emotions that can lead to adverse outcomes if not identified and addressed appropriately. Children may have experienced separation or fear of separation, the loss of a family member, severe illness of a family member, neglect, emotional, physical or sexual violence by parents or others, harassment or bullying. They may have witnessed aggressions or violence between family members. Children often experience more multiple adverse experiences in combination and over a period of time. These experiences and the emotions they cause can lead to behavioural changes of the child, such as changes in appetite and sleeping patterns, in the child's ability to concentrate and school performance, avoidant behaviours or withdrawal, aggressions, clinginess or regressive behaviours. Adverse outcomes may include also difficulty in trusting persons, social and relational difficulties; low self-esteem, including self-blame and feelings of shame or guilt; physical symptoms such as pains and headaches not explained by a medical diagnosis; self-harm; intrusive memories, nightmares or flashbacks; as well as nervous system deregulation with heightened reactivity to stress factors and alterations in brain structures.<sup>218</sup>

275. The trauma symptom checklists for children and young children are assessment tools for children in contact with child psychiatry or social services who have had an experience of violence or where it is suspected. The checklists are based on research, which has evidenced their reliability and validity in identifying symptoms of childhood trauma. They help professionals in clinical practice to identify symptoms of trauma such as post-traumatic stress, anxiety, depression, anger,

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<sup>216</sup> Holtzworth-Munroe, A., Beck, C.J.A., Applegate, A., The Mediator's Assessment of Safety Issues and Concerns (MASIC): A Screening Interview for Intimate Partner Violence and Abuse Available in the Public Domain, *Family Court Review*, 48(4), pp. 646-662.

<sup>217</sup> McCutcheon, R., Addressing domestic violence in mediation: the need for more uniformity and research, *Harvard Negotiation Law Review*, 2021.

<sup>218</sup> See for instance: Wall, L., Higgins, D., Hunter, C., [Trauma-informed care in child/family welfare services](#), *Policy and practice paper*, Australian Government, Australian Institute of Family Studies, 2016. Beaton, J., Thielking, M., Chronic mistrust and complex trauma: Australian psychologists' perspectives on the treatment of young women with a history of childhood maltreatment, *Australian Psychologist*, 2020, 55(3), 230–243. Downey, C., Crummy, A., The impact of childhood trauma on children's wellbeing and adult behavior, *European Journal of Trauma & Dissociation*, 2022, 6(1), Article 100237. Elbers, J., Jaradeh, S., Yeh, A. M., Golianu, B., Wired for threat: Clinical features of nervous system dysregulation in 80 children, *Pediatric Neurology*, 2018, 89, 39–48. Milot, T., Éthier, L. S., St-Laurent, D., Provost, M. A., The role of trauma symptoms in the development of behavioral problems in maltreated preschoolers, *Child Abuse & Neglect*, 2010, 34(4), 225-234. Perry, B. D., *Effects of traumatic events on children*, The Child Trauma Academy, 2003. Roelofs, K., Spinhoven, P., Trauma and medically unexplained symptoms: Towards an integration of cognitive and neuro-biological accounts, *Clinical Psychology Review*, 2007, 27(7), 798–820. Tareen, A., Garralda, M. E., Hodes, M., Post-traumatic stress disorder in childhood, *Archives of Disease in Childhood-Education and Practice*, 2007, 92, ep1–ep6. Terr, L. C., Childhood traumas: An outline and overview. *Focus*, 2003, 1(3), 322–334.

dissociation and sexual concerns and to determine the most appropriate form and focus of treatment.<sup>219</sup>

276. The trauma symptom checklist method was developed by John Briere. It is targeted at different age groups: the trauma symptom checklist for young children was published in 2005 and is based on the trauma symptom checklist for children first published in 1996. The trauma symptom checklist for young children is designed for children aged three to twelve. It consists of a questionnaire with 90 questions that parents or other primary caregivers are asked to fill in. The questionnaire for young children is available for three different age groups, three and four years, five to nine years and 10 to 12 years old. The trauma symptom checklist for children is a self-report questionnaire suitable for children aged 8 to 17. The questionnaires can be completed in an estimated 15 minutes.<sup>220</sup>

277. The development of scientific tools was considered necessary as there was a dearth of standardised reliable and valid assessment tools for childhood trauma at a time when trauma and its causes and effects were already well-understood in clinical research and practice and children's exposure to traumatic events was widely recognised. The trauma symptom checklist for children addressed this gap for children aged 8 years or older. The identification of trauma symptoms of younger children, however, remained a challenge. At the same time, research showed that children who were diagnosed with trauma symptoms often had a history of violence and neglect that began in early childhood. Professionals receiving younger children in clinics after violence were lacking the tools to identify trauma symptoms, as well as specific training and the necessary time to conduct an in-depth interview with the child in a child-friendly language in the clinical setting. A number of tools were available to facilitate the identification of post-traumatic stress symptoms of children in clinical settings, however, they were time-consuming and not effective in identifying other typical psychological symptoms of childhood trauma.<sup>221</sup>

278. Against this background, the trauma symptom checklists for young children is based on a parent or caregiver report. In general, a parent and caregiver report allows the clinical professional to obtain a more comprehensive understanding of the situation by comparing the child's symptoms and views with the responses provided by the parent or caregiver. There is a risk, however, that responses by parents or caregivers are invalid or only partially valid, due to low levels of awareness, fears in responding truthfully or because of inadvertent or intentional false responses.<sup>222</sup>

279. The trauma symptom checklist for young children was developed to address these concerns and gaps. Parents or caregivers are asked to respond to 90 questions regarding the child's symptoms, rating each on a scale from 1 to 4, where 1 indicates that the symptom is not observed at all and 4 indicates it occurs very often. The questionnaire allows the clinical professional to rate

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<sup>219</sup> Nilsson, D., Gustafsson, P.E., Svedin, C.G., The psychometric properties of the Trauma Symptom Checklist for Young Children in a sample of Swedish children, *European Journal of Psychotraumatology*, 2012, (3).

<sup>220</sup> Briere, J., *Trauma Symptom Checklist for Children (TSCC)*, Professional Manual, Odessa, FL: Psychological Assessment Resources, 1996. Briere, J., *Trauma Symptom Checklist for Young Children*, Professional Manual, Odessa, FL: Psychological Assessment Resources, 2005.

<sup>221</sup> Briere, J., Johnson, K., Bissada, A., Damon, L., Crouch, J., Gil, E., Hanson, R., Ernst, V., The Trauma Symptom Checklist for Young Children (TSCYC): reliability and association with abuse exposure in a multi-site study, *Child Abuse & Neglect*, 25, 2001, 1001-1014, p. 1003.

<sup>222</sup> Briere, J., Johnson, K., Bissada, A., Damon, L., Crouch, J., Gil, E., Hanson, R., Ernst, V., The Trauma Symptom Checklist for Young Children (TSCYC): reliability and association with abuse exposure in a multi-site study, *Child Abuse & Neglect*, 25, 2001, 1001-1014, p. 1004.

the validity of the responses and, therefore, of the identified symptoms and the level of familiarity of the responding parent or caretaker with the child.<sup>223</sup>

280. The trauma symptom checklist for young children includes eight clinical scales to identify symptoms of trauma and experience of violence. The scales enable the clinical professional to make a detailed diagnosis with an accurate evaluation of the child's symptoms, such as anxiety, depression, anger, dissociation, abnormal sexual behaviour, as well as post-traumatic stress. Where indicators of post-traumatic stress are identified, further tests are recommended to ascertain the diagnosis.<sup>224</sup>

281. Today, the trauma symptom checklists for children and young children and the associated manual have been translated in many languages and are available for purchase online. The tools are used in numerous Council of Europe member states, such as Germany, Italy, the Netherlands, Spain, Sweden and UK. Research continues to assess the validity of the tools in different countries and settings and keep reaffirming its validity.<sup>225</sup> In addition to the trauma symptom checklists for children and young children, other evidence-based methods, such as the child behaviour checklist<sup>226</sup>, are also widely used to assess a broader set of symptoms and the wellbeing of a child. The child behaviour checklist is also based on a parent or caregiver report and is reliable as a generic instrument but does not identify symptoms indicating trauma. A combination of tools will therefore be helpful to ensure a comprehensive assessment and appropriate referral.

282. Where trauma symptoms are identified in a specific case, further assessments and investigations will be necessary to ascertain the needs of the child and any experiences of violence. Clinical professionals administering the trauma symptom checklist for children and young children and other identification tools should be part of a child protection referral mechanism to ensure an appropriate multidisciplinary assessment takes place and the child receives appropriate follow-up support. Where experiences of violence or other potentially traumatic events are suspected in civil proceedings, the best interests assessment should include a screening for trauma symptoms.

283. Professionals and officials working with children and families in the context of civil proceedings should have access to clear referral pathways for children and their parents who have been diagnosed with trauma symptoms. A range of trauma-informed and other services suitable to respond to the identified symptoms should be available, such as the trauma-focused cognitive behavioural therapy (TF-CBT), the combined parent-child cognitive behavioural therapy (CPC-CBT), or the child and family traumatic stress intervention.<sup>227</sup>

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<sup>223</sup> Briere, J., Johnson, K., Bissada, A., Damon, L., Crouch, J., Gil, E., Hanson, R., Ernst, V., The Trauma Symptom Checklist for Young Children (TSCYC): reliability and association with abuse exposure in a multi-site study, *Child Abuse & Neglect*, 25, 2001, 1001-1014, p. 1004.

<sup>224</sup> The eight clinical scales are: Post-traumatic Stress-Intrusion (PTS-I), Post-traumatic Stress-Avoidance (PTS-AV), Post-traumatic Stress-Arousal (PTS-AR), Post-traumatic Stress-Total (PTS-TOT), Sexual Concerns (SC), Dissociation (DIS), Anxiety (ANX), Depression (DEP), and Anger/Aggression (ANG). Briere, J., Johnson, K., Bissada, A., Damon, L., Crouch, J., Gil, E., Hanson, R., Ernst, V., The Trauma Symptom Checklist for Young Children (TSCYC): reliability and association with abuse exposure in a multi-site study, *Child Abuse & Neglect*, 25, 2001, 1001-1014, p. 1005.

<sup>225</sup> Wherry, J.N., Harrington, S.C., Reliability and validity of the Trauma Symptom Checklist for Children and Trauma Symptom Checklist for Young Children screeners in a clinical sample, *Journal of Child Sexual Abuse*, 27, 208, Issue 8. Stanley, L.H.K., Stanley, C.T., The Trauma Symptom Checklist for Young Children: A Psychometric Review, *Journal of Evidence-based Social Work*, 2020, 18(4), 1-17.

<sup>226</sup> Achenbach, T. M. and Dumenci, L., Advances in Empirically Based Assessment: Revised cross-informant syndromes and new DSM-oriented scales for the CBCL, YSR, and TRF: Comment on Lengua, Sadowksi, Friedrich, and Fischer, *Journal of Consulting and Clinical Psychology*, 2001, 69(4), pp. 699-702.

<sup>227</sup> See for instance: Landolt, M.A., Cloitre, M., Schnyder, U., *Evidence-based treatments for trauma related disorders in children and adolescents*, Springer, 2017. Cohen, J.A., Mannarino, A.P., *Trauma-focused Cognitive Behavior Therapy*

284. In addition to a clinical response to identified trauma-systems, the professionals and officials working with children and families in the child protection and social welfare systems should be knowledgeable on how violence and trauma affect children and adults and be sensitive to their needs, which may be complex. Missing this knowledge and ignoring the needs caused by a trauma, service providers may not be helpful in supporting the process of recovery and rehabilitation and may indeed be re-traumatising service users.<sup>228</sup>

285. In view of the growing body of research on trauma-informed responses in child welfare, the need for child protection systems' sensitivity to trauma is increasingly recognised. At the same time, the implications for policymaking and practice are still subject to research and debate. A trauma-informed care approach is considered to promote a trauma-responsive service culture to enhance the resilience to trauma of communities and organisations. In practice, this means, for instance, that all levels and members of an organisation or a state system should have knowledge about trauma and its impact on persons, families and communities and be able to recognise signs of trauma. An organisation or system should be prepared to respond to signs of trauma and prevent the re-traumatisation of service users and staff.<sup>229</sup> A trauma-informed care approach is considered relevant for all state agencies, public institutions and service providers working with and for children and families, including social services, child protection agencies, schools, mental health centres, family centres, and residential treatment centres.<sup>230</sup>

### **Key considerations for promoting evidence-based and child sensitive assessment tools in civil proceedings**

286. Based on the experience of member states, the following key considerations are proposed for promoting evidence-based, child-centred assessment tools for the best interests determination procedure:

#### **➤ *Developing a compendium of assessment methods and tools***

287. Officials and professionals working with children and parents concerned by civil proceedings should have access to a range of assessment tools. Courts of law should be able to activate multidisciplinary and interagency assessments to conduct the best interests assessment. Assessment tools should be based on research and evidence and enable an appropriate participation of the child.

#### **➤ *A multidisciplinary and interagency approach in risk assessments***

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for Traumatized Children and Families, *Child and Adolescents Psychiatric Clinics of North America*, 2015, 24(3), 557-70. Thulin, J., Kjellgren, C., Treatment in Barnahus: Implementing combined treatment for children and parents in physical abuse cases, *Collaborating against Child Abuse*, October 2017, 75-94.

<sup>228</sup> Wall, L., Higgins, D., Hunter, C., [Trauma-informed care in child/family welfare services](#), Policy and practice paper, Australian Government, Australian Institute of Family Studies, 2016.

<sup>229</sup> Middleton, J.S., Bloom, S.L., Strolin-Glotzman, J., Caringi, J., Trauma-informed care and the public child welfare system: the challenges of shifting paradigms: introduction to the special issue on trauma-informed care, *Journal of Public Child Welfare*, Vol. 13, 2019, Issue 3: Trauma informed care in child welfare, 235-244. Wall, L., Higgins, D., Hunter, C., [Trauma-informed care in child/family welfare services](#), Policy and practice paper, Australian Government, Australian Institute of Family Studies, 2016. Zhang, S., Conner, A., Lim, Y., Lefmann, T., Trauma-informed care for children involved with the child welfare system: A meta-analysis, *Child Abuse & Neglect*, 2021, Vol. 122, 105296.

<sup>230</sup> Middleton, J.S., Bloom, S.L., Strolin-Glotzman, J., Caringi, J., Trauma-informed care and the public child welfare system: the challenges of shifting paradigms: introduction to the special issue on trauma-informed care, *Journal of Public Child Welfare*, Vol. 13, 2019, Issue 3: Trauma informed care in child welfare, 235-244.

288. As recommended by the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), a standardised procedure for risk assessments should be in place as an integral part of legal proceedings.<sup>231</sup> The procedure should involve all relevant authorities under the leading responsibility of a single agency or service. Where possible and appropriate in the circumstances of the case, the findings of the risk assessment should be used to inform other measures, such as determining the suitability of the case for mediation or other alternative dispute resolution processes.

289. Assessment tools should be developed based on multidisciplinary expertise and, wherever appropriate be used by a multidisciplinary and interagency group of professionals. They should inform the joint decision-making by a competent authority or a multidisciplinary and interagency group on the best interests of the child.

➤ ***Assessment tools for the effective identification of violence and trauma***

290. Officials and professionals should use effective screening tools to identify signs of violence or trauma of parents and children concerned by civil proceedings. Screening tools should be effective for children, including young children and children with special needs. The standardised use of screening tools should be an integral part of a national child protection system, including legal proceedings concerning children. State agencies, organisations and private service providers should be prepared to offer trauma-informed care and adopt a trauma-sensitive service culture to prevent the secondary victimisation of children and parents affected by trauma.

➤ ***Officials and professionals should be trained in the use of the available assessment tools, using a multidisciplinary approach***

291. Officials and professionals should receive training, supervision and technical assistance in the use of assessment tools. A lead agency or another appropriate body should be responsible for supporting local authorities and service providers in using these assessment methods and tools when needed.

➤ ***Continue investing in research to assess the effectiveness and suitability of assessment tools***

292. Research and evaluation should be continued to generate and update evidence on the effectiveness and suitability of assessment tools. Research design should always be informed by the rights and needs of the child, focus on the needs and best interests of the child, and adopt a multidisciplinary approach.

➤ ***Quality standards and principles for expert opinions in civil proceedings involving children***

National standards and principles should be in place to regulate the appointment of experts and the process for the development of expert opinions in civil proceedings involving children. These standards and principles should comply with the principles and elements of child-friendly justice and the principle of the best interests of the child. Operational guidelines should be in place to

<sup>231</sup> Kostopoulou, Maria-Andriani, *The work of GREVIO in promoting risk assessments in accordance with the Council of Europe Istanbul Convention*, Presentation at 'Preventing secondary and repeat victimisation of child victims of crime: Risk assessments and solutions in the best interests of the child', E-PROTECT II International Workshop, 24 March 2021.

support the consistent application of standards and principles, in accordance with the CEPEJ Guidelines on the role of court-appointed experts in judicial proceedings and the Committee of Ministers Guidelines on child-friendly justice.

## 4) Support services for children, parents and families

### 4.1. Positive parenting programmes

293. In 2006, the United Nations study on violence against children recommended that governments implement human rights-based and evidence informed parenting programmes to strengthen the skills of parents and bonds between children and parents. Parenting programmes improve parents' understanding of child development, non-violent discipline, problem solving and conflict management and are key to prevent and address violence against children in the home and family, which the UN study found to be widespread.<sup>232</sup>

294. In Council of Europe member states, parenting is recognised as a domain of public policy as parents, societies and states have a shared interest in the healthy development of children and states have committed themselves to supporting parents in bringing up their children.<sup>233</sup> The development of programmes to strengthen parenting skills and foster a healthy and positive family environment is a core element of this commitment.<sup>234</sup>

295. The Council of Europe Committee of Ministers Recommendation (2006)19 on policy support to positive parenting<sup>235</sup> was developed against this background and on the understanding that parents are likely to welcome some help in everyday childcare, for instance to cope with stress, controlling anger or making decisions. Parents who are facing difficult social, economic or personal situations may have additional and specific needs of support. The Recommendation sets out principles of positive parenting, as well as guidance for policy support.<sup>236</sup>

296. Positive parenting refers to parental behaviour based on the best interests of the child that is nurturing, empowering and non-violent. It gives children a sense of recognition and guidance and sets boundaries to enable the full development of the child.<sup>237</sup> The concept of positive parenting is closely associated with respect for the rights of the child and the rights, duties and responsibilities of parents, as well as the obligations of states towards children and parents, in accordance with the UN Convention on the Rights of the Child (UNCRC).<sup>238</sup>

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<sup>232</sup> Pinheiro, P.S., [World report on violence against children](#), United Nations Secretary-General's study on violence against children, 2006, p. 95.

<sup>233</sup> Council of Europe, [Policy support to positive parenting](#), undated, p. 5.

<sup>234</sup> Council of Europe, Recommendation [CM/Rec\(2009\)10](#) of the Committee of Ministers on policy guidelines on integrated national strategies for the protection of children from violence, 2009, 2.3 Principles, a state's obligations, para. 2.c., 4.1.3.

<sup>235</sup> Council of Europe, Recommendation [Rec\(2006\)19](#) of the Committee of Ministers to member states on policy to support positive parenting, 13 December 2006.

<sup>236</sup> Council of Europe, [Policy support to positive parenting](#), undated, p. 1.

<sup>237</sup> Council of Europe, Recommendation [Rec\(2006\)19](#) of the Committee of Ministers to member states on policy to support positive parenting, 13 December 2006, para. 1.

<sup>238</sup> Council of Europe, [Policy support to positive parenting](#), undated, p. 2.



297. In view of the broad scope of support to positive parenting and its legal base rooted in international and Council of Europe standards<sup>239</sup>, the Committee of Ministers Recommendation underlines the need for a cross-sectoral and co-ordinated approach, comprising a range of measures such as family policy measures, including in regard to social welfare, labour and employment policies, support services for parents and children, awareness raising and mainstreaming children's rights in policymaking.<sup>240</sup>

298. Parenting programmes are an important component of these measures. Their overall aim is to educate parents in the rights of the child and positive parenting, to help them become more aware of their own rights, duties and responsibilities as parents and how their role is evolving as the child grows up, to deal with challenging life situations and develop skills in anger management, conflict resolution, mediation and non-violent approaches.<sup>241</sup> A solid body of research shows that parenting programmes can be effective in strengthening responsive caregiving, promoting healthy childhood development and improving the psycho-social health and well-being of parents and children. Group-based programmes are particularly widespread as they are cost-effective.<sup>242</sup>

299. Positive parenting programmes include services for different target groups and needs:

- *universal programmes* targeting generally all parents and prospective parents in the population, such as public education, awareness-raising and prevention campaigns;
- *selective programmes* targeting groups of parents who are considered at risk of using emotional, physical or other violence; and
- *indicated programmes* for parents who have an increased risk or a precedence of violence or have other specific needs concerning, for instance, substance abuse, mental health issues or low parental capacity.<sup>243</sup>

300. There are two main streams of parenting programmes, the behaviourist approach and the rights-based approach. Programmes of both streams have been evidenced to strengthen non-violent child rearing. *Behaviourist programmes* tend to focus on shaping children's behaviour through rules of reinforcement and consequences, whereas *rights-based programmes* tend to strengthen parents' understanding of child development and how it impacts the child's behaviour and to focus on parents' roles in mentoring the child and guiding his or her development.<sup>244</sup>

301. This case study presents parenting programmes, which have been developed based on research and evidence and are in use in member states and around the world: the Positive Discipline

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<sup>239</sup> In particular the UN Convention on the Rights of the Child and the European Convention on Human Rights, as well as the revised European Social Charter, the European Convention on the Exercise of Children's Rights and a broad body of standards protecting children against all forms of violence and exploitation, including in the home, as well as the body of case law of the European Court of Human Rights. Council of Europe, [Policy support to positive parenting](#), undated, p. 5.

<sup>240</sup> Council of Europe, Recommendation [Rec\(2006\)19](#) of the Committee of Ministers to member states on policy to support positive parenting, 13 December 2006, Preamble.

<sup>241</sup> Council of Europe, Recommendation [Rec\(2006\)19](#) of the Committee of Ministers to member states on policy to support positive parenting, 13 December 2006, para. 6.2, para. 7.

<sup>242</sup> Brekke, I., Smith, O. R. F., Skjøsberg, E. E., Holt, T., Helland, M. S., Aarø, L. E., Røysamb, E., Røsand, G.-M., Torgersen, L., Skar, A.-M.S., & Aase, H., Effectiveness of the International Child Development Programme: results from a randomized controlled trial, [Child & Family Social Work](#), 2022, 1–15. <https://doi.org/10.1111/cfs.12973>, p. 2.

<sup>243</sup> Council of the Baltic Sea States, [Parenting for non-violent childhoods](#), *Positive parenting to achieve an end to corporal punishment*, 2018, pp. 11-12.

<sup>244</sup> Council of the Baltic Sea States, [Parenting for non-violent childhoods](#), *Positive parenting to achieve an end to corporal punishment*, 2018, pp. 10-11. See further: George Holden, Andrew Grogan-Kaylor, Joan Durrant & Elizabeth Gershoff (2017) 'Researchers Deserve a Better Critique: Response to Larzelere, Gunnoe, Roberts, and Ferguson', 53(5) *Marriage & Family Review*, 465-490

in Everyday Parenting programme and the International Child Development Programme as examples of rights-based programmes and the Incredible Years programme as example of a behaviourist programme. Many more programmes are available internationally.<sup>245</sup>

### ***Positive Discipline in Everyday Parenting Programme***<sup>246</sup>

302. The Positive Discipline in Everyday Parenting (PDEP) programme is a rights-based parenting programme suitable for a broad target group of parents with universal or specific needs. It is applied in over 30 countries around the world and has been evaluated positively in countries with a high, medium and low human development index. The programme has been “commended for its children’s rights approach, its comprehensiveness and broad applicability, which has rendered it suitable for most contexts and target groups, irrespective of the national and socio-cultural context or background of the parents”.<sup>247</sup>

303. Dr. Joan Durrant (University of Manitoba, Canada) developed the programme in collaboration with Save the Children Sweden in response to the recommendation issued by the UN global study on violence against children.<sup>248</sup> The programme is based on the UNCRC and sets out a framework for child rights-based discipline rooted in five principles: non-violence, respect for the child’s evolving capacities, individuality, participation and dignity.<sup>249</sup> These principles are reflected in a transversal manner throughout the programme, that is, in the contents it conveys, the language it uses to speak about children, in the problem-solving model that underpins the approach, as well as in the images used. Parents who participate in the programme learn about the UNCRC, read its articles in plain language and explore their meaning for parenting. Facilitators of the programme and their trainers go through the same learning process. The child rights-based approach is also guiding the programme evaluations.<sup>250</sup> Its consistency with the rights of the child fosters synergy between the contents and objectives of the programme, its methods and continued development, as well as its outcomes. The PDEP programme, therefore, is closely aligned with the principles of the Council of Europe Recommendation (2006)19.

