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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**

Summary report

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24 February 2025

**Joint EU-Council of Europe project
"Ensuring the best interests of the child in civil court
proceedings in Slovenia"
23SI08**

The project is co-funded by the European Union via the Technical Support Instrument, and co-funded and implemented by the Council of Europe, in cooperation with the European Commission, the Reform and Investment Task Force (SG REFORM).

This study was produced with the financial support of the European Union and the Council of Europe. Its contents are the sole responsibility of the authors. The views expressed herein can in no way be taken to reflect the official opinion of either the European Union or the Council of Europe.

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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.
2. As one of the activities envisaged within the scope of the joint project, an international comparative study presents a selection of case studies on guidance, methods and tools used in Council of Europe member and observer states to secure the best interests of the child in civil proceedings.¹ This summary report provides a synthesis of the international comparative study and its case studies.
3. 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.² In 2022, the European Court of Human Rights (ECtHR) 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 (ECHR). At the time of the ECtHR judgement, the proceedings in this specific case had been going on for six years.³
4. 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.⁴
5. 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.
6. 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

¹ Wenke, D., *Securing the best interests of the child in civil proceedings: a selection of guidance, methods and tools used in Council of Europe member states*, Ministry of Justice of the Republic of Slovenia, Council of Europe, European Union, Council of Europe Building a Europe for and with children, 2025.

² 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.

³ Q and R v. Slovenia, Application no. [19938/20](#), 20 June 2022.

⁴ 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.

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)⁵.

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

7. 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, which guide the implementation of all the rights afforded by the Convention.⁶

8. 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.⁷ 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.

9. The General Comment explains the principle as a three-fold concept, a substantive right, a fundamental, interpretive legal principle, and a rule of procedure⁸:

- a) 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.⁹
- b) 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

⁵ 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.

⁶ 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.

⁷ 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.

⁸ 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.

⁹ 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.

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.

- c) 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.

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

10. 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 it is a fundamental principle of the Council of Europe Committee of Ministers Guidelines on child-friendly justice.¹⁰ 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.

11. 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 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 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.

12. The best interests determination is a three-phase procedure:

(a) Best interests assessment

13. 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

¹⁰ Council of Europe (2010), [Guidelines](#) of the Committee of Ministers of the Council of Europe on child-friendly justice, III.B.

of different state agencies, service providers and specialists.¹¹ It includes, as a minimum, the following assessments:

- hearing the child;
- 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.

14. 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.¹²

15. The best interests assessment aims at a comprehensive, accurate and up-to-date understanding of the child's situation as a 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.¹³

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

16. 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."¹⁴

17. 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."¹⁵ The decision-

¹¹ 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, para. 64.

¹² 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.

¹³ 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.

¹⁴ 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.

¹⁵ 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.

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.¹⁶ The balancing process, which aims at assigning weight to the different factors, should be guided by fundamental child rights principles: the child's safety, the right of the child to be brought up by his or her parents, and continuity and stability in the child's care.¹⁷

18. 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."¹⁸ 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.¹⁹

(c) Periodic review and adaptation

19. 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. 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. 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

20. 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.²⁰ They include the provision of child-friendly information, giving the child a genuine and meaningful opportunity to be heard, ensuring guardianship and legal representation, as well as administrative or judicial oversight and appeal.

¹⁶ 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.

¹⁷ 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.

¹⁸ 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.

¹⁹ Council of Europe, [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#), 2010, IV.D.49.

²⁰ Committee on the Rights of the Child, General Comment No. 14 (2013), par. 87.

3) The best interests principle as a guide towards proportionality

21. 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.