### ***Universal application and adaptability***

304. The programme has been rolled out in partnership with NGOs, mainly at the community level, in countries with different linguistic, cultural and religious contexts, socio-economic situations and governance systems. There are no specific requirements of the country’s legal or policy framework. Whereas the programme conveys the human rights imperative that corporal punishment of children should be ended in all settings, including in the home and in day care, it has been implemented and

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<sup>245</sup> A non-exhaustive overview is available in: United Nations Office on Drugs and Crime (UNODC), [Compilation of evidence-based family skills training programmes](#), undated.

<sup>246</sup> This section is based on a contribution by Joan E. Durrant, Professor Emerita, Department of Community Health Sciences, Max Rady College of Medicine, Rady Faculty of Health Sciences, University of Manitoba, Canada, 25 July 2024.

<sup>247</sup> Council of the Baltic Sea States, [Parenting for non-violent childhoods](#), *Positive parenting to achieve an end to corporal punishment*, 2018, p. 18.

<sup>248</sup> Ateah, C.A., Khondkar, L., Milon, F., Rabbani, R., Preventing punitive violence: implementing positive discipline in everyday parenting (PDEP) with marginalized populations in Bangladesh, [International Journal of Environmental Research and Public Health](#), Vol. 20, 2023, 1873, p. 2.

<sup>249</sup> Durrant, J.E., Stewart-Tufescu, A., What is “discipline” in the age of children’s rights?, *International Journal of Children’s Rights*, Vol. 25, 2017, pp. 359-379, p. 360.

<sup>250</sup> Durrant, J.E., Stewart-Tufescu, A., What is “discipline” in the age of children’s rights?, *International Journal of Children’s Rights*, Vol. 25, 2017, pp. 359-379, pp. 368-374.

evaluated positively in countries with a high prevalence of corporal punishment in the home and irrespective of a legal prohibition of the harmful practice.

305. A group of senior trainers co-operate with national partners in preparing the adaptation of the programme to the national and local context, following a clear map for the adaptation process based on research and experience.<sup>251</sup> Thanks to an ongoing review and adaptation process, the programme has been regularly updated. As an example, contents on trauma-informed practice and sexual and gender identity development were enhanced.

#### *Programme delivery*

306. The programme is delivered by two co-facilitators who are staff of family-serving agencies. The programme is structured in nine weekly 2-hour sessions, comprising five components:

- **Identifying long-term goals** – aims to refocus parents' awareness from short-term frustration to their long-term vision of raising children who they hope will be growing into empathic and nonviolent adults, and with whom they hope to maintain close and positive relationships throughout their lives.
- **Self-regulation** – helps parents become aware of and understand their own stress response and how to mitigate its impacts through self-regulation techniques, which they can also share with their children.
- **Providing warmth and structure** – helps parents to understand the fundamental tools needed to create a safe and secure environment where children gain confidence and develop strong and healthy relationships.
- **Understanding how children think and feel** – helps parents to understand the reasons that often underlie children's behaviour by learning about children's emotional, cognitive, sexual, gender and brain development, from birth to the end of adolescence.
- **Problem-solving** – guides parents in synthesising the learning of previous components to resolve conflicts in a way that leads them toward their long-term goals, ensure their children's safety and security, and support their children's learning in accordance with the child's developmental level. Parents learn how to engage children in collaborative problem-solving and conflict resolution.<sup>252</sup>

307. Through carefully guided discussions and carefully crafted interactive activities, parents are gradually learning how to integrate these components to resolve conflicts in a way that builds children's skills and strengthens the parent-child relationship. A strong emphasis is placed on helping parents to see situations through children's eyes, to deepen their empathy and respect for children.

#### *Training*

308. The programme's training system has been developed, reviewed and refined over many years of practice to ensure it is delivered by trained and skilled facilitators. Senior trainers, who have over 10 years of experience with the programme, oversee the training process. They train lead trainers who, in turn, train the facilitators. Lead trainers are highly experienced facilitators who undergo a 9-day training, whereas facilitators are trained for five full days. Each training is followed by a period

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<sup>251</sup> Stewart-Tufescu, A., *Assessing the transportability of a violence-prevention parenting program in three diverse country contexts*, Doctoral dissertation, University of Manitoba, 2018.

<sup>252</sup> Durrant, L.E., Stewart-Tufescu, A., Ateah, C., Holden, G.W., Ahmed, R., Jones, A., Ly, G., Plateau, D.P., Mori, I., Addressing punitive violence against children in Australia, Japan and the Philippines, [\*Journal of Pacific Rim Psychology\*](#), Volume 14, e19, 2020, p. 3.

of coaching and mentoring and informed by standardised evaluation questionnaires to ensure quality. After successful completion of the training and mentoring cycle, Lead trainers and facilitators are certified and continue delivering training or facilitating parents' participation in the programme.

309. When the PDEP programme is newly introduced in a country, a senior trainer and a lead trainer will co-train and mentor the first group of facilitators. As they become more experienced, a small group of those facilitators will be invited to become lead trainer candidates. They will participate in the 9-day training that includes their co-delivery of a facilitator training, with the senior trainers on-site to coach them. Then they are mentored as they deliver their first independent facilitator trainings. It usually takes 18-24 months to go from the first facilitator training to the certification of six lead trainers in a country.

310. If none of senior or lead trainers speak the language of the new country, they will deliver the training and mentorship in English with simultaneous translation. Before the first training takes place, all materials will be translated, reviewed, revised and finalised in the local language. Then the new facilitators can deliver the programme to parents and the new lead trainers can train new facilitators in the local language. If a full translation of all parent programme and facilitator training materials is needed, this will add 6-8 months to the length of the project.

#### *Evidence of outcomes*

311. The programme has been evaluated positively in many countries and contexts. In Canada, the programme helped parents to increase their childrearing efficacy and reduced approval of corporal punishment. An evaluation in 13 countries with high, medium, and low human development indices found that parents viewed the programme as relevant and effective to help them strengthen their relationship with their children and reduce the use of corporal punishment. A study conducted in Australia, Japan and the Philippines revealed that the programme achieved change in the behavioural, normative and control beliefs of parents as main determinants of behaviour change. The evaluations affirmed that the programme is useful and effective to reduce corporal punishment, even in countries where the practice is socially condoned and widely used.<sup>253</sup>

#### *Costs*

312. The not-for-profit organisation, Positive Discipline in Everyday Life, located in Canada, offers training to service providers on a cost-recovery basis. Facilitators are usually staff of non-governmental organisations who offer PDEP as part of their regular programming, at no cost to parents. The costs of training lead trainers, including trainers' time and travel, materials, data entry and analysis, and administration, are covered by local partner organisations. In many countries, the programme costs are covered fully or partially by the national government or donors.

#### *Government leadership in introducing the programme*

313. For governments interested in offering the PDEP programme to parents, developing the training infrastructure requires an investment at the outset of the programme implementation. The goal is to

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<sup>253</sup> Durrant, L.E., Stewart-Tufescu, A., Ateah, C., Holden, G.W., Ahmed, R., Jones, A., Ly, G., Plateau, D.P., Mori, I., Addressing punitive violence against children in Australia, Japan and the Philippines, *Journal of Pacific Rim Psychology*, Volume 14, e19, 2020, pp. 4, 10. See further: Durrant J.E., Plateau D.P., Ateah C., Holden G., Barker L., Stewart-Tufescu A., Ahmed R., Parents' views of the relevance of a violence prevention program in high, medium, and low human development contexts, *International Journal of Behavioral Development*, 2017, 41, 523–531. Durrant J.E., Plateau D.P., Ateah C.A., Stewart-Tufescu A., Jones A., Ly G., Barker L., Tapanya S., Preventing punitive violence: Preliminary data on the Positive Discipline in Everyday Parenting (PDEP) program, *Canadian Journal of Community Mental Health*, 2014, 33, 109–125.

ensure high-quality training of facilitators, ongoing mentoring support and quality delivery in the long term. The PDEP training system has been designed to develop a community of practice and to ensure fidelity in programme delivery, which is considered more important than training a high number of facilitators all at once. In planning the programme delivery in a country, therefore, a medium- or longer-term strategy is recommended to ensure continuity and consistency so that the investments made at the outset pay-off over time, even in the case of change of government. Where state authorities partner with civil society organisations in delivering the programme, a stable public-private partnership agreement is crucial.

### ***International Child Development Programme***<sup>254</sup>

314. The International Child Development Programme (ICDP) is a group-based parenting programme, which has been implemented in 71 countries around the world and is currently active in 50 countries. The programme is suitable for a range of contexts, such as child protection, schools and pre-schools, family support, including support for foster families, families with a parent in prison, asylum seeking and immigrant families.<sup>255</sup>

315. The programme was developed in Norway during the 1980s and the ICDP organisation established in 1992 is promoting it in Europe and around the world. The Norwegian Directorate for Children, Youth and Family Affairs is coordinating the implementation of the programme in Norway. It is offered as a voluntary service, and participation is free of charge. The programme is available to parents and other caregivers of children in all age groups, from newborns to teenagers, however, groups are always composed with caregivers of children in the same range of age to enable a shared focus.

316. The programme aims to support parents in strengthening the relationship with their child and their caregiving competence as a basis for creating good conditions for the upbringing and development of the child in a safe, nurturing and stable environment. The programme builds on the understanding that improved behaviour and communication of parents increases their confidence in their own parenting abilities, including their ability to understand the child and his or her emotions, needs and behaviours. This lays the basis for positive change in the parent-child relationship and, in consequence, the child's behaviour.<sup>256</sup>

317. The ICDP programme trains facilitators from established organisations or service providers in child protection, social welfare, education and health, which are already embedded in local communities. The trained facilitators lead the ICDP group sessions for caregivers. A programme cycle takes between 8 and 12 weekly sessions of two hours each. Facilitators can decide to let children and other family members participate in some of the sessions, and to visit the caregivers in their homes to offer more individualised support. Follow-up is provided to continue the support also beyond the duration of the programme and make it more sustainable.<sup>257</sup>

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<sup>254</sup> International Child Development Programme, [Welcome to ICDP](#), 2024.

<sup>255</sup> International Child Development Programme, [Projects](#), 2024. International Child Development Programme, [Chronology of main ICDP developments](#), undated. International Child Development Programme, [Evaluations of ICDP](#), 2024.

<sup>256</sup> Brekke, I., Smith, O. R. F., Skjøsberg, E. E., Holt, T., Helland, M. S., Aarø, L. E., Røysamb, E., Røsland, G.-M., Torgersen, L., Skar, A.-M.S., & Aase, H., Effectiveness of the International Child Development Programme: results from a randomized controlled trial, [Child & Family Social Work](#), 2022, 1–15. <https://doi.org/10.1111/cfs.12973>, pp. 2, 9, 12.

<sup>257</sup> Armstrong, N., [ICDP in a nutshell](#), 2020, p. 2.



318. The programme is based on the principles of the UNCRC and works through a community-based approach where the facilitators engage the participants in a collaborative process of sensitisation and learning. It focuses on the positive caring skills that parents and other caregivers already have. The facilitators guide the participants in identifying obstacles they may be facing in their day-to-day relationship and interaction with the child, which may prevent them from applying their intrinsic caregiving skills. Through the programme cycle, the caregivers develop strategies to overcome such obstacles.<sup>258</sup>

319. The programme is structured in five components, which concern the relationship between the caregiver and the child, the interaction between the facilitator and the caregiver, the conditions required for an effective and sustainable sensitisation process of the participants, as well as the considerations that need to be made to ensure the programme is tailor-made to the needs of the specific target group and context.<sup>259</sup>

320. The ICDP methodology incorporates several participatory and empowering methods, such as group work to develop ideas together with the other participants, discussion and reflection in the group sessions, as well as self-observation and self-evaluation of the participants and tasks to be completed individually at home.<sup>260</sup>

321. A cross-cutting element of the methodology, eight guidelines for good interaction between caregivers and children provide orientation during the group sessions and in individual activities:

- How do you express love to your child?
- How do you follow and respond to your child's initiatives?
- How do you establish close communication with and without words?
- How do you show appreciation and praise your child's efforts and achievements?
- How do you help your child to focus on things around?
- How do you name and explain things?
- How do you do it with enthusiasm?
- How do you enrich and expand your child's understanding and experiences about the world?
- How do you help your child learn rules, limits and values?
- How do you guide your child step by step to accomplish his or her project?<sup>261</sup>

322. ICDP has been evaluated positively in different countries and with different target groups, including by the World Health Organisation, and received several rewards.<sup>262</sup> In Norway, the programme has been evaluated positively as a universal prevention programme for parents. In 2021, an evaluation showed that it helped to enhance parental self-efficacy, that is confidence in their own parenting abilities, and strengthened parents' emotional sensitivity, that is the parents' ability to regulate their own emotional expressions and being sensitive to the child's emotions and needs, as a precondition for supporting the child's emotional development.<sup>263</sup> A 2014 evaluation demonstrated

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<sup>258</sup> Hundeide, K., [An introduction to the ICDP programme](#), undated, pp. 1-2. Armstrong, N., [ICDP in a nutshell](#), 2020.

<sup>259</sup> Hundeide, K., [An introduction to the ICDP programme](#), undated, pp. 3-4.

<sup>260</sup> Armstrong, N., [ICDP in a nutshell](#), 2020, p. 3.

<sup>261</sup> International Child Development Programme, *ICDP booklet for caregivers, I am a person*, 2005. Armstrong, N., [ICDP in a nutshell](#), 2020, p. 2.

<sup>262</sup> International Child Development Programme, [Projects](#), 2024. International Child Development Programme, [Chronology of main ICDP developments](#), undated. International Child Development Programme, [Evaluations of ICDP](#), 2024.

<sup>263</sup> Brekke, I., Smith, O. R. F., Skjærnsberg, E. E., Holt, T., Helland, M. S., Aarø, L. E., Røysamb, E., Røsand, G.-M., Torgersen, L., Skar, A.-M.S., & Aase, H., Effectiveness of the International Child Development Programme: results from a randomized controlled trial, [Child & Family Social Work](#), 2022, 1–15. <https://doi.org/10.1111/cfs.12973>, pp. 2, 9, 12.



improved parenting and health among the caregivers who participated in the programme in the short-term and six months after participation. The positive effect was particularly strong among caregivers who suffered from depression, had lower levels of social support and more “household chaos”. The measured effects were the same for mothers and fathers, whereas fathers reported a stronger decrease in anxiety and a higher increase in self-efficacy and understanding of the child’s needs.<sup>264</sup>

323. The Norwegian Directorate for Children, Youth and Family Affairs has created the ‘Everyday parenting’ online platform to facilitate the access of parents and other caregivers to information, support and advice on parenting. The platform is based on the International Child Development Programme and incorporates some of its material, such as short videos, educational content and self-reflection exercises. It has special sections for parents of children in different age groups with in-depth advice on themes that are particularly relevant at different ages; it provides information and orientation for new parents, as well as content in English. The website offers advice on parents’ caregiving role and how being a parent impacts the relationship with the partner. All parts of the digital platform are also useful for professionals who work with children and parents.<sup>265</sup>

### ***Incredible Years parenting programme: the experience of Estonia***<sup>266</sup>

324. The Incredible Years programme is an evidence-based early intervention programme, which aims at strengthening parental skills and competencies and fostering parents’ involvement in children’s school experiences. The overall goal is to promote children’s academic, social, and emotional skills and reduce behaviours that are perceived to contribute to family conflict. The programme is delivered to groups of parents of children in different age groups: babies (0-12 months), toddlers (1-3 years), preschoolers (3-6 years), and school age children (6-12 years). It is implemented in weekly sessions over 16 weeks. The programme includes special modules for children affected by the autism spectrum or language delays. In addition to modules targeted at parents, it also provides modules for teachers and children, as well as a home visiting coach module to be used in conjunction with other modules.<sup>267</sup>

325. Incredible Years was developed in the U.S.A. in 1983 and has been implemented in over twenty countries, including Council of Europe member states. The programme must be purchased and delivers a package of training and support materials, as well as standards for certification of trainers and group leaders who facilitate the group sessions of parents and who are typically professional therapists, social workers, nurses, teachers or physicians.<sup>268</sup>

#### ***Motivations for choosing the Incredible Years programme***

326. The Government of Estonia has been implementing the Incredible Years programme since 2014. The decision to choose the programme for national implementation was motivated by an investment perspective to support the development of children and their quality of life in childhood

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<sup>264</sup> Sherr, L., Skar, A. M., Clucas, C., von Tetzchner, S., & Hundeide, K., Evaluation of the International Child Development Programme (ICDP) as a community-wide parenting programme, *The European Journal of Developmental Psychology*, 2014, 11(1), 1–17, <https://doi.org/10.1080/17405629.2013.793597>.

<sup>265</sup> Bufdir [Directorate for Children, Youth and Family Affairs], *Foreldrehverdag [Everyday parenting]*, accessed on 22 October 2024.

<sup>266</sup> This section is based on a contribution by Liisa-Lotta Raag, Head of the department of children and families, Ministry of Social Affairs, Estonia, 16 September 2024.

<sup>267</sup> The Incredible Years, An Empower Community Care Organisation, [Building brighter futures through early intervention programmes](#), 2024.

<sup>268</sup> The Incredible Years, An Empower Community Care Organisation, [Building brighter futures through early intervention programmes](#), 2024.

and adulthood. The goal was to prevent and reduce aggressive and harmful behaviours of children, substance abuse and criminal offences and to support their integration in education and, subsequently, the labour market.

#### *Preparation for national implementation*

327. The Ministry of Social Affairs led the implementation of the programme in cooperation with the National Institute for Health Development (NIHD) and with the support of the Ministry of Education and Research and the Ministry of Justice. The Estonian Youth Work Centre is responsible for all organisational and logistical aspects of implementation and co-operates with the local governments in delivering the training in municipalities. Local governments support the process by making available training venues and services such as offering childcare during the parents' participation in the group sessions.

328. In preparation for the pilot implementation, the programme was adapted to the Estonian context by developing language versions in Estonian and Russian that take account of the local differences and the needs of the different population groups. During the pilot phase, the instructors were trained in stages, in cooperation with specialists from local government partners.

329. The National Institute for Health Development and the Ministry of Social Affairs coordinated the funding, training and dissemination of the Incredible Years programme across Estonia. The institute's role in introducing the programme and informing about its benefits as a prevention programme contributed to its broad acceptance and implementation.

330. The pilot implementation, evaluation and sustainable roll-out of the programme in Estonia required a multi-faceted investment of time and money. The pilot project was conducted from 2014 to 2017 and included mapping international impact studies, adapting the programme to the Estonian context, and assessing its effectiveness through a cost-benefit analysis and the evaluation of outcomes. In view of the investments made at the outset, ensuring sustainability was considered crucial and required continuous assessment and, if necessary, adaptation based on the results. There was no need to adapt the legal or policy framework for the effective implementation of the programme in Estonia.

#### *Costs*

331. The costs of the programme include direct and indirect expenses. Direct costs include the salaries of the group leaders, training materials, rental of premises and catering. Indirect costs include the coordination, management and administration of the programme by the National Institute for Health Development and local partners. In addition, the costs of training instructors and supporting their ongoing professional development need to be covered.

332. To ensure the programme's long-term sustainability, regular outcome assessments and secure funding are essential. The leading national state agencies in Estonia partnered with local governments and the private sector to ensure stable funding.

#### *Results achieved*

333. Two modules were selected for implementation in Estonia: one for parents of children aged 2-8 years and, as a possible follow-up, the module for parents of children aged 3-12 years. By 2023, 70 municipalities had rolled out the programme throughout the country. Over the years, 5,773 parents participated in a total of 565 groups, and 61 parents participated also in the follow-up module for

parents of older children. In addition, the programme was delivered to 10 mental health centres for children, as well as four foster care families and childcare institutions. Three-quarters of the participants were women, and a quarter were men.<sup>269</sup>

334. The National Institute for Health Development has been assessing and monitoring the implementation of the programme since its inception. An evaluation carried out in 2022 confirms the effectiveness of the programme in strengthening parental skills and reducing child behaviours that are risky for children and are considered to contribute to family conflicts. It helped to develop children's self-regulation and social skills, as well as the satisfaction and confidence of parents in fulfilling their roles and responsibilities. The evaluation observed differences regarding the gender of parents and children: Women reported a significantly lower satisfaction with their role as parent than men before participating in the programme but also observed a greater positive change as a result of their participation than men. The participating parents reported similar changes in their relationship with sons and daughters after their participation but observed having more difficulties in relation to the behaviours of their sons, both before and after training.<sup>270</sup>

335. The evaluation results indicate a high level of satisfaction with the implementation of the programme among parents, group leaders and local governments. Parents appreciated particularly learning about methods for communicating with their child in everyday situations and being part of a community of parents. 95% of the parents reported that they would recommend the parenting programme to their friends or relatives. The representatives of the local government were satisfied with the implementation of the group programme and appreciated that parents were grateful to the local government for the opportunity to participate. A lesson learned, the evaluation noted that in organising the programme, the representatives of municipalities and group leaders should pay attention to a clear division of roles and tasks to prevent any confusion, which may create overlaps and gaps.<sup>271</sup>

336. Evaluations of the programme also revealed that parents who were struggling with serious problems, such as mental health issues, substance abuse or social exclusion, reported a significantly lower benefit from their participation in the module. An important lesson learned, therefore, was to identify and address those issues first, before referring the parents to a parenting programme.<sup>272</sup>

337. Incredible Years is one of several parenting programmes in use in Estonia. Its implementation was a measure of the national child and family development plan, which provides for research- and evidence-based prevention programmes aimed at strengthening families. The National Institute for Health Development developed the '[Tarkvanem](#)'<sup>273</sup> website to offer an overview of challenges that parents and families may be struggling with paired with methods and programmes suitable to respond to them. A specific resource website has been created to provide guidance and advice on

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<sup>269</sup> Tervise Arengu Instituut [Health Development Institute], [Ennetusprogramm „Imelised aastad“ näitab laste käitumisprobleemide ennetamisel häid tulemusi](#) [The prevention programme “Incredible Years” shows good results in the prevention of behavioural problems in children], 11 July 2023. Talvik, A., [Vanemlusprogrammi “Imelised aastad” 2022. aasta tulemused](#) [Results of the Incredible Years programme, 2022], Tervise Arengu Instituut [Health Development Institute], 2023, p. 4.

<sup>270</sup> Tervise Arengu Instituut [Health Development Institute], [Ennetusprogramm „Imelised aastad“ näitab laste käitumisprobleemide ennetamisel häid tulemusi](#) [The prevention programme “Incredible Years” shows good results in the prevention of behavioural problems in children], 11 July 2023.

<sup>271</sup> Tervise Arengu Instituut [Health Development Institute], [Ennetusprogramm „Imelised aastad“ näitab laste käitumisprobleemide ennetamisel häid tulemusi](#) [The prevention programme “Incredible Years” shows good results in the prevention of behavioural problems in children], 11 July 2023.

<sup>272</sup> Council of the Baltic Sea States, [Parenting for non-violent childhoods](#), Positive parenting to achieve an end to corporal punishment, 2018, p. 18.

<sup>273</sup> Tervise Arengu Instituut [Health Development Institute], [Tarkvanem](#) [How to be a smart parent?].

handling daily parenting challenges and improving parent-child relationships in the context of parental separation. These resources are useful to guide competent authorities and service providers in identifying appropriate programmes for parents involved in civil proceedings.

### Key considerations for promoting parenting programmes in civil proceedings

338. Based on the experience of member and observer states, the following key considerations are proposed for promoting child rights-based parenting programmes in the context of civil proceedings:

#### ➤ Offer parenting programmes at all stages of proceedings

339. Parenting programmes are an effective measure to support parents involved in civil law proceedings in fulfilling their childcare and child rearing responsibilities. It is therefore appropriate to offer and deliver positive parenting programmes at all stages of proceedings. The programmes presented in this chapter are suitable to be provided before, during and after civil proceedings. In view of the evidenced positive outcomes for children and parents, developing and implementing parenting programmes constitutes a meaningful investment in the healthy development and well-being of children.

340. Positive parenting programmes are useful **before proceedings**, for instance in supporting parents in caring for and meeting the needs of their child, in resolving family conflicts and difficulties in childcare, in reducing or ending the use of corporal punishment and supporting parents in using positive discipline approaches in accordance with the rights of the child. Parenting programmes may be suitable to prevent care proceedings and the placement of a child in alternative care. They may be suitable to support parents in focusing on the needs and the best interests of their children in the process of separation or divorce. Where concerns about the child's safety and well-being exist, a best interests determination procedure is required to establish whether a specific parenting programme is indicated and appropriate in the circumstances of the individual case.

341. **During proceedings**, competent authorities may encourage or require parents to enrol in a programme in accordance with the best interests of the child, the parents' needs and the circumstances of the case. In care proceedings, parenting programmes may help to prevent family separation while the child's care in the family is monitored, or to support the process of family reunification after placement. In parental separation proceedings, a programme may help parents in resolving conflicts and focusing on the best interests of the child when reaching an agreement on the care of the child.

342. **After proceedings**, parenting programmes may help parents to comply with a decision made by the competent authority, for instance in developing their skills and using non-violent discipline, managing family conflicts or strengthening attachment bonds with the child.

#### ➤ Mapping of available resources

343. Before developing a national strategy to promote parenting programmes, a mapping of existing programmes and services supporting parents will be helpful to obtain an overview of the available services, expertise and resources. The mapped services should be published and

periodically updated, for instance in a digital resource centre, which may be rendered public to facilitate access of officials and professionals, as well as parents and other caregivers.

➤ ***Strategic planning***

344. To support a systematic use of parenting programmes in civil proceedings, parenting programmes should be developed and rolled out as part of a budgeted multi-year strategy, which assigns clear institutional responsibilities for leadership and coordination, funding, national adaptation, training and supervision of facilitators, as well as monitoring, periodic review and evaluation for continued development. A partnership of state actors at the national and local levels, civil society actors and the academia, as well as the private sector where applicable, is strategic for coordinated implementation. Training and accreditation should be integrated into existing academic and vocational training structures.

➤ ***Dissemination***

345. Information on the available parenting programmes should be widely disseminated among relevant competent authorities and institutions, service providers, as well as the population. Dissemination should be gender-sensitive to encourage a balanced participation of women and men, as well as non-binary parents, and programmes should be prepared to respond to the needs of parents and caregivers, including specific needs, in their social and cultural contexts. A digital platform on everyday parenting is particularly useful to facilitate the access of parents and other caregivers to information, advice, educational materials and contacts for further support.

➤ ***Sustainable resources***

346. Resources should be allocated to ensure stable funding for the training of trainers and facilitators of the programme and the development of a community of practice. Resources are required to facilitate and support parents' participation, for instance by making childcare arrangements available during the group sessions and helping with transportation to and from the group sessions, as appropriate.

➤ ***Generating national evidence***

347. Research, monitoring and evaluation of the parenting programme should be planned and budgeted to ensure the programme is evaluated in the national context. Evaluations should always use a child rights approach and include the perspectives of children, parents, as well as facilitators and trainers and, where applicable, of professionals and officials referring parents to such programmes and following up on the outcomes. The findings of research, monitoring and evaluation should inform the continued development of the programme in the national context.

➤ ***Integrating parenting programmes in the national referral mechanism***

348. Experience of experts indicates that parenting programmes will be even more effective and meaningful when integrated into the national child protection system, including social services for families and the child justice system. Effective integration ensures referral of parents in need of support to a suitable parenting programme, based on an assessment of their needs and a best interests determination procedure focusing on the rights and needs of the child. The assessment should identify also any support that parents may require prior to their participation in a programme to enable them to fully benefit from the programme, such as mental health services, addressing substance abuse, transportation support and child care during their participation. In

addition, mechanisms should be in place to facilitate the referral of parents participating in a programme to services responding to any needs that may be identified during the programme. Entrusting state agencies or organisations, who are part of the national referral mechanism, with hosting, organising or delivering the programme will facilitate effective referral of parents to and from the programme.

## 4.2. Family group conferences

349. The family group conference method has its origins in New Zealand and gained relevance in the 1970s when the Maori population promoted the method as an alternative to state-driven child protection services which, at that time, took little account of their social and cultural identity. The Maori people demanded to be engaged more proactively in processes for conflict resolution and decision-making of state authorities in child protection and care proceedings. Since 1989, the method is an integral part of New Zealand's child protection system, and its application in child protection and civil proceedings is regulated by the Children's and Young People's Well-being Act. The Act sets out the right of citizens who are referred to child protection authorities due to a family conflict or difficulties in childcare to attempt finding a solution themselves first, in accordance with the best interests of the child.<sup>274</sup>

350. From New Zealand, the method spread around the world to countries with different socio-cultural, political and legal traditions. A growing body of evidence is demonstrating its positive impact on resolving family conflicts and concerns about childcare, enhancing the collaboration of families with child protection authorities, improving the outcomes for children. Research has shown that the method is cost-effective in the longer-term.<sup>275</sup>

351. The family group conference method encourages a partnership-based perspective on service provision for children and families. It is based on the understanding that parents are, in principle, competent service users who can solve their problems with the help of their social support network and, where necessary, professional support. The coordinators of the method act as facilitators who provide mentoring support rather than acting only as case managers.<sup>276</sup>

352. Today, the family group conference method is widely used and increasingly promoted in Council of Europe member states. Some member states, such as Germany, the Netherlands and Norway, as well as Northern Ireland (UK), have introduced the method as a public service and a standardised tool for social welfare and child protection practice. In the Netherlands, the Youth Act was amended in 2015<sup>277</sup> to give citizens who are assisted by the social care and child welfare system an opportunity to make a plan together with their social network to resolve the challenges they are facing and to prevent state interference with the family life. In other countries, the method is being pioneered at the local or regional levels, by state or non-state actors, often in partnership with the academia.<sup>278</sup>

<sup>274</sup> New Zealand, Oranga Tamariki Act 1989, [Children's and Young People's Well-being Act 1989](#), Sections 20-38.

<sup>275</sup> See section 'Evidence of impact' further below.

<sup>276</sup> Council of the Baltic Sea States, [Service providers as Champions for Non-Violent Childhoods](#), *Service provision for children and parents to end corporal punishment*, Non-Violent Childhoods Project, 2018, p. 34.

<sup>277</sup> The Netherlands, Jeugdwet [Youth Act], Art. 1.1 familiegroepsplan [family group plan], Articles 2.1, 4.1.2, 4.1.3 and 4.1.5, 6.1.10 and 6.2.9.

<sup>278</sup> Dietrich, A., *Family group conference – a promising intervention in child protection*, Lucerne University of Applied Sciences and Arts – Social Work, undated, p. 2.



353. In Europe, practitioners who promoted the family group conference method in Ireland, the Netherlands, the United Kingdom and the Nordic countries set up a European Network for family group conferences in 2003. The network offers a platform for sharing knowledge, experience and research and expanded gradually to other European countries. Today, it includes representatives of 19 countries.<sup>279</sup> In 2011, the Network developed a position paper on the purpose, values and processes of the family group conference method to define common standards and principles. The position paper underlines that the family group conference method is different from mediation and other alternative dispute resolution processes or therapeutic interventions. It describes the method as a process which actively seeks “the collaboration and leadership of family groups in crafting and implementing plans that support the care, protection and well-being of the person or persons referred” to the social care or child protection system.<sup>280</sup>

354. The Dutch organisation Eigen Kracht Centrale promotes the family group method in the Netherlands and describes it as an “approach in which people determine the direction for solving a problem themselves, mainly using the resources they have available in their own circle. The meeting usually marks a turning point in a personal history, as part of a longer process. A family group conference is at the same time a decision-making moment, a way of formalising decisions. The conference is intended to stimulate and support the self-management of people; as much as possible, they determine the process and the direction of their path in order to get a better grip on their lives.”<sup>281</sup>

355. The family group conference method builds on principles of democratic citizenship and encourages citizens to plan and make decisions with the support of people who are close to them to resolve difficult situations and moments of crisis they are facing, to prevent state interference with family life or reduce the level of interference. This approach requires a shift of power in the public welfare and child protection systems and a basis of trust in citizens as competent service users.<sup>282</sup>

356. This case study introduces the family group conference method and opportunities for its use in civil proceedings. It presents the experience of the Netherlands and Norway, as well as key considerations for integrating the method in the national child welfare and justice systems to secure the rights of the child in civil proceedings.

### **Family group conferences: purpose and scope**

357. In the child protection context, the family group conference (FGC) method engages families in a structured process with the aim of activating resources within the family and its social network to resolve family conflicts and difficulties in caring for and meeting the needs of a child. The method can be used to enhance the well-being of children and protect them against corporal punishment or other violence and to strengthen parents’ capacities to meet the needs of their child.

358. Family group conferences can be used to resolve concerns regarding the best interests of a child in many other contexts as well, for instance in the neighbourhood, in day-care or schools as part of school social work practice, in family counselling centres, as well as in parental separation and care proceedings. FGC can be applied as a restorative justice method to improve the

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<sup>279</sup> FGC European Network, [The Network](#).

<sup>280</sup> Eigen Kracht Centrale, [Family group conferences. Purpose, values and processes](#), 2012, p. 1.

<sup>281</sup> van Lieshout, H., *Family group conferences, Vision, roots, implementation, practice and research*, 2024, p. 1.

<sup>282</sup> van Lieshout, H., *Family group conferences, Vision, roots, implementation, practice and research*, 2024, p. 1.

relationship between perpetrators and victims of crime in the child justice system. The method is appropriate for situations where families are facing multidimensional challenges.

359. Family group conferences can help to prevent the initiation of care proceedings and the placement of a child in alternative care and to resolve conflicts that emerge during proceedings or in the implementation of decisions made by a competent authority. Due to its systemic and solution-oriented approach, which empowers the individual and activates his or her social support network, the method is suitable for application in different social and cultural contexts and with different groups of the population, including migrants and minority or indigenous groups.<sup>283</sup> Family group conferences may be appropriate in situations where family members have used violence against the child or between adults in the family.<sup>284</sup>

360. Family group conferences can be effective before, during and after civil proceedings and at different stages of proceedings. In all cases, the use of the method should be regulated by law to ensure it is guided by the rights and best interests of the child and professional codes of ethics.

361. Where family group conferences are used as a measure in civil proceedings, such as parental separation and care proceedings, a national regulatory framework is necessary to set out the substantive and procedural rights of children and adults, including safeguards for their participation, as well as the role of caseworkers and coordinators. As an example, to support the safe and meaningful participation of the child, the National Institute for Health and Welfare of Finland, developed a research-based checklist to guide caseworkers and coordinators in ensuring that the child's views and needs are at the centre of the family group conference method.<sup>285</sup>

### **Family group conferences: steps of the process**

362. The family group conference method follows a structured process of several phases:

#### *Suitability assessment*

363. The family group conference method has been evidenced to be effective in a wide diversity of contexts and situations, however, it is not suitable for universal application. The competent authority needs to assess case by case whether using the method is appropriate in the circumstances of the case and consistent with the best interests of the child. The best interests assessment will enable the competent authority to make this decision on a fact base.

364. The following key questions may guide the competent authority in this assessment:

- Is the child protection concern suitable for resolution by a family group conference considering the nature of the risks to the child and the outcomes of the multidisciplinary and interagency risk assessment?
- Is the child protection concern suitable for resolution by a negotiation process involving the family members and other participants of their social support network?

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<sup>283</sup> Hauri A., Rosch D., Familienrat (Family Group Conference) im Spannungsfeld zwischen methodischen Ansprüchen, verfahrensrechtlichen Möglichkeiten und Persönlichkeitsschutz [Family group conferences in the interplay between methodological requirements, possibilities under procedural law and protection of privacy], *Journal of Family Law*, 2018, FamPra 3/2018, pp. 677-698, pp. 678-679.

<sup>284</sup> Council of the Baltic Sea States, [Service providers as Champions for Non-Violent Childhoods](#), *Service provision for children and parents to end corporal punishment*, Non-Violent Childhoods Project, 2018, pp. 34-35.

<sup>285</sup> Council of the Baltic Sea States, [Service providers as Champions for Non-Violent Childhoods](#), *Service provision for children and parents to end corporal punishment*, Non-Violent Childhoods Project, 2018, pp. 34-35.

- Do the participants have the necessary skills and capacities to engage in a process of negotiation on an equal basis to resolve the child protection concern, in view of any power dynamics among the participants?<sup>286</sup>

### *Conduct of a family group conference*

365. After a positive suitability assessment, there are different pathways of referring a family to a family group conference. Most typically, a competent authority, which may be the caseworker of the social or child protection services or a court of law, proposes the family group conference method to resolve a child protection concern, identifies the specific tasks for the family group conference, as well as the consequences in the case that a solution is not found or the identified solution does not comply with certain minimum requirements. When the family consents to participating in an FGC, the competent authority appoints a family group coordinator to support the family in preparing the conference and coordinate the involvement of the participants. Where the suitability assessment indicates it, a child protection or other specialist may be involved to offer specialised support to secure the best interests of the child throughout the family group conference.<sup>287</sup> In some countries, such as the Netherlands, families can request a family conference on their own initiative.<sup>288</sup>

366. The role of officials and professionals, therefore, is limited to setting the framework, coordinating the process and offering support, without interfering in the identification of a solution. The negotiation process itself is conducted entirely by the family and persons from their support network.

367. The participation in a family group conference is voluntary. The participants are tasked to develop an action plan, which indicates the process towards resolving the child protection concern and the role and specific tasks of each participant in the conference, that is, family members and persons from the family's social support network. Once concluded, the participants hand over the action plan to the competent authority for review. If the competent authority is satisfied that the action plan is consistent with the best interests of the child, complies with the required standards defined at the outset of the conference and is effective so resolve the child protection concern, the action plan becomes an integral part of the family intervention plan and/or the individual care plan for the child.

368. A family group conference is implemented in three stages: a preparatory phase, the conference itself, review and adoption, followed by implementation of the plan. The preparations and the actual conference may take between six weeks and three months. The review and implementation of the action plan varies and may take up to several months.<sup>289</sup> The duration of the family group conference, however, depends on the circumstances of the case. In the Netherlands, the conference takes an average of six weeks but if there is an emergency or urgent issue to resolve, they can be completed

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<sup>286</sup> Hauri A., Rosch D., Familienrat (Family Group Conference) im Spannungsfeld zwischen methodischen Ansprüchen, verfahrensrechtlichen Möglichkeiten und Persönlichkeitsschutz [Family group conferences in the interplay between methodological requirements, possibilities under procedural law and protection of privacy], *Journal of Family Law*, 2018, FamPra 3/2018, pp. 677-698, p. 682.

<sup>287</sup> Hauri A., Rosch D., Familienrat (Family Group Conference) im Spannungsfeld zwischen methodischen Ansprüchen, verfahrensrechtlichen Möglichkeiten und Persönlichkeitsschutz [Family group conferences in the interplay between methodological requirements, possibilities under procedural law and protection of privacy], *Journal of Family Law*, 2018, FamPra 3/2018, pp. 677-698, pp. 678-679.

<sup>288</sup> Information provided by by Hedda van Lieshout, Eigen Kracht, The Netherlands, 30 December 2024.

<sup>289</sup> Hauri A., Rosch D., Familienrat (Family Group Conference) im Spannungsfeld zwischen methodischen Ansprüchen, verfahrensrechtlichen Möglichkeiten und Persönlichkeitsschutz [Family group conferences in the interplay between methodological requirements, possibilities under procedural law and protection of privacy], *Journal of Family Law*, 2018, FamPra 3/2018, pp. 677-698, p. 690.

in two or three days.<sup>290</sup> Also in Norway, in acute cases, a family group conference can be prepared and held within a few days or one to two weeks.<sup>291</sup>

*a) Preparation of the family group conference*

369. Once the competent authority proposes a family group conference, the family is informed about the method and, if they consent to it, the competent authority sets out a written agreement with the family and a coordinator. The competent authority appoints a coordinator of the family group conference, who needs to be independent and impartial and must not have been involved in previous service provision for the family. The coordinator prepares the group conference.<sup>292</sup> The preparatory phase may take between one and six weeks.<sup>293</sup>

370. The coordinator asks the family members to identify the participants in the group conference from within the extended family and their social support network. The coordinator visits every person mentioned by the family, informs and invites them and seeks their consent. By asking every person their views on who else should participate in the family group conference, the coordinator widens the circle of participants.<sup>294</sup>

371. The preparatory phase helps the family members to elaborate their own emotions in respect of the child protection concern they are to address, including any feelings of shame or embarrassment about speaking openly about the concern and their need for help with persons within and outside the family whom they invite for the conference.<sup>295</sup>

372. In preparing children for the family group conference, the child should be informed in a child-friendly language without raising unrealistic expectations of the process. Any concerns and fears of the child should be taken seriously and addressed, and the views of the child on the conduct of the conference should be given due weight.<sup>296</sup>

373. In cases where the child participates in the family group conference, the coordinator meets with the child beforehand to hear the child's views, expectations and any concerns. The coordinator asks the child who could act as a person of trust for the child during the conference. The child and family decide who could take on this role. It is usually an adult tasked to support the child and to ensure that the participants focus on the best interests of the child during the conference. The child should

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<sup>290</sup> Information provided by by Hedda van Lieshout, Eigen Kracht, The Netherlands, 30 December 2024.

<sup>291</sup> Information provided by Svanhild Vik, National FGC Coordinator, Directorate for Children, Youth and Family Affairs, Norway, 7 October 2024.

<sup>292</sup> Council of the Baltic Sea States, [Service providers as Champions for Non-Violent Childhoods](#), *Service provision for children and parents to end corporal punishment*, Non-Violent Childhoods Project, 2018, p. 32

<sup>293</sup> Dietrich, A., *Family group conference – a promising intervention in child protection*, Lucerne University of Applied Sciences and Arts – Social Work, undated, p. 3.

<sup>294</sup> Council of the Baltic Sea States, [Service providers as Champions for Non-Violent Childhoods](#), *Service provision for children and parents to end corporal punishment*, Non-Violent Childhoods Project, 2018, p. 32. Information provided by by Hedda van Lieshout, Eigen Kracht, The Netherlands, 30 December 2024.

<sup>295</sup> Hauri A., Rosch D., Familienrat (Family Group Conference) im Spannungsfeld zwischen methodischen Ansprüchen, verfahrensrechtlichen Möglichkeiten und Persönlichkeitsschutz [Family group conferences in the interplay between methodological requirements, possibilities under procedural law and protection of privacy], *Journal of Family Law*, 2018, FamPra 3/2018, pp. 677-698, p. 688.

<sup>296</sup> Hauri A., Rosch D., Familienrat (Family Group Conference) im Spannungsfeld zwischen methodischen Ansprüchen, verfahrensrechtlichen Möglichkeiten und Persönlichkeitsschutz [Family group conferences in the interplay between methodological requirements, possibilities under procedural law and protection of privacy], *Journal of Family Law*, 2018, FamPra 3/2018, pp. 677-698, pp. 694-696.

always be able to leave the conference room together with the person of trust. Where necessary, the coordinator develops a safety plan for the child's participation in the conference.<sup>297</sup>

374. In the case of young and very young children, participation may not be in the best interests of the child. As an alternative, the coordinator can consider bringing a symbol or picture of the child to the meeting to represent a child under two years. For children aged between three and six years old, toys or paper and drawing materials can be provided on site.<sup>298</sup> In all cases, the meetings should take place in a child-friendly environment.

*b) Convening the family group conference meeting*

375. The coordinator facilitates the family group conference, which is composed of three main sessions: an information session, the private family conference and a reporting session.

376. At the information session, the coordinator facilitates presentations by the child protection caseworker and other professionals who have been providing services for the child and family. They share information about the child and family which is relevant for the specific child protection concern that the conference is tasked to address and respond to any questions by the participants.<sup>299</sup> At this stage, the professionals explain the conditions and minimum requirements that the action plan must meet.<sup>300</sup>

377. After the information session, the private family conference session begins. The coordinator and other professionals leave the room to allow the participants to engage in a private discussion and to address the tasks they have been given. The coordinator remains in the vicinity and is available to respond to questions. During the private session, the participants discuss the child protection concern, identify possible sources of help and elaborate the action plan to resolve the concern. The action plan identifies relevant solutions and tasks for each participant in the conference, i.e. family members and persons from the social support network, as well as the caseworker and other relevant professionals.<sup>301</sup> The private session can take between 30 minutes and several hours, however, the participants should be able to take all the time they need for this session. In some countries, the coordinator invites the participants to appoint a moderator and a rapporteur responsible for writing down the action plan; in others, this is left to the family and the other participants who usually know how to organise their work during the conference.<sup>302</sup>

378. When the group reaches consensus on the action plan, they end the private session and report back to the coordinator and the caseworker. The caseworker reviews the action plan and assesses

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<sup>297</sup> Hauri A., Rosch D., Familienrat (Family Group Conference) im Spannungsfeld zwischen methodischen Ansprüchen, verfahrensrechtlichen Möglichkeiten und Persönlichkeitsschutz [Family group conferences in the interplay between methodological requirements, possibilities under procedural law and protection of privacy], *Journal of Family Law*, 2018, FamPra 3/2018, pp. 677-698, p. 688.

<sup>298</sup> Hauri A., Rosch D., Familienrat (Family Group Conference) im Spannungsfeld zwischen methodischen Ansprüchen, verfahrensrechtlichen Möglichkeiten und Persönlichkeitsschutz [Family group conferences in the interplay between methodological requirements, possibilities under procedural law and protection of privacy], *Journal of Family Law*, 2018, FamPra 3/2018, pp. 677-698, p. 688.

<sup>299</sup> Council of the Baltic Sea States, [Service providers as Champions for Non-Violent Childhoods](#), *Service provision for children and parents to end corporal punishment*, Non-Violent Childhoods Project, 2018

<sup>300</sup> Information provided by by Hedda van Lieshout, Eigen Kracht, The Netherlands, 30 December 2024.

<sup>301</sup> Council of the Baltic Sea States, [Service providers as Champions for Non-Violent Childhoods](#), *Service provision for children and parents to end corporal punishment*, Non-Violent Childhoods Project, 2018

<sup>302</sup> Hauri A., Rosch D., Familienrat (Family Group Conference) im Spannungsfeld zwischen methodischen Ansprüchen, verfahrensrechtlichen Möglichkeiten und Persönlichkeitsschutz [Family group conferences in the interplay between methodological requirements, possibilities under procedural law and protection of privacy], *Journal of Family Law*, 2018, FamPra 3/2018, pp. 677-698, p. 689. Information provided by by Hedda van Lieshout, Eigen Kracht, The Netherlands, 30 December 2024.

its compliance with the identified tasks and minimum requirements for the family group conference and can ask for clarifications. In the review, the caseworker should hear and give due weight to the views of the child on the action plan. If the caseworker ascertains that the action plan meets the conditions and requirements identified at the outset, he or she will approve it, and all participants sign the action plan and determine the next steps for its implementation. Where the action plan does not meet the established conditions or is not implemented in follow-up to the conference, the case will proceed according to regular casework. In care proceedings, for instance, this may lead to the child's placement in alternative care.<sup>303</sup>

c) *Implementation and follow-up*

379.If adopted, the participants of the family group conference will work together to implement the action plan, with support from service providers as necessary. The plan provides for a schedule of review meetings to assess progress against the identified objectives and consider any adaptations, as necessary and consistent with the best interests of the child. The caseworker oversees the implementation and adaptation process.<sup>304</sup>

*Evidence of impact*

380.The family group conference method was subject of research and evaluation in numerous countries and contexts. The core success factor of the method is the activation of social support networks for children and families. A meta-analysis conducted in the year 2000 demonstrated that the social networks and environments of persons are most influential in bringing about change, even more than their co-operation with professional service providers.<sup>305</sup>

381.Based on research conducted in Europe over the past two decades, the method has been commended for its participatory and empowering approach, which engages family members and persons of their social support network in activating resources and resolving conflicts and concerns regarding the child's care, well-being and best interests. It enhances the willingness of participants to cooperate among themselves and with child protection services and competent authorities and to adhere to the action plan they develop and decisions of the competent authority. In view of the comparatively low costs of the method and its benefits in the immediate, medium and longer term, the method is considered cost-effective.<sup>306</sup>

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<sup>303</sup> Hauri A., Rosch D., Familienrat (Family Group Conference) im Spannungsfeld zwischen methodischen Ansprüchen, verfahrensrechtlichen Möglichkeiten und Persönlichkeitsschutz [Family group conferences in the interplay between methodological requirements, possibilities under procedural law and protection of privacy], *Journal of Family Law*, 2018, FamPra 3/2018, pp. 677-698.

<sup>304</sup> Hauri A., Rosch D., Familienrat (Family Group Conference) im Spannungsfeld zwischen methodischen Ansprüchen, verfahrensrechtlichen Möglichkeiten und Persönlichkeitsschutz [Family group conferences in the interplay between methodological requirements, possibilities under procedural law and protection of privacy], *Journal of Family Law*, 2018, FamPra 3/2018, pp. 677-698, pp. 689-690.

<sup>305</sup> McKeown, K., *Supporting families: A guide to what works in family support services for vulnerable families*, Dublin: Department of Health, 2000. Cited in: van Lieshout, H., *Family group conferences, Vision, roots, implementation, practice and research*, 2024, p. 3.

<sup>306</sup> Skaale Havnen, Karen J., Christiansen, Ø., *Knowledge Review on Family Group Conferencing, Experiences and Outcomes*, Regional Centre for Child and Youth Mental Health and Child Welfare (RKBU West), Uni Research Health, 2014, p. 9. Linnosmaa, I., Väisänen, A., Siljander, E., Mäkelä, J., Effectiveness and costs of preventive services for children and families, In: Nordic Council of Ministers, *Family Centre in the Nordic Countries, A meeting point for children and families*, 2012, pp. 87-97, p. 95. Hauri A., Rosch D., Familienrat (Family Group Conference) im Spannungsfeld zwischen methodischen Ansprüchen, verfahrensrechtlichen Möglichkeiten und Persönlichkeitsschutz [Family group conferences in the interplay between methodological requirements, possibilities under procedural law and protection of privacy], *Journal of Family Law*, 2018, FamPra 3/2018, pp. 677-698, p. 680.



382. Research conducted in the Netherlands affirmed that family group conferences are cost-effective.<sup>307</sup> While conducting a family group conference is often perceived as an additional burden and cost for the state system when the method is newly introduced, research conducted in the context of care proceedings, where the placement of a child in alternative care was imminent, has evidenced that the measures set out in the family plans are often simpler and the child is placed closer to the family home.<sup>308</sup> Measures are also less costly<sup>309</sup> and lead to positive outcomes for the child sooner than the measures professional decision-makers were considering.<sup>310</sup> In addition, professionals observed that using FGC helped to improve the cooperation with the family.<sup>311</sup> Overall, implementing the plans made by a family group conference succeeded in reducing the concerns about the child and improved the child's situation in a shorter period of time. The improvement in the family's stability and social support was still measurable nine months after the family group conference.<sup>312</sup>

383. In care proceedings requiring the placement of a child in alternative care, children for whom a family group conference was conducted were placed more often in kinship care than children who did not benefit from the method. The method increases the likelihood of family reunification after placement.<sup>313</sup>

384. The use of the method has shown significant results in reducing the severity of child protection concerns and in supporting families in becoming independent of child protection services, partially because the required help was provided by the family and support network rather than by public services. Such positive developments were observed also in families in need of multidimensional support who succeeded in resolving three or more child protection concerns.<sup>314</sup>

385. Family group conferences typically conclude with an action plan to resolve the child protection concern, and the participants are mostly satisfied with the plans. Even where such plans are not concluded, the method helps to improve the communication among family members and supports their process of reconciliation. Overall, the family members who participated in the method felt they were treated with respect and appreciated the possibility to contribute proactively to the resolution

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<sup>307</sup> van Lieshout, H., *Family group conferences, Vision, roots, implementation, practice and research*, 2024, p. 6.

<sup>308</sup> Van Beek, F., *On the border between meddling and care, Report of the research into Family Group conferences in Overijssel and the relationship of Own Strength to the Youth Care Act*, 2006. Cited in: van Lieshout, H., *Family group conferences, Vision, roots, implementation, practice and research*, 2024, p. 6.

<sup>309</sup> Van Naem and Partners, *Costs of assistance with and without a Family Group conference*, 2009. Woerden Jagtenberg, R., B. van Hulst and A. de Roo, *Social benefits of Family Group conferences in the context of indicated youth care trajectories with a focus on multi-problem families*, 2011. Schuurman, M., Mulder, C., *Savings through Family Group conferences in the Amsterdam city region, Results of follow-up research*, 2012. Cited in: van Lieshout, H., *Family group conferences, Vision, roots, implementation, practice and research*, 2024, p. 6.

<sup>310</sup> Wijnen-Lunenburg, P., F. van Beek, P. Gramberg et al., *It's up to the family, The results of Own Strength conferences in youth protection with regard to safety, social cohesion and management*, 2008. Cited in: van Lieshout, H., *Family group conferences, Vision, roots, implementation, practice and research*, 2024, p. 6.

<sup>311</sup> Bosma, H., *A plan of all, Professionals about Own Strength*, 2009. Cited in: van Lieshout, H., *Family group conferences, Vision, roots, implementation, practice and research*, 2024, p. 6.

<sup>312</sup> Wijnen-Lunenburg, P., F. van Beek, P. Gramberg et al., *It's up to the family, The results of Own Strength conferences in youth protection with regard to safety, social cohesion and management*, 2008. Cited in: van Lieshout, H., *Family group conferences, Vision, roots, implementation, practice and research*, 2024, p. 6.

<sup>313</sup> Hauri A., Rosch D., Familienrat (Family Group Conference) im Spannungsfeld zwischen methodischen Ansprüchen, verfahrensrechtlichen Möglichkeiten und Persönlichkeitsschutz [Family group conferences in the interplay between methodological requirements, possibilities under procedural law and protection of privacy], *Journal of Family Law*, 2018, FamPra 3/2018, pp. 677-698, p. 690.

<sup>314</sup> Hauri A., Rosch D., Familienrat (Family Group Conference) im Spannungsfeld zwischen methodischen Ansprüchen, verfahrensrechtlichen Möglichkeiten und Persönlichkeitsschutz [Family group conferences in the interplay between methodological requirements, possibilities under procedural law and protection of privacy], *Journal of Family Law*, 2018, FamPra 3/2018, pp. 677-698, p. 691.

of the concern. The method succeeded in mobilising particularly child protection support, practical help, emotional support and advice from the family's social network.<sup>315</sup>

386. Research identified also challenges and weaknesses in applying the method, such as a risk that the action plans are not implemented in practice, however, this does not appear to reduce the family members' level of satisfaction with the method. When children participate in a family group conference, they require targeted support to ensure their meaningful participation.<sup>316</sup>

387. While research with children revealed that most children perceived their experience with the method as positive, it also helped to identify some lessons learned to ensure the child's participation is safe, meaningful and rewarding. The children who were consulted found it important that all adults are well-prepared for their participation in the family group conference to understand that they need to support the child's participation, and that the child should be at the centre of the conference. Children appreciate when the discussions are not focused exclusively on negative aspects and problems but also highlight positive facts, opportunities and resources. The support by a person of trust is important for the child as the person ensures the child is heard and has a possibility to participate actively, listens to the child and offers support and advice. Children found the process of the family group conference more important than the actual outcome. They appreciated the quality of the relationship with the participating adults and their focus on the best interests of the child, which helped the child to feel seen and heard in a positive atmosphere.<sup>317</sup> They felt that their participation in the family group conference was more meaningful and rewarding than in traditional child protection work.<sup>318</sup>

### *Budget*

388. A review from Switzerland noted that the coordinator should be able to dedicate an estimated 30 hours to the process, of which about 20 hours are required for the preparations. In addition, the budget should cover staff time of the competent authority that refers a case to the family group conference procedure.<sup>319</sup> In Norway, an FGC coordinator usually requires about 20 hours per case, and a maximum of 35 hours in cases where travel or the involvement of an interpreter is required.<sup>320</sup>

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<sup>315</sup> Council of the Baltic Sea States, [Service providers as Champions for Non-Violent Childhoods](#), *Service provision for children and parents to end corporal punishment*, Non-Violent Childhoods Project, 2018, pp. 34-35. Hauri A., Rosch D., Familienrat (Family Group Conference) im Spannungsfeld zwischen methodischen Ansprüchen, verfahrensrechtlichen Möglichkeiten und Persönlichkeitsschutz [Family group conferences in the interplay between methodological requirements, possibilities under procedural law and protection of privacy], *Journal of Family Law*, 2018, FamPra 3/2018, pp. 677-698, pp. 691-692.

<sup>316</sup> Hauri A., Rosch D., Familienrat (Family Group Conference) im Spannungsfeld zwischen methodischen Ansprüchen, verfahrensrechtlichen Möglichkeiten und Persönlichkeitsschutz [Family group conferences in the interplay between methodological requirements, possibilities under procedural law and protection of privacy], *Journal of Family Law*, 2018, FamPra 3/2018, pp. 677-698, pp. 691-693.

<sup>317</sup> Hauri A., Rosch D., Familienrat (Family Group Conference) im Spannungsfeld zwischen methodischen Ansprüchen, verfahrensrechtlichen Möglichkeiten und Persönlichkeitsschutz [Family group conferences in the interplay between methodological requirements, possibilities under procedural law and protection of privacy], *Journal of Family Law*, 2018, FamPra 3/2018, pp. 677-698, pp. 692-693.

<sup>318</sup> Council of the Baltic Sea States, [Service providers as Champions for Non-Violent Childhoods](#), *Service provision for children and parents to end corporal punishment*, Non-Violent Childhoods Project, 2018, p. 35

<sup>319</sup> Hauri A., Rosch D., Familienrat (Family Group Conference) im Spannungsfeld zwischen methodischen Ansprüchen, verfahrensrechtlichen Möglichkeiten und Persönlichkeitsschutz [Family group conferences in the interplay between methodological requirements, possibilities under procedural law and protection of privacy], *Journal of Family Law*, 2018, FamPra 3/2018, pp. 677-698, pp. 690, 697-698.

<sup>320</sup> Svanhild Vik, National FGC Coordinator, Directorate for Children, Youth and Family Affairs, Norway, 7 October 2024.

## Example of practice: family group conferences in the Netherlands<sup>321</sup>

389. In the Netherlands, the Youth Act gives families a right to make a family group plan together with their social network before any state authority or service provider interferes with the family life for child welfare and protection concerns. The law refers to a family group plan, which can be developed through a family group conference or other methods.<sup>322</sup>

390. Since 1999, a group of professionals in social work and child welfare have been promoting the family group conference method in the Netherlands. In 2002, they founded the non-governmental organisation Eigen Kracht Centrale ('own strength centre'), with a mission to sensitise state agencies, service providers and the society to the importance of strengthening children, families and communities to activate their own resources and motivations to safeguard children. Eigen Kracht Centrale is the only organisation offering the family group conference method in the Netherlands. It coordinates the practice, trains professionals on the method, carries out research and advocates with government and state agencies to make it normal practice that parents get an opportunity to resolve difficulties in childcare together with their families and communities.

391. Eigen Kracht Centrale is also training professional service providers in encouraging the use of family group conferences proactively in their work. Engaging child protection professionals and service providers is important as they are responsible for providing professional expertise and setting out the requirements the plan needs to meet. They are not responsible for the plan itself. Working in this role is often new to professionals. They benefit from training to adopt a service culture that considers parents generally competent to resolve their own challenges. Professional service providers need to be able to take time and foster a trust-based cooperation with families that encourages confidence and self-efficacy.

### *Training of coordinators*

392. In the Netherlands, the coordinators of family group conferences are community members who are interested in the work of Eigen Kracht and share their vision. The coordinators undergo a training of six days organised in two three-day courses. They are trained in communicating with families and their social support networks, inform about the family group conference method and ask the right questions to identify members of the family's social support network who care about the family and have a trusted relationship with them. By asking the right questions, the coordinators are widening the circle of people who will participate in the conference.

393. The coordinators inform the participants on what the conference is about and which key question it will address. Widening the network requires skills to ask the right questions and to identify people who care about the child. In some families, for example, there may be tensions between a parent and his or her brother or sister, but the invitation to focus on the needs and best interests of the child often helps to overcome these tensions and allow the family group to work together in finding solutions.

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<sup>321</sup> This section is based on a contribution by Hedda van Lieshout, Eigen Kracht, The Netherlands, 9 October 2024, as well as van Lieshout, H., *Family group conferences, Vision, roots, implementation, practice and research*, 2024. For further information, see: Eigen Kracht Centrale, *Opbrengst Eigen Kracht-conferenties: resultate en baten [Eigen Kracht conferences: results and benefits]*, 2024. Eigen Kracht Centrale, *Witboek Familiegroepsplan, De transformatie in de praktijk [White paper family group plan, Transformation in practice]*, 2019.

<sup>322</sup> The Netherlands, Jeugdwet [Youth Act], Art. 1.1 familiegroepsplan [family group plan], Articles 2.1, 4.1.2, 4.1.3 and 4.1.5, 6.1.10 and 6.2.9.

394. The coordinators organise the family group conference without interfering with its content. They are bound by confidentiality and receive support and coaching from Eigen Kracht Centrale. Conducting family group conferences is not a job or a profession. The coordinators continue working in their own job and engage in the FGC method as volunteers who are reimbursed for their time. They are remunerated for the hours they spend on organising and conducting family group conferences, which takes about 30-35 hours in a typical case.

#### *Networks of coordinators*

395. At present, Eigen Kracht is working with a network of 250 coordinators throughout the Netherlands who are organised in networks at the regional and national levels. Eigen Kracht organises an annual network meeting and two to four online meetings per year on specific topics. Regional managers are organising the regional networks, which meet every two months.

396. The coordinators speak about 65 different languages and dialects. When initiating the preparation of a family group conference, the family can choose the language they want to work in and, where relevant, two coordinators can work alongside to respond to different cultural and linguistic backgrounds of family members. Eigen Kracht Centrale promotes a flexible use of the method, always adapted to the needs of the family and the circumstances of the case. In some cases, they started supporting a family in a restorative justice process in criminal proceedings involving a child and then initiated a family group conference as they identified a need.

#### *Target groups and scope*

397. About 75% of the family group conferences in the Netherlands are initiated upon the referral by professionals, such as social workers, child protection professionals, teachers, police officers or others. In about 25% of the cases, the families contact Eigen Kracht Centrale themselves to request a family group conference as they heard about it or a family member, friend or neighbour suggested the method to them.

398. In the Netherlands, the family group conference method is applied also in cases characterised by high levels of family conflict. Eigen Kracht has made good experience in using the method even in cases where violence has been used, recognising that violence is often perpetrated in the privacy of the family home, behind closed doors, while breaking up the silence about violence has helped in many cases to make families safer and support parents in a process towards non-violence. These cases require highly skilled and experienced coordinators, careful preparations and special safeguards, such as the possibility for the mother and father to be consulted separately in families characterised by domestic or gender-based violence.

399. In the first years of using the method in the Netherlands, family group conferences were mainly used in the context of care proceedings where the placement of a child in alternative care is under consideration. Over the years, however, the scope of application expanded to families struggling with domestic violence, children who are in trouble with the law or behave aggressively in school, as well as a broad scope of challenges facing adults, such as independent living with a disability, debt, homelessness, integration in the labour market, mental health or substance abuse. The method is suitable to address childcare concerns caused by mental health, substance abuse or other problems of a parent. The scope of application is therefore dynamic. Eigen Kracht Centrale conducts research

to ensure the expansion of the target group is always informed by knowledge, evidence and the consultation of persons involved.<sup>323</sup>

400. After eight years of practice, the Dutch regions of Overijssel and Amsterdam city decided to introduce the method in the regional planning, an important moment for progressing towards a stronger standardisation. Over the years, it became increasingly evident that a more specific legal regulation would be helpful, including where the method is used in the context of legal proceedings. In 2015, the Dutch Youth Act was reformed and set out the right of families to make their own plans. (Text to be amended based on legal reference and wording) The same right was introduced also in the national legislation regulating social care and forced psychiatric care. While the legal reform defined a new standard for social and child protection services for families, ensuring its implementation in practice required a paradigm shift in the service culture, which took time and was challenging as it required a sound balance between the autonomy of citizens and the appropriate involvement of service providers and judiciary, in accordance with the rights and best interests of the child and in full respect of the principle of proportionality. The NGO Eigen Kracht Centrale has been supporting this significant process of transition.<sup>324</sup>

401. In 2015, Eigen Kracht Centrale published a white paper on the use of the family group conference method in the Netherlands and the opportunities and benefits it offers for children and families, as well as the society and state.<sup>325</sup> The white paper explains the method and sensitises state authorities and service providers to the key principle that decisions concerning children should not be made without the people who care about them. Investing in the social support networks of children and families is key for finding and implementing sustainable solutions in accordance with the needs and best interests of the individual child in his or her social and family environment. Recognising the importance of social support networks is crucial as states increasingly invest in the development of normative state-led child protection systems.

### *Results of family group conferences*

402. Research shows that about 70-75% of the families succeed in conducting a family group conference. In about 25-30%, the family decides to not conduct the conference because they developed a plan to resolve the concern already in the preparatory phase. In about 10-15% of the cases, the coordinators do not succeed to bring people together to compose a family group and there is no plan. Research has shown that these 10% do not have any obvious common characteristics. There is no evidence, therefore, that the presence of high conflict, violence or other family characteristics prevent the successful use of the method. Further research will be needed to analyse the dynamics better which lead to the conclusion or abandonment of the process.

### **Example of practice: family group conferences in Norway<sup>326</sup>**

403. In Norway, the family group conference method has been used since the end of the 1990s. In the beginning of the 2000s, the method had gained sufficient recognition for national authorities to launch a state-led pilot and evaluation phase between 2003 and 2006. The aim was to develop evidence and experience for the structured use of the method by Norway's municipalities and to set

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<sup>323</sup> van Lieshout, H., *Family group conferences, Vision, roots, implementation, practice and research*, 2024, p. 5.

<sup>324</sup> van Lieshout, H., *Family group conferences, Vision, roots, implementation, practice and research*, 2024, p. 5.

<sup>325</sup> Eigen Kracht Centrale, *White Paper Family Group Plan, The transformation in practice*, 2015.

<sup>326</sup> This section is based on a contribution by Svanhild Vik, National FGC Coordinator, Directorate for Children, Youth and Family Affairs, Norway, 5 September 2024.

standards for training. The pilot phase affirmed that parents, case workers and coordinators were overwhelmingly satisfied with the method. The evaluation report summarised how, compared to traditional casework, the family group conference method had positive psychological results for the children involved, positive results regarding a reduced need for follow-up support of the family by the child welfare services, and a significant reduction of the level of severity of cases. Further research conducted in the years following the national pilot phase keeps corroborating the positive results. More recently, researchers found that in some cases, particularly in acute cases, the participants in the family group conference appreciated the continued support of child protection services and other services indicated in the circumstances of the case also after the FGC.<sup>327</sup>

404. The Ministry of Children and Families, which has the overall responsibility for child welfare services in Norway, decided to standardise the method and promote its use throughout the country, as an integral tool of the national child protection system. In 2007, it nominated the Norwegian Directorate for Children, Youth and Family Affairs as lead agency to coordinate the implementation of the method in Norway and set up a specialised implementation team within the state administration, as well as a network of FGC coordinators. The five regional state child welfare offices of Norway are responsible for training and managing the regional network of coordinators to ensure they can be deployed to all municipalities on an as needed basis. This state-led structure for training, coordination and implementation has been a key factor for the successful use of family group conferences throughout the country.

405. The introduction of the method in Norway did not require any specific legal or policy measures, since the national legislation regulating child welfare services did already reflect the principles of the method, such as a child rights-based approach, supporting the participation of children in service provision, and the overall goal to empower service users. The FGC coordinators are facilitating the family group conference on behalf of the child welfare authorities and are bound by the applicable reporting obligations. The coordinator informs the participants in the FGC that he or she is obliged to report concerns about the child's safety or welfare in accordance with national law.<sup>328</sup>

406. In the national child protection system of Norway, family group conferences are a recommended method, however, there is no legal requirement for using the method as part of care proceedings, where consistent with the best interests of the child, as is the case in New Zealand.

#### *Adaptation of the method to the national context and different target groups*

407. As lead agency, the Norwegian Directorate for Children, Youth and Family Affairs led the process of adaptation of the FGC method to the national social and cultural contexts. It is an ongoing process, which continuously strives for improving the method and testing its application in different thematic fields and with different population groups. As an example, the Directorate has recently held workshops with child welfare officers and key persons from the Sami people in the north of Norway to discuss the use of the method and to explore if there are any barriers to using the method and, if so, how they could be overcome.

408. In the context of care proceedings, where a child's placement in alternative care has been established to be in the best interests of the child, family group conferences are used to identify a suitable foster home for the child. In these contexts, the method was adapted to arrange for a pre-meeting before the family group conference meeting to inform about the responsibilities and

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<sup>327</sup> Svanhild Vik, National FGC Coordinator, Directorate for Children, Youth and Family Affairs, Norway, 7 October 2024.

<sup>328</sup> Svanhild Vik, National FGC Coordinator, Directorate for Children, Youth and Family Affairs, Norway, 7 October 2024.



obligations of all participants. When the placement in alternative care is determined to be in the best interests of the child in the context of care proceedings, foster care is considered the preferred form of alternative care and child welfare authorities are obliged by law to assess whether placement with members of the extended family or network may be possible. This assessment must be documented, and the family group conference can be used as a method that contributes to it. The FGC method is also used in follow-up to placements in foster care, for instance on topics of cooperation between the child's parents and foster carers, contact and relations with siblings and family reunification. In these situations, it may be possible for foster parents to participate in the FGC.<sup>329</sup>

409. The Directorate commissioned research to explore opportunities for using family group conferences in parental separation proceedings under private law and in sensitive contexts, such as in cases where families are struggling with a high level of conflict or violence. The research results guided the method's adaptation to the private law context and the development of safeguards for the safe and equal participation of the child and adults in highly conflictual cases and cases involving violence. As an example, the method was adapted to a 'shuttle conference' to facilitate the communication and participation of family members who do not meet in the same place but in different venues. In these cases, two coordinators cooperate to manage the FGC. They have specialised training and receive targeted support for working with parents, children and other participants involved in a high-conflict case.<sup>330</sup>

410. In addition, the Directorate adapted the family group conference method for use in schools, outside the child welfare context.

#### *Development of a network of trained professionals*

411. The Directorate for Children, Youth and Family Affairs is coordinating the training on the family group conference method. Training is provided to all case workers employed by the agency and includes digital and in-person sessions. Due to the high turn-over of staff in the child welfare sector, continuous information and training are essential.

412. At present, there are about 250 FGC coordinators in Norway who have been trained to deliver the method in different contexts and to different target groups. The coordinators can call experienced supervisors for support when needed and must attend group supervision four times a year. Their performance is monitored to ensure they comply with the standards of the method. Most coordinators are not employed by the municipality but are contracted on an as needed basis; however, some municipalities, which have a consistently high need for the service, employ FGC coordinators.

413. The Directorate is managing and coordinating the FGC coordinators across the regions. The coordinators can contact their supervisor always and are often invited to participate in digital training sessions together with the caseworkers of the child welfare authorities. In each region, the coordinators meet four times per year; the regional meetings can be held online where the long distance requires it. At the national level, one coordination meeting is held per year. These meetings have a thematic focus and are important to share experiences and increase the competences of individuals and the team. The meetings have been strategic to strengthen the knowledge-based implementation of the method throughout the country.

#### *Dissemination of the family group conference method*

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<sup>329</sup> Svanhild Vik, National FGC Coordinator, Directorate for Children, Youth and Family Affairs, Norway, 7 October 2024.

<sup>330</sup> Svanhild Vik, National FGC Coordinator, Directorate for Children, Youth and Family Affairs, Norway, 7 October 2024.

414. Over the years, the method has been used increasingly. In 2007, when the Ministry decided to implement the method nationally, only 200 family group conferences were arranged per year. Today, there are about 2,200 family group conferences in the child welfare sector every year. The potential is much higher, as every social worker in Norway knows about the method but thus far only about half of the child welfare offices in Norway use it.

415. While the Directorate is focusing on the use of FGC in the child welfare sector, its potential is a lot broader. In the future, therefore, the aspiration is for the method to expand to other areas as well, and the trend has already initiated as about 15 municipalities use it in a wider range for children and young adults up to 25 years, as well as vulnerable adults.

416. The Norwegian Directorate for Children, Youth and Family Affairs has drawn up an implementation plan to systematise efforts to coordinate and support the use of family group conferences in Norway. The Directorate collaborates with an implementation researcher to optimise the process and advise municipalities how to implement FGC in a sustainable manner. The partnership of public administration leadership, a coordinated national network of state actors and practitioners, as well as the support of researchers has proven effective to enhance the implementation process.

#### **Key considerations for promoting family group conferences to secure the best interests of the child in civil proceedings**

417. The family group conference method is today widely recognised as a child rights-based and child-centred method, which is based on research and evidence, and delivers positive results for children, families, communities and the state. It can be used before, during and after civil proceedings, including parental separation and care proceedings, and – subject to specific safeguards and a suitability assessment consistent with the best interests of the child – even in cases of high conflict or violence.

418. The family group conference is per se not a costly method, however, introducing it at national scale with an appropriate framework for training and coordination requires an investment. In the longer-term, however, the method has been evidenced to be cost-effective as it reduces the dependency of families on service provision, prevents the placement of children in alternative care and enhances the possibility for timely family reunification after placement. Introducing family group conferences in a country, therefore, is considered a meaningful investment.

419. Based on the experience of member states, the following key considerations are proposed for promoting the use of family group conferences in civil proceedings:

##### **➤ Partnership for the pilot phase**

420. When considering developing or strengthening a family group conference practice in the national child welfare and justice systems, all relevant state agencies with mandates in child protection, social welfare, education, health and the judiciary should be involved, and build a partnership with the academia and professional associations. The method may be piloted at the local or regional levels.

➤ ***Appointing a lead agency***

421. The experience of member states shows that appointing a lead agency or organisation to plan, coordinate and oversee national development and implementation is strategic. It helps to uphold the principles and features of the family group conference method while guiding its adaptation to the national social and cultural contexts and continuously strive for improving the method and its application in different thematic fields and with different population groups.

➤ ***A research-based implementation plan***

422. Research and evaluation should be planned in from the beginning to inform the continued development of the method, standardised training and certification, as well as the adaptation of the method to families with different backgrounds and needs.

423. Developing an implementation plan is helpful to coordinate the pilot phase and subsequent national implementation of the family group conference method. Implementation research should inform the development and continuous review and adaptation of the implementation plan.

424. The process of dissemination, adaptation and development of the method is ongoing and requires continuous research and evaluation, as well as consultation of practitioners and children and adults as service users.

➤ ***Systematic training***

425. Systematic training and accreditation of FGC coordinators, as well as support and supervision, is a precondition for successful use of the method. Initial and continued training should be integrated into academic and vocational training curricula and associated with procedures for licensing and accreditation. Training curricula should be periodically reviewed and updated and expanded to cover the application of the method in different contexts and settings and with a diversity of population groups.

➤ ***Legal regulation and standardisation with appropriate safeguards***

426. A legal regulation of the family group conference method and its application in civil law proceedings is useful to ensure the participation of the child and the family, as well as persons from the family's social network, professional service providers and, where applicable, the judiciary is clearly regulated.<sup>331</sup> Legal regulation is useful to set standards for the method's use, including for training and accreditation of coordinators, safeguards for the child and other participants, protection of the right to respect for private and family life and data sharing, as well as the rules and procedural safeguards for integrating the method in the national child welfare and justice systems. Legal regulation is particularly relevant to ensure consistency with a child rights-based approach and the principle of the best interests of the child.

427. To ensure an appropriate involvement of the judiciary, lawyers and judges should be systematically informed about the family group conference method and its benefits. The referral of families to the family group conference method should be regulated to ensure it is always guided by a suitability assessment based on the comprehensive best interests assessment.

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<sup>331</sup> Dietrich, A., *Family group conference – a promising intervention in child protection*, Lucerne University of Applied Sciences and Arts – Social Work, undated, p. 2.

Families should be able to request a family group conference to resolve concerns or conflicts regarding the safety and care of the child.

428. In accordance with the positive experience made in New Zealand and the experience in Council of Europe member states, such as the Netherlands and Norway, a legal regulation may be considered to give children and parents a right to use the family group conference method before state authorities or service providers interfere with the family life in the context of civil proceedings.

### 4.3. Family therapy methods

429. Family therapy methods are useful tools to support parents and families in resolving conflicts, disputes and other difficulties in caring for and meeting the needs of the child. In Council of Europe member states, numerous family therapy methods are in use, which are suitable for application before, during and after proceedings, based on the needs of the family and the circumstances of the case.

430. In this chapter, two evidence-based methods are presented that are particularly well-established to support parents and families in reducing conflicts and focusing on the needs and best interests of the child: the multi-dimensional family therapy and the combined parent-child behavioural therapy. Both methods may be suitable to support parents and families in situations where violence has been used. They are used in many European countries, such as Belgium, Ireland, the Netherlands, Sweden and UK.

431. Parents and families may be referred to these therapies by social and child protection workers as a preventive measure to address identified risks to the child, for instance as part of a pre-proceedings intervention plan. During proceedings, family therapy methods may be used to support parents and families in preventing the placement of a child in alternative care, and the referral can be made by courts of law. Where a child has been placed in alternative care, family therapy methods may support the process of family reunification, in accordance with the best interests of the child. In parental separation proceedings, a competent authority may require parents to use family therapy as a measure to address risks to the child stemming from a high conflict parental dispute. Even though referral may be initiated by service providers and competent authorities, the participation in a family therapy can only be voluntary and families should also be encouraged to access family therapy where appropriate in the circumstances of the case.

#### **Multi-dimensional Family Therapy**

432. Multi-dimensional Family Therapy is an evidence-based method that succeeds to reduce and resolve family conflicts and improve the quality of the relationships within the family. It is used for situations where children are struggling with mental health issues, difficulties at school, aggression, substance abuse or getting into conflict with the law. In many of these situations, the children involved have experienced corporal punishment or other forms of violence in the home. The method has been evaluated positively as it achieves positive outcomes across all these different areas and effectively combines an ecological social work approach with solution-oriented family therapy. As Multi-dimensional Family Therapy helps to reduce the harm done by family conflicts and prevents the

placement of children in alternative care it is also considered a cost-effective method to support families concerned by civil proceedings.

433. Multi-dimensional Family Therapy offers a package of methods to address specific needs of the child and actively engage the parents. The therapy aims to understand the origin of the difficulties that the child is struggling with. To this end, the therapist assesses parenting practices and supports the family to develop problem-solving skills. Parents learn to cooperate better with each other and to address their own problems, such as mental health issues or substance abuse. All family members are supported to acquire new skills, including communication skills, social and emotional skills, conflict resolution skills and the ability to influence the interaction between family members.

434. The therapist acts as a coordinator who manages the different levels of the therapy in which the child and the parents participate separately and together. The therapist also involves other service providers who are important for the family, for instance psychiatric care professionals, teachers and child protection or social workers.

435. The programme has received positive feedback from children, parents, therapists and professionals working with families. It succeeds in engaging children and parents actively in therapy and motivates them to complete their treatment – this is a distinct advantage as compared to other forms of therapy for the same target groups, which often see higher dropout rates. Multi-dimensional Family Therapy takes three to seven months to complete and involves two to three meetings per week, each of 60-90 minutes in length. It is primarily used with children and youth aged between nine and 26 years old. The programme is considered adaptable to different cultures, family situations and backgrounds.

### **Combined parent-child cognitive behavioural therapy (CPC-CBT)**

436. Where children are victims of physical violence within the family, such as corporal punishment, or where children have witnessed violence between the parents, the combined parent-child cognitive behavioural therapy (CPC-CBT) can help the family in the transition to non-violent relationships. The therapy is suitable for families where the best interests assessment of the child affirmed that keeping contact and direct relations with the parents it is in the best interests of the child and that parents will be able to change their behaviour with appropriate support. The therapy is often used for parents who have experienced violence in their own childhood and have not had any help in processing this experience. The method has been evaluated positively, demonstrating the positive impact on behaviour change of parents and enhanced safety and protection of children. In addition, the method helps to prevent family separation and the placement of children in alternative care.

437. The CPC-CBT is a licensed family therapy and treatment method, which can be used in individual sessions with parents and children or in group sessions with families facing similar challenges. It follows a manual that provides detailed guidance and tools for the facilitators. The therapy is delivered as an outpatient programme in weekly sessions over a minimum of 16 weeks, structured into four phases, and a specific theme is addressed in each week.

438. Two therapists lead the family through the programme, one works with the child or children, the other with the parents. Each session is composed of separate sessions of children and parents and a joint session at the end. Over the course of the therapy, the time children and parents spend together with both therapists gradually increases as the child feels safer with his/her parents.

#### *Therapy phases engaging the child*

439. In the first phase, the children learn about violence and its consequences. It aims to gradually expose the child to child-friendly materials on violence to help the child process his or her experiences of violence.

440. In the second phase, the child learns to identify and express his or her emotions and develops strategies to cope with worries, stress, anger and anxiety. In particular, the child learns how thoughts, emotions and behaviours are connected and that the child him- or herself has no guilt or responsibility for any acts of violence but that it is always the adult who is responsible for using violence. The therapists guide the parents through the same learning process and help them to take responsibility gradually for their behaviour towards the child.

441. In the third phase, the therapists work with the children and parents to draw up a safety plan for the child, using the knowledge and skills acquired during the first two phases. The plan aims to enhance the safety of the child and parents. In this phase, the therapist working with the child helps him or her to talk about the violent incidence that happened in the family.

442. In the fourth and final phase, the child elaborates the experience of violence further, or a specific act of violence if there were several, by writing about it or drawing it or using dolls, cards or other creative ways to recount what happened. The therapist supports the child in this exercise in accordance with the child's age and level of understanding. The therapist prepares the child for sharing his or her narration or representation of the violent act with the parents and encourages the child to rehearse it as often as needed until the child feels reassured and safe to share it. The other therapist guides the parents in responding to the child.

#### *Therapy phases engaging the parents*

443. The therapist working with the parents uses psychoeducation methods to help the parents learn about child development and how their behaviour and communication is perceived by the child. In the first phase of the therapy, the parents learn about the consequences of violence and to use alternative non-violent methods of discipline and non-violent communication. They learn to listen to their child and to show appreciation for the child and apply this knowledge under the supervision of the therapist when they listen to the child's narration of the violence he or she experienced within the family.

444. In the second phase, the parents learn to understand and express their own feelings and emotions, such as anger and stress, and strategies for coping with them. The third phase aims at giving parents practical guidance and tools for developing positive routines in their home and family life to prevent violence in the future. They discuss rules for the family life and what behaviours are acceptable.

445. Together with the children, the parents develop a safety plan. The safety plan identifies, as an example, code words that parents and children can use when they are overwhelmed by their emotions and feel that they are losing control of their own behaviour, as well as safe spaces within the family home where family members can go when they need to calm down. The safety plan gives concrete tips on what each family member can do when they need help and when a child or a parent does not succeed in calming down.

446. The final phase initiates when the child is ready to share his or her narration or representation of the act of violence and the parents are ready to listen. In this phase, the parents are supported by the therapist to read or watch the child's recount of what happened. The therapist supports the



parents in responding to the child, for instance by writing a letter, and clarifying what happened and why. An important element in this response is for the parent to assume the full responsibility for his or her behaviour, to explain what he or she learned about the behaviour and why it is wrong, and to explain how he or she will change the own behaviour in the future.

#### **4.4. Support tools for parents whose children are victims of violence**

447. In the United Kingdom, the Centre of expertise on child sexual abuse (CSA Centre)<sup>332</sup> has developed a series of practical guides and information videos for professionals to build knowledge, skills and confidence in identifying concerns of child sexual abuse, communicating with children about it and supporting parents and carers when there are concerns of child sexual abuse.

448. The Centre is funded by the UK's Home Office and hosted by the childcare organisation Barnardo's. It works with a multidisciplinary team and in partnership with academic institutions, local authorities, health care and education services, police and the voluntary sector. The Centre is specialised on developing information material about sexual violence against children, as well as training for professionals in how to work with children and parents where sexual violence has occurred. The information is based on research and targeted mainly at professionals and officials.

449. In 2022, the Centre launched its 'Supporting parents and carers guide' for professionals. The guide helps professionals to support parents and other caregivers in situations where a child is victim of sexual violence or where such violence is suspected. By supporting parents and carers in responding to these situations with confidence, they will be able to support the recovery of their child and the whole family. The guide explains the impact of sexual violence on the child and the family and sensitises the parent or other caregiver on the important role he or she has in supporting the child after violence happened, as well as the role of the family in the child's process of recovery, and how they can rely on professional support in this process.

450. By providing information, the guide aims to foster confidence and help parents and carers in developing skills when communicating with children about sexual violence or suspicions of violence. It is intended to be used by social workers, teachers and other educational staff, police officers, health care professionals, voluntary-sector workers, youth workers, sports coaches, religious leaders and faith workers.

451. The Supporting Parents and Carers Guide helps professionals to support parents and carers in understanding why they will benefit from support and the type of support professionals can provide. It offers professionals from different backgrounds with hands-on and detailed advice on the support they can provide. The guide sensitises professionals also that their own wellbeing is important and how to take care of their own needs when working with families affected by sexual violence against children.

452. The guide aspires to enable parents and other caregivers to better help their child with the support of professionals, for instance by supporting them in dealing with the immediate and longer-term impacts of violence, facilitating access to available services, creating a protective environment for the child in accordance with the child's age and level of development and individual needs to ensure the child is protected against further violence and help the child in dealing with the own emotions.

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<sup>332</sup> Centre of expertise on child sexual abuse, [CSA Centre](#).

The guide provides contacts of service providers and a list of resources for professionals and for parents and other caregivers, which are available throughout the country and are specialised on supporting children and families concerned by sexual violence. The resources include services for parents and children from minority groups and services addressing specific needs.

## **5) Specialised support for parents and children concerned by parental separation**

453. Civil proceedings are likely to cause stress and concern for children and parents who are already struggling with conflicts or other challenges. Courts of law and service providers get involved with the family and make sensitive decisions, which lead to significant changes in the daily lives of children and parents. Children and parents may be struggling with anxiety, feelings of anger and loss, guilt or shame, and may perceive conflicts of loyalty. To cope with these sensitive situations, children and parents will appreciate some help and support.

454. Children will benefit from support in understanding the reasons for the proceedings and the matters at stake, their own role in the proceedings and how to participate in a meaningful way in relevant decisions and measures. Access to child-friendly information, opportunities to exchange with peers who are in a similar situation and the support of a trusted person are key strategies to help children cope and to enhance their overall well-being and resilience in coping with the situation. Having a trusted social support network and gaining trust in professionals and officials involved in the proceedings will help building resilience and preventing harm.

455. Parents will benefit from support that is sensitive to their individual situation and needs. Parenting programmes, family therapy and alternative dispute resolution programmes, such as mediation and family group conferences, can empower parents in analysing the underlying reasons of family conflicts or other difficulties they are facing, in improving their communication with the other parent and the child and focus better on the best interests of the child. Parents may also require support in caring for and meeting the needs of their child, including where children are victims of violence.

456. This case study presents the following examples of member states' practice regarding the support provided to parents and children concerned by civil proceedings under family law:

- information and counselling for separating parents;
- child-friendly information on parental separation and care;
- group consultations for children concerned by parental separation.

457. The examples relate mainly to out-of-court services which are not directly related to the proceedings as such. Referral to such services may take place before, during or after proceedings, and the need for support should be identified during the best interests assessment. In the context of parental separation, seeking counselling support or attending an information meeting may be a precondition parents may need to comply with before initiating court proceedings.

## **Information and counselling of separating parents**

458. Where separating parents are unable to reach agreement on childcare and contact arrangements, they will benefit from support in focusing on the needs and best interests of the child, especially in parental separations characterised by a high level of conflict. Even in consensual separations, parents may face difficulties in giving due consideration to the best interests of their

child in their agreement. To help them in this process, some member states provide for information and counselling meetings that parents must attend as a precondition for having their separation registered.

459. As an example, the Austrian federal law regulates family counselling for separating parents, including out-of-court procedures for parents aiming at an amicable separation, as well as parents who are in dispute over questions of parental responsibility and contact in the context of their separation.<sup>333</sup>

460. Parents aiming at an amicable separation are required to participate in a mandatory information and counselling session. At this meeting, the parents receive information about typical needs and emotions of children of separating parents and counselling on how they can support the child in coping with the situation. The meeting can be convened as a separate meeting for each parent, a joint meeting with both parents, or a group meeting with other parents. The parents receive a confirmation of their participation, which they must submit to court as a precondition for the court to review and register their amicable separation agreement.<sup>334</sup>

461. If parents are unable to reach agreement on their separation, particularly regarding questions of childcare, parental responsibility and contact, or to comply with previous agreements on these matters, or in cases characterised by a high level of conflict between the parents, the court can order family, parental or educational counselling. The counselling sessions aim at supporting parents in improving their communication and cooperation to be able and focus on the needs and best interests of their child. The counselling takes place outside court in a safe and protected environment and with the participation of both parents.<sup>335</sup> Parents are required to cover the costs of the information and counselling sessions irrespective of whether they seek an amicable agreement or are unable to reach agreement.

462. The Federal Chancellor's Office is operating a digital platform for separating parents which offers comprehensive information about these information and counselling sessions, a database of licensed counsellors whom parents may contact directly, as well as quality standards for the parental counselling, which have been developed by a multidisciplinary expert commission. The website provides information in easily accessible language and is available in numerous languages.<sup>336</sup>

463. The information websites are part of a broader digital information portal for separating parents, which offers information on

- a family and separation counselling service at court to provide quick access to expert advice for parents experiencing relational problems or family conflicts, who are considering separation and are seeking information and guidance, or who are experiencing conflicts regarding contact or maintenance after separation;
- family court assistance, which offers multidisciplinary support to family courts in clarifying questions of parental responsibility and contact in the course of parental separation proceedings;

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<sup>333</sup> Austria, Bundesgesetz über das gerichtliche Verfahren in Rechtsangelegenheiten außer Streitsachen ([Außerstreitgesetz – AußStrG](#)) [Federal Act on the Judicial Procedure in Legal Matters other than Disputes], §95 Abs. 1a.

<sup>334</sup> Bundeskanzleramt [Federal Chancellor's Office], [Elternberatung vor Scheidung](#) [Parental counselling before separation].

<sup>335</sup> Bundeskanzleramt [Federal Chancellor's Office], [Familien-, Eltern- oder Erziehungsberatung](#) [Family, parental or educational counselling].

<sup>336</sup> Bundeskanzleramt [Federal Chancellor's Office], [Elternberatung vor Scheidung](#) [Parental counselling before separation].

- family mediation as an alternative dispute resolution process for separating parents;
- child counselling services for children in need of support whose parents are unable to reach an amicable agreement on questions of childcare, parental responsibility and contact;
- counselling for children and parents concerned by parental separation, including access to therapeutic and educational services for children, peer groups for children and individual counselling for parents.

464. The website provides access to legal and policy documents, quality standards and research. It serves therefore as a source of information and expertise for parents and professionals working with separating parents and their children.

### Child-friendly information on parental separation and care proceedings

465. Children concerned by civil proceedings have a right to information irrespective of their role in the proceedings. The child should receive information in a child-friendly language that he or she can understand and with continuity throughout all stages of the proceedings. In practice, this remains often challenging as in addition to parents, different state authorities and services providers involved in the proceedings share responsibilities for informing the child. European research has shown that children tend to be informed mainly when they are heard in the proceedings and information is limited to the actual hearing.<sup>337</sup> Information on other stages of the proceedings and on the role and rights of the child, and the rights and responsibilities of parents and other actors, on decisions and follow-up, is rarely provided consistently. This gap may leave children feeling helpless and voiceless.

466. The Council of Europe Children's Rights Division has developed child-friendly materials on a range of child rights themes, including positive parenting and children in care.<sup>338</sup> These materials can be used in member states and can inspire an adaptation to the national or local context. Member states themselves have developed a wealth of child-friendly information materials to inform children directly and to support parents or professionals in informing children (*see several examples in Box 10*). When developing these materials, attention is needed to their dissemination to ensure officials and professionals use them actively in communicating with children and children and parents are aware where to find them.

#### **Box 10: Child-friendly information materials for children concerned by parental separation or care proceedings<sup>339</sup>**

467. In Belgium (Flanders), the Department of Welfare, Public Health and Family and the Youth Welfare Agency have developed child-friendly brochures to inform children about different service providers available to help children and explain the rights of children in alternative care. The brochure for children in care was developed with the help of children who had been in care themselves. Children can personalise their own copy of a brochure, for instance by filling in the

<sup>337</sup> Pesce, F., Maoli, F., Bendinelli, R., *Children's right to information in civil proceedings in Italy*, National Report Italy, MiRI – Minor's Right to Information in EU Civil Actions, University of Genoa, January 2021. Wenke, D., [Legal instrument on the protection of the best interests of the child in domestic law proceedings by public authorities to limit parental responsibilities or place a child in care](#), Feasibility study, Council of Europe, 2021, para. 158-159.

<sup>338</sup> Council of Europe, Children's Rights, [Child-friendly material](#), 2024.

<sup>339</sup> This box is citing examples from: Wenke, D., [Legal instrument on the protection of the best interests of the child in domestic law proceedings by public authorities to limit parental responsibilities or place a child in care](#), Feasibility study, Council of Europe, 2021, para. 162-167.

name and contact details of their social worker or other reference person at a specific service provider.<sup>340</sup>

468. In Ireland, the Child and Family Agency Tusla developed child friendly documents to explain what Tusla does and inform children about the role of a social worker and the National Children's Charter. Tusla is operating a website for children ([changingfutures.ie](http://changingfutures.ie)) to inform children about child protection services and the care system. Child-friendly materials are also available for children in care, which are based on extensive consultation of children in care.<sup>341</sup>

469. In Italy, the national Ministry of Labour and Social Policy developed a child-friendly booklet for social workers who support children in foster care. It uses child-friendly language and illustrations to inform children about foster care and that it aims to support the child and his or her family of origin in feeling better and handling their own situation.<sup>342</sup>

470. In Switzerland, Unicef Switzerland and the Marie Meierhofer Institute for Children developed information brochures in three national languages on the hearing of the child in care proceedings. The materials include child-friendly brochures for different age groups of children between 5 and 13 years. One of the brochures is for professionals and supports them in informing parents and children on what a child hearing is and how parents can prepare the child for it. The materials include specific tools to facilitate the conversation with the child, such as sample letters inviting children and parents to the child hearing using child-friendly and easy accessible language.<sup>343</sup>

471. In Sweden, the National Board of Health and Welfare operates the website "Koll på soc"<sup>344</sup> ('check out the social services'), which informs children and young people up to the age of 21 about social services and what they do. It is targeted primarily at those who are already in contact with social services as well as children and young people who want to learn more about social services and are considering contacting them because they feel bad themselves or know someone who may need help. The website informs in easy language about the help that social workers can offer, explains step by step how social workers help a family, and provides specific information on alternative care for children. It gives advice on how to prepare for a meeting with a social worker and facilitates children's direct access to social workers. The website is available in Swedish, English and Arabic and includes a voice assistant who reads out the content. The website has been online for many years and was revised several years ago to make it more easily accessible for children and young people and compatible with mobile phone screens. The National Board of Health and Welfare consulted children and young people and involved them in the development of the website.

<sup>340</sup> See for instance: Agentschap Jongerenwelzijn, *YOU and the Ondersteuningscentrum Jeugdzorg*, undated. Department of Welfare, Public Health and Family, *How is it in integrated youth care*, 2020.

<sup>341</sup> For example, see <https://www.tusla.ie/publications/tactic/> and [https://www.tusla.ie/uploads/content/3181-TUSLA\\_YouthStrategy\\_LEAFLET-POSTER\\_HR.pdf](https://www.tusla.ie/uploads/content/3181-TUSLA_YouthStrategy_LEAFLET-POSTER_HR.pdf)

<sup>342</sup> Ministero del Lavoro e delle Politiche Sociali [Ministry of Labour and Social Policies], Istituto degli Innocenti, *Linee di indirizzo per l'affidamento familiare, Versione per Bambine, bambini, ragazze e ragazzi [Guidelines for foster care, Version for children and adolescents]*, 2018, [lavoro.gov.it/temi-e-priorita/infanzia-e-adolescenza/focus-on/minorenni-fuori-famiglia/Documents/etr-Linee-Indirizzo-affido-easy.pdf](http://lavoro.gov.it/temi-e-priorita/infanzia-e-adolescenza/focus-on/minorenni-fuori-famiglia/Documents/etr-Linee-Indirizzo-affido-easy.pdf). Ministero del Lavoro e delle Politiche Sociali [Ministry of Labour and Social Policies], *L'intervento con bambini e famiglie in situazione di vulnerabilità Promozione della genitorialità positiva Versione Easy to Read – Facile da leggere [Services for children and families in a situation of vulnerability; Promotion of positive parenting]*, 2019, <https://www.lavoro.gov.it/temi-e-priorita/infanzia-e-adolescenza/focus-on/sostegno-alla-genitorialita/Documents/Linee-Indirizzo-famiglie-vulnerabili-Easy.pdf>.

<sup>343</sup> <http://www.unicef.ch/de/information/publikationen/kinderrechte/anhoerungsbroschueren/index.cfm>. <https://www.unicef.ch/de/shop/publikationen>.

<sup>344</sup> [Information about Swedish social services – for children and young persons - Koll på soc \(kollpasoc.se\)](http://www.kollpasoc.se).



## Digital platforms for children and parents concerned by parental separation: example of Germany

472. In Germany, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth worked with partners to develop digital resource centres offering information and support for children and parents concerned by parental separation. The website STARK (“strong”) is targeted at separating parents and their children, and the website ZANK (“quarrel”) focuses on cross-border disputes of separating parents. Both websites offer resources and information for professionals working with parents and children in these situations.

### *ZANK website for children and parents concerned by cross-border disputes of separating parents*

473. In Germany, the national branch of the International Social Service (ISS) developed the ZAnK (“quarrel”) website to inform children and parents concerned by parental separation, particularly in cases of cross-border disputes on childcare and where the child’s relocation to another country is under consideration.<sup>345</sup>

474. In 2011, the Federal Government of Germany decided to develop a central contact point offering counselling for parents experiencing cross-border disputes on parental separation and childcare. The main motivation was to support parents in understanding their situations and finding help in resolving their conflicts while focusing on the needs and best interests of the child. There was a recognised need for the service as cases were increasing. Against this background, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, in agreement with the Federal Ministry of Justice, the Federal Foreign Office and the Federal Ministry of the Interior, entrusted ISS Germany with the establishment of a central contact point. Based on a long history working in the field of cross-border social services and child protection, ISS Germany has developed solid legal, social and cultural expertise in this highly sensitive field, as well as a network of national and international contacts. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has continued funding the service since its establishment.

475. The ZAnK website is a core service offered by the central contact point. It aimed initially to offer a combination of online information and counselling via telephone and email. ISS Germany developed the website in collaboration with a working group of experts. At its launch in 2012, the website included a section for children, which had been developed with the support of a group of children whose parents had separated. Ten years later, in 2021, the website was evaluated and revised in accordance with the evaluation findings to offer a more detailed ZAnK-website while maintaining the overall scope of an information and counselling service.

476. The website comprises separate pages for parents and professionals, younger children and adolescents. The pages targeted at children use child-friendly language and illustrations to inform about family conflicts and parental separation, relocation and international abduction and help children understand their own role in these situations, as well as key legal terminology. It explains the role of the main actors with whom the child may get in contact, such as the Youth Office (local

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<sup>345</sup> ZAnK – Zentrale Anlaufstelle für grenzüberschreitende Kindschaftskonflikte und Mediation [Zank – Central contact point for cross-border parental disputes over childcare and mediation], <https://kinder.zank.de/>. This section is based on contributions by Ann-Katrin Eck, Department Rights of the Child – national and international, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, Germany, and Ursula Roelke, Director, International Social Service, Germany, 26 September 2024.



child protection services), counselling services, the family court, the lawyer and guardian *ad litem*, as well as the mediator.

477. The website gives children access to key questions and standardised responses concerning the situations they are experiencing, such as the rights of the child when parents are separating, how to cope with situations where parents live in different countries, the role of the family court and how it can help families in these situations, as well as the role of the child and his or her rights in legal proceedings. Children can access information about emotions that are normal in these situations and receive advice on how to cope with concerns and worries or when they get upset. The website facilitates children's access to service providers close to where they live and to peer groups of other children who are in a similar situation. The website includes two distinct sections for children under 12 years old and adolescents aged 12 or older, which use a language and level of detail adapted to the age groups.

478. The site for younger children enlists the following questions that children can click on to find out more:

- Who decides with which parent I should live?
- Can I continue seeing both parents?
- What will happen in the case my parents will not agree on where I should live?
- My parents want to live with me in another country; is it ok for us to move?
- I want to learn more about my rights.
- Can I meet children who are in a similar situation?
- My parents asked a family court for help, what will happen now?
- What is the family court expecting of me?
- Can I express my wishes?

479. The set of questions and answers includes also advice and tips from children for children, such as

- Try and talk to both parents about your worries and wishes. Do not hesitate to ask questions.
- It is not your responsibility to make your parents feel good.
- It may help to keep a diary or to speak to people who are close to you.

480. The ZAnK website informs children that they can meet other children who are in a similar situation and who live in their city or region. Children are advised that their parents will be able to locate available group counselling for children of separating parents. These counselling groups follow a similar approach as in the example from Italy presented in the next section.

481. The site for adolescents is structured in a different way and provides more comprehensive information on parental separation proceedings and conflicts over parental responsibility, contact arrangements, possible solutions and advice on how to deal with worries and concerns. The website offers contact information of services that adolescents may contact for help, it gives advice on how to cope with emotional stress and a reading list of literature for adolescents.

482. The site for parents and professionals offers advice on how to speak with the child about the family conflict. As an example, it advises parents to read the website for children together with the child and to speak about it with the child. The child-friendly information, structure and lay-out facilitate the parent-child conversation about sensitive issues and can help the parent in conveying

information in a language and manner that the child can understand. It can help the child also in formulating questions, concerns and emotions.

483. Professionals find advice and resources on parental separation with a cross-border dimension. The resources are intended for professionals who know separating parents experiencing a crisis situation and considering relocation. They are useful for professionals who have identified a risk of international child abduction in a family. The information is targeted at the judiciary, social and child protection services, and the education sector. The website offers information, resources and contacts regarding court proceedings, out-of-court solutions for resolving family conflicts, as well as family mediation.

484. The website for parents and professionals is available in German, as well as Arabic, English, French, Polish, Russian, Spanish and Turkish. The German version is available also in easy language for persons with reading difficulties or cognitive challenges.

485. The ZAnK website was disseminated mainly through professionals working with children and families concerned by parental separation and cross-border family disputes. When the website went online in 2012, ISS Germany and the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth informed all youth welfare offices and family courts, as well as relevant NGOs working in the field, reaching about 2,000 contacts. The dissemination was done primarily by e-mail and accompanied by flyers and posters sent to the same recipients by post for use in their daily work. To reach children, ISS Germany shared information about the website with organisations working directly with children. In addition, the website was cross-linked on other websites, such as the “I want to speak with a child” webpage for guardians *ad litem*, the website of the Central Authority of the Hague Conference of Private International Law based at the Federal Ministry of Justice, as well as a specialised information website of the Federal Foreign Office.<sup>346</sup> During the website creation, specific attention was given to using key terms to increase the visibility of the website in the main internet search tools to enable children and parents searching for information online to find it.

486. Increasing the visibility was indeed one of the main motivations for reviewing and updating the website in 2021, as it remained challenging to ensure families experiencing conflicts have timely access to specialised information and help, including families with ties to more than one country. In the review process, ISS Germany conducted a needs analysis of the main target groups, assessed the website’s visibility and identified the key agencies and organisations that could act as multipliers and refer parents and children to the website. While funding was important to develop, review and disseminate the website, a core task was to gather the collective expertise of key actors in shaping a strategy for dissemination.

487. In preparation for the dissemination strategy, ISS Germany consulted with a broad group of experts from different agencies, sectors and services on the following questions:

- Who might identify children concerned by difficult parental separation situations who are likely to benefit from using the website?
- With whom would a child speak about his or her situation?
- To whom do parents turn in crisis situations related to their separation?
- Who are the key contact points within institutions, services and organisations who respond to children and parents looking for help?

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<sup>346</sup> [www.bundesjustizamt.de/sorgerecht](http://www.bundesjustizamt.de/sorgerecht). [www.auswaertiges-amt.de/de/kindesenziehung/2007546](http://www.auswaertiges-amt.de/de/kindesenziehung/2007546). (add link to guardian ad litem website).

488. Sustaining the services offered by the ZAnK website requires continued commitment, human and financial resources, which is challenging to achieve as ISS Germany is receiving a high number of requests from parents and family members concerned by cross-border family disputes. To maintain the visibility, ISS Germany as website host, considers that there is a need to post new information regularly, as a minimum, every two weeks, and to organise two or three actions or events per year to promote the website, such as producing and disseminating a new video on the website or sending out an information e-mail to youth welfare offices and other actors throughout Germany.

489. As an example, ISS Germany uses different occasions to inform the judiciary about the website to enhance the role of courts in facilitating parents' access to specialised information. In international child abduction cases handled under the HCCH 1980 Child Abduction Convention, courts can avail themselves of a model letter for parents providing the most important information, including information about the central contact point and ZAnK website. ISS Germany informs Hague Abduction Judges about ZAnK in bi-annual training meetings organized by the German Central Authority under the Hague Convention.

#### *STARK website for children and parents concerned by parental separation*

490. In view of the positive experience made in supporting children, parents and professionals concerned by parental separation in cross-border situations, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth launched a similar digital platform for children and parents concerned by parental separation in a national context. The STARK ("strong") website has been online since 2019.<sup>347</sup> The Federal Ministry commissioned the German Youth Institute to develop and run the website as a service offering information, advice and support for parents and professionals. The website was developed in cooperation with Universities and a multidisciplinary team including experts in psychology, pedagogics, law and economics. It is based on research and aims to complement the support offered by service providers offering counselling locally.

491. Under the child and youth welfare laws of the federal social code, mothers and fathers of underage children have a legal right to counselling on partnership, separation or divorce (Section 17), on issues relating to childcare and access rights (Section 18) and to help with parenting (Section 27). Studies have shown that the vast majority of separating couples search for information, advice and counselling services online. The STARK platform is a response to the high demand for online services.

492. The digital platform offers parents access to information on legal, financial and psychological aspects of their separation and advice for co-parenting and how to focus on the needs and best interests of the child in the context of separation. Children receive access to information and advice in child-friendly language. Parents and children can access the contacts of support services in the local area where they live, as well as a possibility to register online for courses provided locally to children and parents to support them in the process of parental separation.

493. The pages targeted at parents offer information on the following topics:

1. First aid for couples in crisis
2. Thinking through a legal separation
3. Thinking through separation from an economical perspective

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<sup>347</sup> [STARK](#), Streit und Trennung meistern, Alltagshilfe, Rat und Konfliktlösung [STRONG, Mastering conflict and separation, everyday help, advice and conflict resolution].

4. Being fair in separation and co-parenting
5. Contact points and help
6. Separation and divorce checklist
7. Examples of case stories of families

494. For children, the website offers access to knowledge and action that help children feel strong when their parents are separating. The knowledge section provides child-friendly information on what it means for children when parents are separating and explores typical motivations for parents to separate. It informs children about their rights and gives them a perspective on how their lives may change in the process of separation and thereafter. The section on acting to be strong in separation helps children to understand their emotions and cope with parental disputes and family conflicts that separation may cause. Children get access to a toolbox that provides hands-on practical advice, for instance a set of rules to respect in family disputes and arguments between parents and children. Children are informed that they can use these materials themselves or share them with their parents, which may be a way to help parents and children talk about the situation and how the children feel about it. The website offers also child-friendly materials that children can download, as well as contacts that offer help.

495. Professionals are able to access information and materials for download that help them support children and parents concerned by parental separation, including written materials and videos. In 2024, the developers, hosts and partners of the STARK website organised a national conference for professionals working with parents who are separating and their children. The conference offered a platform for exchange to strengthen counselling services in this field.

### Group consultations for children concerned by parental separation<sup>348</sup>

496. The Italian Independent Authority for Children and Adolescents is promoting the '*gruppi di parola*' – 'conversation group' or 'voice group' – method for children of separating or separated parents.<sup>349</sup> The method has its origins in Canada ('*groupe confidences*') where it has been used as a prevention programme for children since 1993. The Catholic University 'Sacro Cuore' based in Milan introduced the method in Italy in 2005 and has been adapting it to the Italian context; today, the University promotes the method country-wide in a joint project with the Independent Authority for Children and Adolescents, the Toniolo Institute of Advanced Studies and the EOS Foundation.<sup>350</sup> The University is running a family counselling centre, which offers four to five conversation group cycles per year to respond to an increasing demand. For 15 years, the University has been offering a master degree in family mediation, which provides a solid basis of expertise and methodological experience for introducing the conversation group method, considering the synergies with family mediation methods.

497. Conversation groups are a short-term, group-based clinical practice for children. The method supports emotional processing in particular moments of change that generate suffering, such as

<sup>348</sup> This section is based on contributions by Paola Farinacci, Catholic University 'Sacro Cuore' of Milan, Italy, 12 December 2024.

<sup>349</sup> The '*gruppi di parola*' is a method developed under the copy-right of the Centre for family studies and research and the Clinical psychology service for couples and families of the Catholic University of Milan (Centro di Ateneo Studi e Ricerche sulla famiglia e il Servizio di Psicologia clinica per la coppia e la famiglia dell'Università Cattolica di Milano). See also: Marzotto, C. (ed.), *Gruppi di parola per la cura dei legami familiari*, Franco Angeli, 2015. Marzotto, C. (ed.), *I Gruppi di Parola per i figli di genitori separati*, Vita e Pensiero, 2010.

<sup>350</sup> Autorità garante per l'infanzia e l'adolescenza [Independent Authority for Children and Adolescents], *Gruppi di parola [Conversation Groups]*, 12 October 2022.

separations, loss of a family member or placement in alternative care. It helps to mobilise resources in the situation itself and protective factors for the future. The method guides children in finding words to express their emotions in the moment they arise to prevent harm in the longer-term. The method responds to a two-fold need: the child's need to understand what is happening, and the parents' need to communicate with the child. The method is child-centred and requires the participation of the whole family in findings ways to continue being a family despite the notable changes they experience.<sup>351</sup>

498. In Italy, the conversation group method engages children in two age groups, 6-11 years and 12-15 years old. The children participate in a series of meetings with five to eight peers in the same age group whose parents have separated or are separating. A group meets once a week for two hours over a period of four weeks. During the meetings, the children talk and express their thoughts and emotions freely through play, drawing and writing, role plays and other activities, with the help of specially trained facilitators. The groups engage children in discussing, for instance, the following questions:

- how did it feel finding out that the parents are separating;
- what helps to cope with the situation;
- what can the child do when he or she feels angry or upset;
- how does the child feel about the contact arrangements and the quality of contact with each parent and other family members;
- how can the child speak to the parents about his or her emotions and wishes?

499. The sessions are led by two facilitators who have been trained on the method. The facilitators explain to the children that what they say and produce during the sessions will be treated confidentially and will not be shared with the parents or other adults. This rule enables an atmosphere of trust and is reassuring for the children, who are often afraid that expressing their wishes and emotions could have negative consequences for themselves or the family.<sup>352</sup> Before the facilitators convey the child's views to the parents, they discuss with each child what specifically can be shared with the parents and what should be kept confidential.<sup>353</sup>

500. Each session follows the same clearly defined routine, which reassures the participating children that they are in a protective and confidential environment and helps them to engage actively in the session:

- In the *welcoming phase*, the children greet each other and sit down in a circle together with the facilitators. The facilitators share the rules and the main theme for the session and the children express their emotions and experiences regarding the chosen theme.
- The *afternoon snack* allows the children to socialise with the other children and express themselves freely to share their state of mind with their peers.

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<sup>351</sup> Caiella, S., [I gruppi di parola: le emozioni hanno voce](#) [Conversation groups: giving a voice to emotions], *Osservatorio nazionale sul diritto di famiglia, Diritto e processo* [National Observatory on Family Law, Law and proceedings], Vol. 2, May-August 2020, pp. 150-152.

<sup>352</sup> Caiella, S., [I gruppi di parola: le emozioni hanno voce](#) [Conversation groups: giving a voice to emotions], *Osservatorio nazionale sul diritto di famiglia, Diritto e processo* [National Observatory on Family Law, Law and proceedings], Vol. 2, May-August 2020, pp. 150-152.

<sup>353</sup> Università Cattolica del Sacro Cuore Roma, [Depliant](#), *Gruppi di parola*, undated.

- In the *closing phase*, the facilitators guide the children in summarising what they shared during the session and the facilitators announce the theme of the next session.

501. The sessions take place in a safe and welcoming child-friendly environment, which offers two distinct rooms or zones: one is furnished in an informal and comfortable way, for instance with carpets and cushions that children can sit on forming a circle for the welcoming and closure phase; the other offers a workshop setting with different materials to inspire the children's creativity, such as paper and paints and materials for role play.<sup>354</sup>

502. The method is helping children to express their emotions, such as concerns, anxiety and fear regarding their parents' separation. It gives them an opportunity to speak about family conflicts and arguments, and the way their daily routines change. The children can ask questions and find ways to speak with their parents about their emotions. Participating in the group sessions helps them to address matters that they find important, get help and find comfort in the group of peers who share similar experiences. The children develop resources that help them to cope with difficulties related to the changes in family life and to feel less alone and calmer about the way their families change.<sup>355</sup>

503. The conversation group method involves the parents as well and supports them in understanding the views, emotions and needs of their children better. The overall aim is to support them in the transition from being a couple who share the care and responsibility for their children to the new situation where they continue being parents even while separated as a couple. In the process of adapting the method to the Italian context, creating an alliance between children and parents was considered particularly important.<sup>356</sup> After their participation in the group sessions, the children will continue living with their parents in a situation or process of separation. The Catholic University 'Sacro Cuore' of Milan considered it therefore important to engage the parents actively at the beginning and after the conclusions of the child peer groups to allow them to benefit from the programme as well. The method considers parents in principle competent in their parenting role and as service users. The facilitators take on a supportive role therefore in providing orientation to parents and help them to focus on the needs and best interests of their child.

504. During the group sessions, the children write a joint letter from the children to the parents, which they share with the parents at the final session. The final session, therefore, represents a moment where the children speak out and parents listen. It symbolises also a moment where the parents are united in their role as parents, even if they are separated as a couple. During the conclusion of the conversation cycle, the children sit on cushions and carpets on the ground, in a circle, and the parents are seated around them in a circle of chairs. This seating arrangement is intended to symbolise the differences between the two generations that come together on this occasion.<sup>357</sup>

505. Before a child is enrolled in a group, the parents attend an information meeting, and both parents must consent to the participation of their child or children. The parents also attend a conclusion and feedback meeting with the child and the nuclear family when the children's consultation circle is

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<sup>354</sup> Caiella, S., [I gruppi di parola: le emozioni hanno voce](#) [Conversation groups: giving a voice to emotions], *Osservatorio nazionale sul diritto di famiglia, Diritto e processo* [National Observatory on Family Law, Law and proceedings], Vol. 2, May-August 2020, pp. 150-152.

<sup>355</sup> Università Cattolica del Sacro Cuore Roma, [Depliant](#), *Gruppi di parola*, undated.

<sup>356</sup> Caiella, S., [I gruppi di parola: le emozioni hanno voce](#) [Conversation groups: giving a voice to emotions], *Osservatorio nazionale sul diritto di famiglia, Diritto e processo* [National Observatory on Family Law, Law and proceedings], Vol. 2, May-August 2020, pp. 150-152.

<sup>357</sup> Caiella, S., [I gruppi di parola: le emozioni hanno voce](#) [Conversation groups: giving a voice to emotions], *Osservatorio nazionale sul diritto di famiglia, Diritto e processo* [National Observatory on Family Law, Law and proceedings], Vol. 2, May-August 2020, pp. 150-152.



concluded and, after one month, the parents participate in an individual in-depth interview to assess their views on the child's participation in the sessions and any change they have observed.<sup>358</sup> During these follow-up meetings, the facilitators explore with the parents possible resources they can activate to support, protect and empower the child, and discuss the child's needs for continued support and help, using this occasion to direct the family towards appropriate services, such as psychotherapy.<sup>359</sup>

506. The method can be applied also within the process of family mediation or other alternative dispute resolution processes applied in parental separation proceedings. As an example, a family mediator who identifies a need for support of a child can propose that the mediation process is interrupted to allow the child to participate in a conversation group programme. After the conclusion of the programme, the family mediation will be reassumed. Both methods respect the principles of confidentiality and voluntariness and aim to help the parents to focus on the needs and best interests of the child when resolving any conflicts and reaching agreement on their separation. Family support centres and mediation providers are particularly well-prepared to offer the programme.

507. Today, the conversation group method is offered throughout Italy by facilitators trained by the Catholic Universities of Milan and Rome, which has registered a license for facilitators who have undergone the training. The training of facilitators takes place over seven working days distributed over a period of several months. It involves theoretical sessions, practical exercises and supervision in applying the method with a group of children. The theoretical sessions follow a multidisciplinary approach and include elements of psychology, social work, law and family mediation. National training standards will be developed in the future to continue promoting the use of the method all over Italy following a common set of quality standards.

508. The Catholic University 'Sacro Cuore' of Rome evaluated the programme based on the experience of 28 conversation group cycles involving 196 children in total. The evaluation demonstrated the effectiveness of the method in supporting children and their families in coping with the parental separation process.<sup>360</sup> In view of the low costs of the methods, its short duration and the evidenced benefits for children and parents, the method is considered cost-effective.

509. As the positive effects of the method on children and families have been demonstrated, the University is piloting the method also with other groups of children who are in need of support and would benefit from this consultative peer-group approach in a significant phase of transition in their lives, such as the death of a parent, a child's placement in alternative care or a disability.<sup>361</sup>

510. The Independent Authority for Children and Adolescents dedicated a section of its website to the programme, which offers information on the programme, including an informational video, as well as access to a map of providers licensed run the programme in Italy. Developing the map was an important investment in support of the dissemination of the programme.<sup>362</sup> There are currently

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<sup>358</sup> Università Cattolica del Sacro Cuore Roma, [Depliant](#), *Gruppi di parola*, undated.

<sup>359</sup> Caiella, S., [I gruppi di parola: le emozioni hanno voce](#) [Conversation groups: giving a voice to emotions], *Osservatorio nazionale sul diritto di famiglia, Diritto e processo* [National Observatory on Family Law, Law and proceedings], Vol. 2, May-August 2020, pp. 150-152.

<sup>360</sup> Università Cattolica del Sacro Cuore Roma, [Depliant](#), *Gruppi di parola*, p. 6.

<sup>361</sup> Università Cattolica del Sacro Cuore Roma, [Depliant](#), *Gruppi di parola*, undated, pp. 6-7.

<sup>362</sup> Autorità garante per l'infanzia e l'adolescenza [Independent Authority for Children and Adolescents], [Gruppi di parola](#) [Conversation Groups], 12 October 2022.

111 service providers enlisted with contact details in an open registry to facilitate direct access of parents.<sup>363</sup>

### **Key considerations for supporting children, parents and families concerned by civil proceedings**

511. Children and parents concerned by parental separation or care proceedings benefit from support to ensure the child's wellbeing and prevent harm in the situation and in the longer term. The support services available in member states range from universal support for all parents and children concerned by civil proceedings to indicated and specific support for families at risk and those where violence has happened. In principle, support should be provided with continuity before, during and after proceedings and with the appropriate involvement of the judiciary.

512. Based on the experience of member states, the following key considerations are proposed for promoting support services for children, parents and families:

#### **➤ Develop and disseminate child-friendly information**

513. Child-friendly information material should be available for children involved in civil proceedings, addressing different types of proceedings, different age groups, relevant themes and concerns. Professionals and parents should be encouraged to use child-friendly information: professionals working with children in civil proceedings may use the material in informing children and supporting parents; parents and other family members may use the material as a resource that may support them in communicating with their children on sensitive topics, and for children themselves.

514. Children should be able to access child-friendly information from different sources and in different formats, such as publications for children, child-friendly information websites and social media content, animations and videos.

515. The Council of Europe Children's Rights Division has developed child-friendly information materials on a range of themes for member states to use. It is good practice to involve children in the development and review of child-friendly materials and to ensure wide dissemination and training of professionals in using it.

516. Child-friendly materials should also inform children and parents, as well as professionals, on the services available to help and support children and parents. They may give concrete tips on where children and parents can get help where they live. In addition, digital services, platforms and helplines are useful to enable a low threshold access to information. Children and parents should be able to access digital services themselves and find information on where to turn to locally to receive personalised support. Digital sources of information, therefore, should be connected effectively with the referral mechanisms for children and parents in need of help.

517. Experience shows that, once produced, targeted efforts are needed to disseminate relevant information and materials within the population and among courts of law, legal professionals such as lawyers and guardians *ad litem*, social and child protection services, mediation and other alternative dispute resolution professionals, child psychologists and other professional groups.

<sup>363</sup> Università Cattolica del Sacro Cuore, Autorità garante per l'infanzia e l'adolescenza, Fondazione EOS, *I gruppi di parola per figli di genitori separati*, [Mappa dei servizi / centri/ studi professionali](#) [Communication circles for children of separated parents, map of services, centres and professional studios], July 2024.

Officials and professionals who have direct contact with children benefit from training on how to use such materials in communicating with children, how to identify children in need of support and how to refer them to providers of meaningful support.

518. Developing a dissemination strategy is helpful to reach all relevant state and non-state actors and involve them in the dissemination and use of the available materials, such as state agencies at the national, regional and local levels, as applicable, as well as relevant institutions, services and organisations, including civil society and volunteer organisations. Dissemination strategies should consider specific measures for digital information and print materials. The results of dissemination should be reviewed and evaluated in consultation with relevant officials and professionals, parents and children.

➤ ***Counselling services for children and parents involved in civil proceedings***

519. Children and parents should have access to counselling services, including individual and group counselling. Counselling services have proven effective in providing accurate information to children and parents that they can understand, offering professional advice and support, as well as peer support from children or parents sharing a similar experience. Counselling services should be available at a low threshold and be available before, during and after proceedings, as complementary to court proceedings or as out-of-court support.

520. Competent authorities and service providers should be able to refer children and parents to counselling services and peer groups before, during and after proceedings. Children and parents should be able to access information on counselling services available in their local area, including information from service providers and state agencies, as well as digital information online.

➤ ***Information sessions for separating parents facilitating referral to support programmes for children and parents***

521. When parents are separating, they will benefit from information sessions to provide reliable and individualised information and advice on the separation process, the different options available and where to find support. Information sessions may be mandatory for parents before initiating parental separation proceedings in court. These sessions offer an important opportunity to inform parents on mediation services, conversation groups for children and other support that will help them to focus on the needs and best interests of the child when resolving any conflicts and reaching an amicable agreement on their separation.

## **6) Legal professionals working with children in civil proceedings: training, specialisation and support**

522. The Committee of Ministers Guidelines on child-friendly justice set out the right of the child to their own legal counsel and representation in proceedings where the interests of the child are or could be in conflict with those of the parents or other parties in the case. In parental separation and care proceedings, 'other parties' could refer to holders of parental responsibility other than the child's parents, other family members or, particularly in care proceedings, state authorities such as social or child protection services. Where the interests of the child and the parents are in conflict, the court

or another competent authority should appoint a guardian *ad litem* or another independent representative tasked to represent the views and the best interests of the child.<sup>364</sup>

523. The Guidelines provide that children should have access to legal aid under the same or more lenient conditions as adults. Lawyers should be trained to represent children and consider children as fully fledged clients with their own rights. They should inform the child they represent, hear and convey the child's views and explain possible consequences of the child's views. Member states should facilitate a child's access to a lawyer or other institution or entity, which is responsible under national law to represent children and defending children's rights.<sup>365</sup>

524. The training of professionals is a general element of child-friendly justice. Training should be interdisciplinary and address the rights and needs of children of different age groups and how to adapt proceedings to their rights and needs. Professionals who have direct contact with children, such as lawyers and guardians *ad litem*, should be trained in communicating with children of all ages and developmental stages and with children who have specific needs or vulnerabilities.<sup>366</sup>

525. The Guidelines encourage member states to "consider the establishment of a system of specialised judges and lawyers for children and further develop courts in which both legal and social measures can be taken in favour of children and their families".<sup>367</sup>

526. The Guidelines recommend that a system of specialised lawyers representing children should be in place, which clarifies the exact role of the child's lawyer. The lawyer should consult with the child to determine and defend the child's views and opinions and seek the child's informed consent on the best strategy to use. While both the lawyer and the guardian *ad litem* are representing the child, their roles differ. The guardian *ad litem* is appointed by the court and, other than a lawyer, supports the court in the best interests determination procedure. Although lawyers are authorised to act as guardians *ad litem* in many member states, the two roles should not be performed by the same person as conflicts of interests could arise.<sup>368</sup>

527. In Council of Europe member states, requiring specialisation of lawyers representing children is not yet a common standard, particularly in civil law proceedings. Specialisation refers to accreditation or licensing of child lawyers, guardians *ad litem* and other legal professionals who have undergone specialised training and fulfil certain minimum qualifications.

528. This case study presents examples from member states regarding the specialisation of professionals representing children in civil proceedings. It also looks at support for family judges, particularly psychological support, in view of their complex tasks. The case study presents the following examples:

- Legal requirements for the specialisation of legal professionals: example of Georgia;

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<sup>364</sup> Council of Europe (2010), [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#), IV.D.2., para. 37 and 42.

<sup>365</sup> Council of Europe (2010), [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#), IV.D.2., para. 38, 39 and 41. Council of Europe (2010), [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#), Explanatory memorandum, para. 101.

<sup>366</sup> Council of Europe (2010), [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#), IV.A.4., para. 14 and 15.

<sup>367</sup> Council of Europe (2010), [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#), V.f.

<sup>368</sup> Council of Europe (2010), [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#), Explanatory memorandum, para. 104-105.

- Legal requirements for the specialisation of family judges, lawyers and guardians *ad litem*: example of Germany;
- Youth Lawyer Commission of the Flemish Bar Association: example from Belgium;
- Legal aid for children: UNICEF Guidelines on child-friendly legal aid;
- Advanced Studies in International Children's Rights: example of the Netherlands;
- Specialised training of guardians *ad litem*: example of Ireland;
- Guidelines for court-appointed experts: Council of Europe guidelines and example of Germany;
- Psychological support for family judges: Council of Europe guidelines and examples from member states.

### Legal requirements for the specialisation of legal professionals: example of Georgia

529. In Georgia, the specialisation of professionals working with children is regulated by law and applies to all sectors of the child protection system, including social services and the judiciary. The specialisation of professionals is a principle of the Code on the Rights of the Child and the Juvenile Justice Code and one of the elements that define a “child-friendly justice” approach.<sup>369</sup>

530. The Code on the Rights of the Child establishes the specialisation of professionals as one of the requirements of “child-friendly justice”.<sup>370</sup> The specialisation of professionals required under the Child Protection Code shall be achieved progressively as the law requires the state to “take measures” to ensure the personal and professional compliance of persons working with children in different fields (Article 73). Professionals shall participate in interdisciplinary training on the rights of the child, the needs of children of different ages and child-friendly justice, including child-sensitive communication. An “institutional system of professional specialisation” shall provide quality control and ethical standards in the selection, training, professional development and activities of lawyers, prosecutors, police officers, judges, mediators, social workers, psychologists and other specialists working with and for children.

531. Chapter III of the Juvenile Justice Code is dedicated to the specialisation of officials and professionals working with children in the justice system. The Code requires the Government of Georgia to determine, by means of an ordinance, the standards of specialisation. The High Council of Justice of Georgia is responsible for defining the standards for judges (Article 16.3).

532. Article 17.3 requires that, when a child is heard in judicial proceedings, the competent court must ensure that one of the judges is specialised in juvenile justice. This applies to the panels of judges in District Courts, the Chamber of Appeals in Courts of Appeal, and the Supreme Court of Georgia.

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534. Lawyers are required to present a document certifying their specialisation in juvenile justice, and the Georgian Bar Association is responsible for defining the format of the certification document (Article 101). In addition, the Legal Aid Service shall ensure that a permanent group of specialised lawyers is available to provide legal assistance to children (Article 20).

<sup>369</sup> Law of Georgia, Code on the Rights of the Child, Articles 3.I, 5.5.c, 61, 73, among others. Law of Georgia, Juvenile Justice Code, Chapter III.

<sup>370</sup> Law of Georgia, Code on the Rights of the Child, Articles 3.I, 69.2 and 73.



## Legal requirements for the specialisation of family judges, lawyers and guardians *ad litem*: example of Germany<sup>371</sup>

535. In 2021, the Federal Parliament of Germany adopted an Act to combat sexual violence against children, which introduced changes to the civil procedural law concerning child protection cases and care proceedings. The Act establishes, among others, the principle that children must be heard in person, regardless of their age, and lays down qualification requirements for family judges and guardians *ad litem* for children involved in care proceedings.

536. The new Section 23b (3) of the Courts Constitution Act introduces qualification requirements for family court judges. The provision stipulates that judges hearing family cases should have proven knowledge in the areas of family law, in particular child custody law, family procedural law and the parts of child and youth welfare law necessary for proceedings in family cases, as well as proven basic knowledge of psychology, in particular child development psychology, and communication with children. A judge whose knowledge in these areas has not been proven may only be assigned the duties of a family court judge if he or she can be expected to acquire this knowledge in the near future.

537. These requirements may be waived for judges who are only involved in family court duties as part of an on-call duty. The introduction of the qualification requirements was considered necessary as family court judges often make decisions with significant relevance to the fundamental rights of children and parents, particularly in child custody cases, which can have significant effects on the children and their families, including in the longer term. In this area, which concerns the fundamental rights of children and parents, the state's duty to uphold those rights requires not only a functioning procedural law, but also judicial personnel who can fulfil their responsible tasks in the best possible way from the outset.

538. In addition, the Act on Proceedings in Family Matters and in Matters of Non-Contentious Jurisdiction (FamFG) specifies the eligibility requirements for guardians *ad litem*. Guardians *ad litem* are responsible for asserting the best interests of the child in the proceedings. They act as an 'advocate for the child' and are appointed in certain proceedings (Section 158 FamFG). The eligibility requirements set out criteria that demonstrate the professional and personal qualifications of a guardian *ad litem*. For example, a guardian *ad litem* is considered professionally qualified if he or she has basic knowledge in the areas of family law, in particular child custody law, procedural law in child custody matters and child and youth welfare law, as well as knowledge of the developmental psychology of children and child-appropriate communication skills. A guardian *ad litem* must provide evidence of these qualifications at the request of the court, which can be provided through a socio-pedagogical, pedagogical, legal or psychological professional qualification as well as an additional qualification specific to the role of a guardian *ad litem*. The Federal Parliament of Germany decided in favour of an additional legal requirement with regard to the personal suitability of the guardian *ad litem*, which envisages a vetting procedure and background check to exclude any previous criminal records.

## Youth Lawyer Commission of the Flemish Bar Association: example of Belgium

539. In Belgium, the Flemish Bar Association and its Youth Lawyer Commission are offering a specialisation course on children's rights for lawyers. In the two-year course, lawyers receive training

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<sup>371</sup> This section is based on a contribution by Barbara Fellberg, Federal Ministry of Justice, Germany, 15 October 2024.



on the rights of the child under national, European and international law, combined with basic training in child psychology and development. The course includes also practical training components on key skills lawyers require when representing children, such as communicating with children. Lawyers who participate in the full training are certified as “youth lawyers”.<sup>372</sup>

540. Youth lawyers are specialised in providing legal counsel and representation for children concerned by parental separation or care proceedings, proceedings under criminal law where children are victims, witnesses, suspects or accused persons, as well as legal matters concerning conflicts in the family or at school. All children are entitled to free legal advice and assistance by a specialised lawyer. On its website, the non-profit organisation Union of Youth Lawyers offers a database of specialised youth lawyers, which children or their family members can use to find and contact a lawyer close to where they live.<sup>373</sup> The Union is also present on social media, and information on the Union of Youth Lawyers is linked on the websites of other organisations and institutions working with and for children.

541. Lawyers who have received the Special Training in Youth Law certificate granted by the Flemish Bar Association can become members of the Union of Youth Lawyers. The membership gives them access to free training or reduced fees for training, a network of youth lawyers organised by the Union, as well as the entry into the database of accredited youth lawyers mentioned above.<sup>374</sup>

### **Legal aid for children: UNICEF guidelines on child-friendly legal aid**

542. UNICEF developed guidelines on child-friendly legal aid, which can be used to review national legal aid services and ensure they support and enable specialised legal representation of children.<sup>375</sup>

543. Legal professionals who provide legal aid for children involved in administrative or judicial proceedings should meet a set of minimum requirements and qualifications set out in law. They should have knowledge of relevant national law and procedures, as well as international and European standards concerning child-friendly justice. They should be knowledgeable about the rights and needs of the child and child development at different ages. They should have technical knowledge and skills in child-sensitive communication, including in communicating with children who have suffered violence and may have special needs or vulnerabilities.

544. In addition to academic and vocational initial training, legal professionals should refresh and update their training and skillset periodically and participate in professional development training. As representing children requires additional tasks, considerations and sensitivity not required of legal professionals representing adults, providing competent and effective legal aid to children requires also a high level of motivation and commitment, including in continued personal and professional development.

545. In 2018, UNICEF observed that there are only a few jurisdictions in Europe that have set out legal requirements for the training and specialisation of professionals providing legal assistance to children or specific professional codes of ethics for representing children. In addition, the work and performance of legal professionals is rarely monitored systematically to ensure quality.<sup>376</sup>

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<sup>372</sup> Unie van Jeugdadvocaten [Union of Youth Lawyers], [Home \(jeugdadvoaat.be\)](https://www.jeugdadvoaat.be/).

<sup>373</sup> Unie van Jeugdadvocaten [Union of Youth Lawyers], [Home \(jeugdadvoaat.be\)](https://www.jeugdadvoaat.be/).

<sup>374</sup> Unie van Jeugdadvocaten [Union of Youth Lawyers], [Home \(jeugdadvoaat.be\)](https://www.jeugdadvoaat.be/).

<sup>375</sup> UNICEF Europe and Central Asia Regional Office, [Guidelines on child-friendly legal aid](#), 2018.

<sup>376</sup> UNICEF Europe and Central Asia Regional Office, [Guidelines on child-friendly legal aid](#), 2018, p. 14.

546. Against this background, UNICEF developed guidelines on providing high quality legal aid and representation of children. The guidelines address the following key themes:

- competence when providing legal aid to children;
- acting in the child's best interests and being aware of how to assess the best interests of the child;
- ensuring the effective participation of the child and that the child's views are heard and given due weight throughout the legal process;
- building a relationship of trust and support with the child;
- communicating with the child in a child-sensitive manner;
- providing reliable and relevant information;
- ensuring the child's effective participation in formal hearings, with adequate support;
- working with family members and other supportive adults in accordance with the views and best interests of the child;
- upholding the child's right to privacy and confidentiality;
- protecting children from discrimination;
- keeping children safe throughout the legal process;
- working collaboratively with other professionals and organisations, provided that this is in the best interests of the child.

547. The UNICEF guidelines offer orientation for the review of national legislation and professional standards regulating the specialisation of officials and professionals working with children in the child justice system.

### **Advanced Studies in International Children's Rights: example of the Netherlands**

548. The University of Leiden in the Netherlands offers the Master of Laws (LL.M) in Advanced Studies in International Children's Rights, the only master of laws specialised on child rights law available in Europe.<sup>377</sup> The programme connects advanced studies on the rights of the child with different fields of law, such as civil and criminal law, humanitarian and migration law, international human rights law and private international law.

549. The Advanced Studies in International Children's Rights offers a multi-layered study programme addressing the rights of the child in the multi-level governance system, including international, regional and national law, using an interdisciplinary approach. One of the components of the programme focuses on the rights of the child in the justice system. Other components focus on the right of the child in the family, in migration, and in digital technologies.

550. The master programme pursues the following learning objectives:

- explore international children's rights from a comparative perspective;

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<sup>377</sup> University of Leiden, [International Children's Rights \(Advanced LL.M.\)](#).

- get to know the UN Convention on the Rights of the Child, as well as major regional legal instruments concerning the rights and status of children;
- assess the impact of international children's rights on domestic jurisdiction;
- address the most significant challenges regarding the implementation of children's rights and identify emerging issues impacting children worldwide;
- analyse the complex roles of different actors, such as children, parents, state and non-state actors, and their interrelation in various legal contexts;
- critically reflect on the potential and limitations of international and regional standards for the legal protection of children;
- develop research, presentation and academic writing skills.<sup>378</sup>

551. The programme is offered as a full-time master with a one-year duration or as a part-time study over two years. It is available for legal professionals, students with a full law degree or equivalent degrees in other fields combined with a sufficient understanding of law. The enrolment is conditional on the payment of a fee of 20,900 Euro for the entire programme, with the possibility to apply for scholarships.

### Specialised training for guardians *ad litem*: example from Ireland

552. In Ireland, the NGO Barnardo's is operating a specialised guardian *ad litem* service for children concerned by legal proceedings, including parental separation and care proceedings. Under the Irish Children Act, the judge decides whether a guardian *ad litem* should represent the child in a specific case and appoints a person to act as guardian *ad litem*. Parties to the proceedings can apply for having a guardian *ad litem* appointed. Barnardo's is operating a database of trained guardians *ad litem* in each of the regions and local areas that courts can choose from.

553. Courts should consider to appoint a guardian *ad litem* where Tusla, the national child protection agency, has made an application to the court for a child to be placed in alternative care, including where there is a risk that siblings will be separated, or a child should be supervised within the family because of concerns about the child's care; in cases of significant disputes over a child's care plan or where a child's wishes differ significantly from the measures of his or her care plan; where a child's referral to a closed institution is under consideration; where a parent is unable or unwilling to participate in the proceedings or where the parents concerned by proceedings have significant differences in language or culture.

554. Barnardo's has been operating the largest guardian *ad litem* service in Ireland since 1997. To ensure a quality service, the organisation has developed service standards<sup>379</sup> for guardians *ad litem*, which set out the following principles and operational guidance for guardians:

- defending the welfare of the child;
- ascertaining the wishes and feelings of the child;
- independence of the guardian;
- non-discrimination;
- guardian *ad litem* plan and enquiry;
- assessment of the child's interests;
- evaluation report,
- attendance at court;

<sup>378</sup> University of Leiden, International Children's Rights (Advanced LL.M.), [About the programme](#).

<sup>379</sup> Barnardo's, Service standards, [Service Standards - Barnardos](#).

- closing the case.

555. The service aims to ensure that the views and best interests of a child are heard or assessed independently by a guardian *ad litem* who represents these to the court. The guardian *ad litem* consults with the child, the child's family members, as well as the social worker and any other significant persons or professionals who know the child and family. These consultations help the guardian *ad litem* to understand the child and family and the circumstances of the case, as a basis for representing the views and best interests of the child to the court.

556. To be admitted to the guardian *ad litem* service, a guardian must meet the training requirements and participate in a selection interview. Barnardo's is conducting a vetting process by checking references and police records of each applicant.

### Psychological support for family judges: Council of Europe guidelines and examples of member States

557. Judges presiding civil law proceedings involving children, such as parental separation and care proceedings, are leading a multifaceted and highly sensitive litigation process that requires a complex set of skills, knowledge and competences in legal and non-legal issues. They need to be able to involve professionals and experts of different disciplines, such as social work and child protection, psychology, education and health, and take account of their assessments and expertise when making decisions. A range of methods may be considered in a case, such as alternative dispute resolution or therapeutic family justice.

558. In civil law proceedings, judges often have a problem solving and conflict resolution role and, for this to succeed, need to understand the family relations and dynamics. They may be challenged to assess harm and to establish the legal responsibility for it. The proceedings they preside may be highly emotional for the parties and participants and judges often need to understand far more than the current situation of the family, but also the history that contributed to their difficulties or conflicts and which brought them to court, as well as perspectives for the future. On each element, the views and perspectives of single family members, adults and children, may differ significantly. The judges' decision will have a significant impact on their lives, sometimes with life-long consequences. Judges need to be able to understand the legal and emotional dimensions of a case and act in a humane manner while upholding their role as an impartial and independent authority.

559. To be prepared for this challenging task, judges require a broad set of skills and competences<sup>380</sup>, including:

- **Legal and procedural knowledge:** judges require expertise on the national substantive and procedural law regulating civil law proceedings under child protection and family laws. The cases before them may have elements that fall under other areas of law, such as criminal law where family members are perpetrators or victims of crime. They also need to know European and international law in force in their jurisdiction, national and European case law.
- **Enabling a genuine and meaningful child hearing:** Whether a child is heard directly by the judge, by a court-appointed expert, in a multidisciplinary and interagency service such as Barnahus or in another manner will depend on national law and the circumstances of the

<sup>380</sup> This section based on: National Council of Juvenile and Family Court Judges, [The modern family court judge: knowledge, qualities, and skills for success](#), endorsed by the NCJFGJ Board of Directors, 15-16 March 2015, pp. 5-11.

case. In most civil proceedings, however, the judge is likely to be responsible for ensuring that the child has a genuine and meaningful opportunity to be heard. Securing the participation of children in the proceedings requires qualifications and skills in child-sensitive communication and assessing the child's evolving capacities to form and express views, as well as the child's needs of support to do so freely.

- **Activating multidisciplinary and interagency services:** In assessing the best interests of the child, the judge needs to identify the required assessments and activate service providers who are qualified to conduct them. The judge needs to be able to legally categorise their findings and opinions and give them due weight in determining the best interests of the child.
- **Ascertaining evidence:** While national laws and rules regulate the taking of evidence in civil law proceedings, judges need special knowledge and skills regarding the methods and techniques for obtaining evidence of children in different age groups and levels of development.
- **Ethics:** Judges are likely to be faced with matters that raise ethical concerns or questions. This may particularly be the case in the process of determining the best interests of the child and balancing them against the rights and responsibilities of each parent while taking account of the obligations of the state towards children and parents. Cultural differences and different views on what constitutes a good childhood may create additional ethical challenges.
- **Trauma-informed communication and decision-making:** Judges need to be prepared to identify signs and risks of trauma when assessing a family situation. Family members may have suffered trauma due to experiences in the past, within or outside the family, and may be at risk of secondary victimisation or re-traumatisation in the justice process, including in proceedings under civil law. Judges should be aware of how trauma may impact the behaviours and communication of children and adults, particularly in a court setting, which can be intimidating. Knowledge on trauma-informed decision-making will help judges in recognising risks and adapting the proceedings, communication and behaviour accordingly.
- **Child development and parental capacity:** Judges need to be aware of children's needs and development at different ages, including of children with special needs, as well as the capacity of the parents to understand the child's behaviour, to care for the child and to meet the child's needs. Understanding family dynamics and parental capacity is essential for a realistic determination of the need of support that each parent may have to care for and meet the needs of the child.
- **Domestic violence and violence against children:** Judges need to have in-depth knowledge of domestic violence, including gender-based violence and corporal punishment of children, psychological and emotional violence, sexual violence, child neglect, as well as coercive control and power dynamics in families, to make decisions that are safe and fair to each family member.
- **Social and cultural competence:** Cultural competence is required for judges to understand how children and adults relate to each other and communicate with each other in a family setting in different cultures and how this may impact family dynamics or conflicts, difficulties of parents to care for and meet the needs of a child and to interact with state officials and service providers. A judge must be sensitive to the evolving composition of families. Judges need to be attentive to preventing discrimination or differential treatment and to identifying it

when it occurs to secure the right to non-discrimination of children and adults concerned by the proceedings. Acting in a non-discriminatory manner requires judges to be conscious of any biases they may have themselves and putting in safeguards to prevent them from influencing the legal process and judgement.

- **Conflict resolution techniques:** Judges hearing parental separation and care proceedings need access to a range of conflict resolution processes and methods that are suitable to resolve family conflicts and to support parents in focusing on the best interests of their child. The use of mediation and other alternative dispute resolution processes in civil law proceedings is a dynamic field. Judges are challenged to remain up to date on the state of knowledge on these processes and how to apply them in a judicial context while securing full respect for the rights and best interests of the child and the rights of the (other) parties.
- **Stress management:** Family court judges are at risk of suffering stress due to high workloads, time pressure in view of the principle of timeliness and exceptional diligence in cases involving children, as well as the nature of the cases they are hearing. Judges may be facing highly emotional situations, aggressions of parties and participants in proceedings, in the courtroom and outside, including harsh reporting in the media. Knowledge about stress management is therefore important to protect the health of judges.

560. Research has evidenced that the stress factors judges are exposed to in their job can be compared with stressors faced by officials and professionals working in emergency response, law enforcement, (mental) health care and social work and, in consequence, judges also have a real risk of vicarious trauma. Vicarious trauma refers to “the experience of a helping professional personally developing and reporting their own trauma symptoms as a result of responding to victims of trauma. Vicarious trauma is a very personal response to the work such helping professionals do. It is sometimes used interchangeably with terms such as compassion fatigue, secondary trauma, or insidious trauma. This phenomenon is most often related to the experience of being exposed to stories of cruel and inhumane acts perpetrated by and toward people in our society (...). The symptoms of vicarious trauma parallel those of posttraumatic stress disorder (PTSD) and can be similarly clustered into the areas of re-experiencing, avoidance and numbing, and persistent arousal (...).”<sup>381</sup>

561. That judges are facing numerous challenges and risks is increasingly recognised and yet, there is to date only a nascent debate in the European transnational governance field on how to ensure support which is both meaningful for judges and appropriate in view of their independent and impartial role.

562. In 2019, the Working Group on the quality of justice of the European Commission for the Efficiency of Justice (CEPEJ) adopted the Guidelines ‘Breaking up judges’ isolation’ to improve the judge's skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation.<sup>382</sup> The guidelines present tools and measures to improve the work of judges by enriching their knowledge, promoting a collaborative culture and contributing to their well-

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<sup>381</sup> Crooks, C., [Vicarious trauma in judges](#): the personal challenge of dispensing justice, *Juvenile and Family Court Journal*, 2003, p. 2. See further the sources referred in the citation: Richardson, J. I., *Guidebook on vicarious trauma: recommended solutions for anti-violence workers*, Ottawa, ON: Health Canada, 2001. Richardson, 2001. Figley, C. R., Compassion fatigue as secondary traumatic stress disorder: an overview, in: Figley, C. (ed.), *Compassion fatigue: coping with secondary traumatic stress disorder in those who treat the traumatized*, New York, Brunner/Mazel, 1996.

<sup>382</sup> European Commission for the Efficiency of Justice (CEPEJ), [Breaking up judges’ isolation](#), *Guidelines to improve the judge's skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation*, CEPEJ(2019)15, Strasbourg, 6 December 2019.



being. The development of the guidelines was motivated by the observation that the principle of the independence of judges can be perceived as a barrier and lead to a sense of isolation in decision-making, which may have implications on the quality of justice and the health and well-being of judges.<sup>383</sup>

563. The CEPEJ Guidelines include a set of seven inter-related guidelines:

1. **Circulation of information:** create tools for sharing knowledge among judges; ensure the intelligibility of shared information and control its content and access.
2. **Mutualisation:** develop and spread tools for creating and disseminating model decisions while respecting judges' independence and controlling the quality of the document thus transmitted.
3. **Openness:** ensure openness to judicial updates by disseminating them via an electronic channel and holding internal or partner-open meetings to encourage the emergence of new points of view.
4. **Cooperation:** build a team around the judge to gain in quality and time by focusing his or her work on decision-making without questioning his or her independence.
5. **Exchange:** develop intervention to encourage positive peer exchanges on professional practices.
6. **Prevention of psychosocial risks:** provide support to judges through support groups, seminars or training to ensure their well-being at work.
7. **Positive ethics:** develop positive ethics through the creation of ethical guides and encourage their practical implementation among judges.

564. The guidelines recognise that the isolation of judges bears several risks for the personal well-being of judges and for the quality of justice. Having strategies in place to break up the isolation, manage emotions and stress is therefore not only beneficial for judges but also in the interest of public policies on the efficiency and quality of the justice system: "a judge who has easy access to information and knowledge, who constantly exchanges about his/her professional practice and who has an organised and pleasant workspace, will make better decisions. Conversely, a litigant who has to deal with an experienced, diligent, competent, peaceful, available and respectful judge will have a greater acceptance of the decision rendered and therefore of the authority exercised."<sup>384</sup>

565. The guidelines observe that this area requires further development at the national and European levels and that the experience of other fields of work can offer inspiration for the justice system. The guidelines identify a need for effective tools to analyse and address psychological risks of judges and to protect judges from those risks. Some member states have developed training, peer groups or psychological support for judges. Support can be offered through mechanisms to provide

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<sup>383</sup> European Commission for the Efficiency of Justice (CEPEJ), [Breaking up judges' isolation](#), *Guidelines to improve the judge's skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation*, CEPEJ(2019)15, Strasbourg, 6 December 2019, p. 4.

<sup>384</sup> European Commission for the Efficiency of Justice (CEPEJ), [Breaking up judges' isolation](#), *Guidelines to improve the judge's skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation*, CEPEJ(2019)15, Strasbourg, 6 December 2019, pp. 13, 11, 26.

feedback, monitoring or supervision; knowledge management and teamwork; positive ethics; prevention of psychosocial risks and emotional stress in the workplace.<sup>385</sup>

566. Examples from Slovenia have inspired the guidelines, such as the existing practice of intervision between colleagues. The Judicial Training Council (CJC) of Slovenia organises and pays for it and trains supervisors. The participation of judges in intervision is voluntary and not part of the judicial evaluation process conducted by the Personal Court Council. In addition, a mentorship programme for new judges is in place; it is among the initiatives for which Slovenia received the CEPEJ 2019 Crystal Scales of Justice award.<sup>386</sup> If applied systematically to judges presiding over proceedings involving children, these practices would help to foster a continuously evolving body of expertise in child justice within the judiciary.

567. This section presents examples from member and observer states in the field of intervision and prevention of psychological risks of judges.

### *Intervision*

568. The guidelines explain intervision as “a mechanism for meeting and exchanging ideas among peers, with a view to collective reflection on professional behaviour and practices. It must be distinguished from evaluation in that it is a voluntary and benevolent process, outside any hierarchical framework. The development of such a practice makes it possible to decompartmentalise the judge’s work by facilitating constructive criticism of his/her professional practices and interpersonal skills. It also makes it possible to cultivate a common culture of questioning and harmonising practices.”<sup>387</sup>

569. In the judiciary, intervision typically takes place in teams of two judges who observe each other during a hearing, provide feedback and discuss it. Intervision focuses only on the judge’s conduct and communication, not on the legal terms of the dispute or the decision. The restitution phase can involve a third-party facilitator. It is considered good practice to form pairs of judges who have a comparable level of experience, even though they may have different fields of specialisation.<sup>388</sup>

570. In the Netherlands, an independent Justice Council was established in 2002 to support the Ministry of Justice in a programme to assess and improve the quality of justice (“*RechtspraakQ*”). The programme identified the practice of intervision as a quality criterion, as it contributed to the evaluation of justice processes and the improvement of the quality of justice services. To promote the use of this method, a guide for intervision was developed to support judges in the observation

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<sup>385</sup> European Commission for the Efficiency of Justice (CEPEJ), [Breaking up judges’ isolation](#), *Guidelines to improve the judge’s skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation*, CEPEJ(2019)15, Strasbourg, 6 December 2019, p. 13.

<sup>386</sup> European Commission for the Efficiency of Justice (CEPEJ), [Breaking up judges’ isolation](#), *Guidelines to improve the judge’s skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation*, CEPEJ(2019)15, Strasbourg, 6 December 2019, p. 28.

<sup>387</sup> European Commission for the Efficiency of Justice (CEPEJ), [Breaking up judges’ isolation](#), *Guidelines to improve the judge’s skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation*, CEPEJ(2019)15, Strasbourg, 6 December 2019, p. 26.

<sup>388</sup> European Commission for the Efficiency of Justice (CEPEJ), [Breaking up judges’ isolation](#), *Guidelines to improve the judge’s skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation*, CEPEJ(2019)15, Strasbourg, 6 December 2019, p. 26.

and restitution phases. Intervision is open to judges and secretaries, and retired judges, psychologists or consultants are available to support the process as third parties.<sup>389</sup>

571. In France, the National School of Magistracy (ENM) tasked a working group of about fifteen judges to develop an Intervision Charter and an observation grid to guide judges in the process. The Charter identifies the following principles of intervention:

- *voluntary participation*;
- *twinning*: two judges freely choose each other;
- *benevolence*: the participating judges observe and discuss each other's conduct in a constructive and delicate manner, without any hierarchy between the two;
- *reciprocity*: each of the two judges acts as observer (interviser) and as observed (intervisee);
- *confidentiality*: the discussion between the two judges, and any third party, during the restitution remains confidential.

### *Prevention of psychosocial risks*

572. In several member states, judges have the possibility to access specialised training to strengthen their skills in handling psychosocial risks. As an example, courses focus on managing stress and high workloads, dealing with emotions, conflict prevention, aggression management, or handling violence.<sup>390</sup>

573. In France, the National School for the Judiciary is offering courses as part of the initial and continuing training for judges. In the Netherlands, the Dutch Judicial Training Centre offers training. In Belgium, the judicial training institute offers training, and in Poland, training is provided by the National School of Judges and Public Prosecutors.<sup>391</sup>

574. In France, some of the training courses offer alternating lectures and practical lessons in support groups. Some training courses are targeted at judges, others are intended for heads of departments and courts. The Douai Court of Appeal hired a psychologist for the in-service training to support judges in difficult cases and to offer support for newly graduated judges.<sup>392</sup>

575. In Lithuania, judges can participate in seminars led by psychologists on stress management and handling the conflicts they may encounter in the context of proceedings. In informal meetings, judges can meet with colleagues to exchange views and experience.<sup>393</sup>

576. In Belgium, the Commission for the modernisation of the judiciary published a research report on the psychosocial burden within the judiciary in 2011. In response to the study findings, a psychological support service was set up to offer individual or group support. Any member of the

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<sup>389</sup> European Commission for the Efficiency of Justice (CEPEJ), [Breaking up judges' isolation](#), *Guidelines to improve the judge's skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation*, CEPEJ(2019)15, Strasbourg, 6 December 2019, p. 26.

<sup>390</sup> European Commission for the Efficiency of Justice (CEPEJ), [Breaking up judges' isolation](#), *Guidelines to improve the judge's skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation*, CEPEJ(2019)15, Strasbourg, 6 December 2019, pp. 30-31.

<sup>391</sup> European Commission for the Efficiency of Justice (CEPEJ), [Breaking up judges' isolation](#), *Guidelines to improve the judge's skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation*, CEPEJ(2019)15, Strasbourg, 6 December 2019, pp. 30-31.

<sup>392</sup> European Commission for the Efficiency of Justice (CEPEJ), [Breaking up judges' isolation](#), *Guidelines to improve the judge's skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation*, CEPEJ(2019)15, Strasbourg, 6 December 2019, pp. 30-31.

<sup>393</sup> European Commission for the Efficiency of Justice (CEPEJ), [Breaking up judges' isolation](#), *Guidelines to improve the judge's skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation*, CEPEJ(2019)15, Strasbourg, 6 December 2019, pp. 30-31.

Federal Public Service of Justice, including judges, may request the service's support in difficult work situations.<sup>394</sup>

577. Between 2005 and 2008, the Belgian Red Cross implemented the project "EURESTE", with co-funding from the European Commission, which addressed the stress management of judges presiding terrorism cases. Based on this experience, the Brussels and Nivelles public prosecutors' offices piloted discussion groups for members of the judiciary. Under the leadership of an external professional, the discussion groups allowed members of the judiciary to speak about their experiences. As the support services were highly appreciated by all participants, they were continued beyond the pilot phase.<sup>395</sup>

578. In Canada, which is an observer state to the Council of Europe, a "Judicial Consultation Programme" supports judges through advice and assistance, for instance in receiving psychological support in particularly demanding and difficult proceedings and reconciling family and professional life. Judges are free to request support for themselves and their families before, during and after proceedings. This support is provided by a private service provider and funded by the national associations of magistrates.<sup>396</sup>

### **Key considerations for promoting high quality representation of children and supporting judges in civil proceedings**

579. Based on the experience of member states, the following key considerations are proposed for promoting high quality representation of children and support for judges hearing civil proceedings concerning children and families:

- ***Review the national legal framework with a view to strengthening training and specialisation requirements of legal professionals***

580. The national legal and policy framework should be reviewed to ensure legal requirements regarding the training and specialisation of legal professionals are in line with international and European standards. In particular, national legislation should provide for and regulate the specialisation of lawyers, guardians *ad litem* and other professionals representing children in legal proceedings. The appropriate specialisation of judges should be considered.

581. The specialisation of legal and judicial professionals should be defined in accordance with appropriate standards of training and accreditation. To this end, professional associations, academic and vocational training institutions should be involved in defining the minimum requirements for initial and continued training.

<sup>394</sup> European Commission for the Efficiency of Justice (CEPEJ), [Breaking up judges' isolation](#), *Guidelines to improve the judge's skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation*, CEPEJ(2019)15, Strasbourg, 6 December 2019, pp. 30-31.

<sup>395</sup> European Commission for the Efficiency of Justice (CEPEJ), [Breaking up judges' isolation](#), *Guidelines to improve the judge's skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation*, CEPEJ(2019)15, Strasbourg, 6 December 2019, pp. 30-31.

<sup>396</sup> European Commission for the Efficiency of Justice (CEPEJ), [Breaking up judges' isolation](#), *Guidelines to improve the judge's skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation*, CEPEJ(2019)15, Strasbourg, 6 December 2019, p. 31.

➤ ***Ensure legal aid provides specialised legal representation of children***

582. The national legal aid service should ensure that children have access to legal aid on the same or more lenient conditions as adults. In accordance with the proposed review of the legal framework, the legal aid service should recognise the specialisation of legal professionals as a precondition for providing quality services for children. Legal aid services may collaborate with Bar Associations in introducing a specialisation of lawyers in representing children, as well as additional specialisations in representing children who are victims of crime, or victims of sexual violence more specifically.

➤ ***Review the national academic and vocational training curricula on the rights of the child and child justice and develop a national master on children's rights***

583. The national academic and vocational training curricula on the rights of the child and child justice should be reviewed and revised to be in full compliance with international and European standards and state of the art research.

584. A national master study programme on children's rights should be offered by one of the national universities. The advanced study programme should prepare future generations of officials and professionals working with and for children, including in service provision, legal practice and the judiciary.

585. An inter-disciplinary or inter-faculty study programme on child-friendly justice should be available to students of law, social work, education, medicine, psychology, as well as law enforcement, and other relevant fields to train new generations of professionals in working with a multidisciplinary and interagency approach, including in analysing cases, hearing children and determining the best interests of the child.

➤ ***Encourage the development of codes of ethics for legal professionals representing children***

586. Bar associations and other appropriate institutions and bodies should consider collaboration to develop specific codes of ethics for legal professionals representing children.

➤ ***Assess and monitor the quality of legal representation and legal aid services for children***

587. The periodic assessment and review of the quality of legal aid services and legal representation of children should be ensured. A national monitoring mechanism will be useful to ensure the compliance with legal standards of training and, where applicable, specialisation are upheld in the work practice of legal professionals. Assessments and monitoring should be developed using a child rights-based approach and in consultation with professionals and professional associations, academic institutions, the judiciary, children and parents, as well as other relevant professionals working with children involved in legal proceedings.

➤ ***Develop strategic measures to reduce the isolation of judges***

588. Recognise vicarious trauma as one of the potential occupational hazards of judges, as well as other relevant professions and volunteers working with children and families affected by violence.



589. Consult with judges on appropriate measures for social, psychological and peer support, which uphold the principles of the independence and impartiality of the judiciary and applicable data protection rules and are consistent with judicial ethics, such as consultation on cases, intervention and other forms of peer support, access to support from social services and mental health care or debriefing.

590. Develop a national strategy to reduce the isolation of judges, including by promoting multi-disciplinary approaches within the justice process, as well as support services targeted specifically at judges.

## CONCLUSIONS AND PROPOSALS FOR ACTION

591. The case studies and examples from member states presented in this report reflect a wealth of experience in developing service models, working methods and tools to secure the best interests of the child in civil proceedings. The methods and tools have been developed based on research and evidence, refined based on professional experience and consultations of children and families, and evaluated in accordance with a child rights-based approach.

592. Even though the case studies presented in this report represent only a fraction of the service models, methods and tools that are necessary for a child protection system, the experience of member states helps to identify some key considerations, which are recurring across the different case study themes, and which are of overarching importance to secure the best interests of the child in civil proceedings:

- a national legal framework and guidance on the best interests determination procedure;
- a compendium of working methods and tools as part of a national child protection system;
- a multidisciplinary and interagency approach;
- the genuine and meaningful participation of the child;
- the empowering participation of parents, families and social support networks;
- the appropriate training and specialisation of officials and professionals working with children in civil proceedings;
- the importance of a national debate on the service culture in social welfare and child justice.

593. These key lessons learned are reflecting the rights of the child and principles of child-friendly justice as set out in international and European standards.

594. The 2006 UN Secretary-General's study on violence against children was the first global study to recognise the benefits of a systemic approach in child protection. It recommended that "all States develop a multifaceted and systematic framework to respond to violence against children which is integrated into national planning processes."<sup>397</sup> In fact, strengthening governance and coordination structures, as well as a continuum of services, are among the elements that can help strengthening a child protection system.<sup>398</sup>

595. The Committee of Ministers Recommendation [CM/Rec\(2009\)10](#) on policy guidelines on integrated national strategies for the protection of children from violence guides member states in

<sup>397</sup> [UN Secretary-General's study on violence against children](#)

<sup>398</sup> UNICEF, FRA



the development and implementation of a systemic multidisciplinary and interagency framework to safeguard the rights of the child and to prevent and respond to violence against children. Integrated national strategies for child protection embrace social welfare and child protection services as well as the justice system. The Recommendation identifies a set of general principles for child-friendly services and mechanisms and underlines the principle of multidisciplinary and interagency cooperation in the planning and delivery of services adapted to the child's needs (see Box 11).

596. The Recommendation recognises the importance of training of professionals working for and with children, including in child rights-based methods and approaches, as an important long-term investment in children's development and well-being: "All relevant professionals who in their work come in contact with children, should be familiar with the UNCRC and methodologies and approaches, including those required for listening effectively to children, and be trained to work in a diverse ethnic, cultural, religious and linguistic environment." Relevant professionals include, but are not limited to, social workers, foster carers, police officers, judges, lawyers, teachers, school principals, youth workers, people employed by child-care institutions.<sup>399</sup>

597. The Council of Europe Recommendation CM/Rec (2011)12 on children's rights and social services friendly to children and families reiterates the need for a rights-based approach to service provision for children and families; the rights of the child should guide the planning, delivery and evaluation of services. The Recommendation defines 'child-friendly social services' as social services that "respect, protect and fulfil the rights of every child, including the right to provision, participation and protection and the principle of the best interest of the child". It aims at ensuring that social services are delivered based on an individual assessment of the child's needs and circumstances and taking into account the views of the child.<sup>400</sup>

**Box 11: General principles of child-friendly services and mechanisms<sup>401</sup>**

*Committee of Ministers Recommendation [CM/Rec\(2009\)10](#) on policy guidelines on integrated national strategies for the protection of children from violence*

1. The prime objective of institutions, services and facilities responsible for the care, education and protection of children should be to ensure, to the maximum extent possible, children's survival, development and well-being.
2. All children should have access to quality services adapted to their needs. The use of multidisciplinary models of services, comprising welfare, health, educational and psychological assistance and family guidance should be widely promoted. Such models should rely on strong intersectoral co-operation, appropriately qualified staff, an integrated curriculum, and a centralised implementation framework.
3. Services for the prevention of violence, the protection of children and the treatment of victims should be made available particularly at local level. Reliable procedures and mechanisms, including for the exchange of relevant information and best practice, should be put in place through inter-agency agreements and protocols.

<sup>399</sup> Council of Europe, Recommendation [CM/Rec\(2009\)10](#) of the Committee of Ministers on policy guidelines on integrated national strategies for the protection of children from violence, 2009, 2.3 Principles, a state's obligations, 6.1.

<sup>400</sup> Council of Europe Recommendation [CM/Rec \(2011\)12](#) on children's rights and social services friendly to children and families, 2011, p. 5, I.3. and p.6, II.5.

<sup>401</sup> Citation from: Council of Europe, Recommendation [CM/Rec\(2009\)10](#) of the Committee of Ministers on policy guidelines on integrated national strategies for the protection of children from violence, 2009, 2.3 Principles, a state's obligations, 4.2.

598. In Europe, there is no common understanding of the meaning of a child protection system and the existing legal, policy and institutional systems in place differ from country to country. They depend on the structure of the state administration and the devolution of competences, as well as historical, cultural and demographic characteristics of a state. There is consensus, however, that a child protection system promotes the implementation of the UNCRC, using a multidisciplinary and interagency approach, which is child-centred.<sup>402</sup>

599. In numerous Council of Europe member States, there is a trend towards using evidence-based methods that have been developed, tested and refined on the basis of empirical data and demonstrated to enhance the quality of service provision and outcomes for children, families and professional service providers. These methods and tools are 'systemic methods', that is, integral parts of the national child protection system, when lead agencies of the state take an informed decision to select, adapt and disseminate methods they consider conducive to ensure the implementation of national standards.

600. Some of these methods and tools are guiding service providers in transforming their own professional roles, attitudes and behaviours to gradually take on the role of a facilitator who is coaching children and families in taking responsibility for resolving problems and challenges they are struggling with. Some of the service models demonstrate that children and parents can be competent service users from a young age, as long as children and parents receive the appropriate support to participate and children are able to get involved in accordance with their evolving capacities. Consulting children and parents and engaging them in decision-making, the planning and delivery of services is essential to understand how services can be meaningful for them, how to support them so that they trust and collaborate with service providers and in proceedings.<sup>403</sup>

601. Based on the consolidated practice of numerous member states, the study concludes with the following proposals for action for the continued debate and development on securing the best interests of the child in civil court proceedings in Slovenia:

***Towards a multidisciplinary and interagency culture in child justice and service provision for children and families***

602. Securing the best interests of the child in civil law proceedings requires coordinated measures to ensure respect for the substantive and procedural rights of the child and (other) parties, taking account of the individual situation and needs of the child and family. Securing the best interests of the child requires the concerted action of the judiciary, social welfare and child protection services, systems for health and education, and, where applicable, law enforcement and civil society organisations. It typically requires the collaboration of state agencies, public and private service providers, the genuine and meaningful participation of the child and the engagement of the child's parents, family and social support networks, as appropriate. Securing the best interests of the child requires a continuum of services for prevention, protection and empowerment of children and families provided before, during and after proceedings in pursuit of a sustainable, rights-based

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<sup>402</sup> European Union Agency for Fundamental Rights, [Mapping child protection systems in the EU – update 2023](#), 2023.

<sup>403</sup> Wenke, Daja, [Service Providers as Champions for Non-Violent Childhoods](#), Service provision for children and parents to end corporal punishment, Non-Violent Childhoods Project, Council of the Baltic Sea States, 2018, pp. 13-14. For additional information, see European Union Agency for Fundamental Rights, [Mapping Child Protection Systems in the EU](#), 2015.

solution. Different actors may take the lead at specific stages of proceedings and depending on the circumstances of the case.

603. In view of this complexity, structures for multidisciplinary and interagency co-operation and co-ordination should be in place at all levels of the public administration: in the national and local governance structures, as well as in the hands-on casework practice with children and parents. Multidisciplinary and interagency co-operation and co-ordination should be institutionalised and regulated by law to become a core feature of the national child welfare and justice systems. To support the implementation and effective operation of multidisciplinary and interagency structures, training and service provision need to evolve towards a multidisciplinary and interagency service culture and national guidance documents should explain in detail and step-by-step how the co-operation should be organised.

604. Training of professionals and officials should follow a multidisciplinary curriculum and, where possible and appropriate, be delivered as joined training by a multidisciplinary team of trainers for a multidisciplinary and interagency group of participants. Multidisciplinary and interagency training on the best interests of the child and child-friendly justice should be offered to all officials and professionals working with and for children. Inter-faculty training should be provided in universities and vocational training institutions to ensure that new generations of officials and professionals are supported in developing mindsets, knowledge and skills which are conducive to achieving a paradigm shift towards a multidisciplinary and interagency service culture.

605. Officials and professionals working with children should have access to a repository of methods and tools using a multidisciplinary and interagency approach, with the child at the centre.

### ***Towards systemic methods for the best interests determination procedure in legal proceedings***

606. A comprehensive set of practical guidance and service tools for the best interests determination procedure should be in place. The guidance material should be rooted in national law, compliant with international and European standards, and based on research and knowledge. It should include methods and tools for different officials and professionals working with children and families concerned by civil proceedings, using a child rights-based and a multidisciplinary and interagency approach, as well as specialised tools for working with children and parents who have specific needs or vulnerabilities.

### ***Specialisation of professionals working with children in legal proceedings***

607. Legal professions working with children in the context of administrative and judicial proceedings should be required by law to have appropriate training and specialisation on the rights and best interests of the child. Legal requirements should be in place for lawyers, guardians *ad litem* and other professionals representing children in proceedings, as well as the judiciary. Legal aid services should be regulated to the effect that legal aid for children is provided only by professionals meeting the requirements of training and specialisation set out in law.

### ***Towards a service culture engaging children and parents as competent service users and strengthening protective environments in communities***

608. Research shows that children and families are struggling with multi-faceted and complex challenges and that providing support at an early stage can be effective in preventing child protection and care proceedings or, where the initiation of proceedings is in the best interest of the child,

preventing their excessive length. State agencies and service providers are challenged by limited human and financial resources in responding to the needs of children and families.

609. At the same time, there is an emerging body of experience in working with partnership-based methods empowering children and parents and encouraging their meaningful and genuine participation in services and decisions, as well as community-based methods activating the social support networks of children and families. Research shows that these approaches can be suitable to secure the rights and best interests of the child and cost-effective in the longer-term. The use of participatory methods, such as the family group conference method, should be encouraged and promoted. Continued research would be useful to explore how community-based methods can be integrated into the national child protection system in a meaningful way to strengthen protective environments for children in families and communities.

### ***Supporting communities of practice***

610. Officials and professionals who work with children, parents and families concerned by civil proceedings benefit from communities of practice, that is, opportunities to meet and exchange periodically, including regarding the experience in using specific working methods and tools, and to consult with leading agencies or organisations, as well as researchers and the academia, on the continued development in their field of work.

611. Parents and children also appreciate peer support and opportunities to meet with others who are in similar situations and share similar experiences. Meaningful and safe opportunities to meet and exchange with others should be facilitated to support parents and children concerned by civil proceedings, with the appropriate involvement of support persons and professionals who may offer information, advice and counselling.

### ***Digital platforms to provide information to parents and children, as well as professionals***

612. As children and parents tend to look for information online, the development of digital platforms and resource centres helps to disseminate information targeted at different groups. Digital platforms should be available for children of different ages and provide information in a child-friendly language. They are useful to inform parents and children on where to look for help locally where they live.

613. Digital platforms offer also a useful resource for officials and professionals working with children and parents concerned by civil proceedings. They can be a tool to support the development of professional communities of practice.