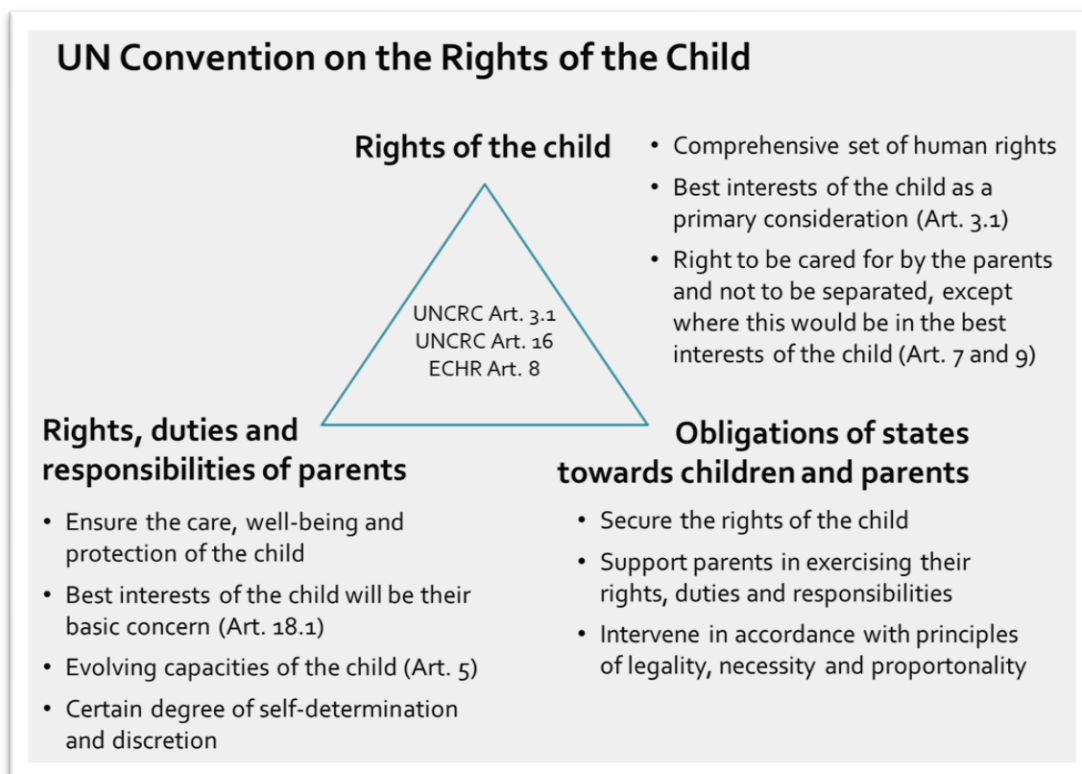
22. The child has the right to be cared for by his or her parents and not to be separated from the family, except where this would be in the best interests of the child (UNCRC Articles 7 and 9). Family relations are considered an element of the child's identity, alongside the child's name and nationality, 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).

23. 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.

24. 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 well-being, 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.

25. 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. The best interests principle plays a fundamental role in ensuring that state authorities interfere in accordance with the principle of proportionality (see Figure 1).

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



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

26. 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). 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. It affirms that the best interests of the child are a substantive right and that they must be determined through an established procedure.

27. The Court clarifies that Article 8 ECHR aims at protecting the individual against arbitrary interference in private and family life by a public authority.²¹ 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.

28. 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

²¹ Ignaccolo-Zenide v. Romania, No. 31679/96, 25 January 2000, para. 94. Keegan v. Ireland, No. 16969/90, 26 May 1994, para. 49.

aim or aims that is or are legitimate under its second paragraph and can be regarded as “necessary in a democratic society”.”²²

29. 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 care for their child and meet his or her needs. Social welfare authorities are responsible for providing preventive and family support services to parents and children concerned by proceedings.²³

PART II: CASE STUDIES

30. The 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. The case studies are organised in five main groups:

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

3) Guidance and tools for specific assessments:

- 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 of children and parents participating in alternative dispute resolution
- Trauma symptom checklist for children and young children

²² 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.

²³ *Haddad v. Spain*, No. 16572/17, 18 June 2019, para. 68.

4) 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)

5) 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

6) 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

31. 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.

32. 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.

33. Several member states have developed legal, policy and practical guidance for the best interests determination procedure, as well as specific methods and tools:

- 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

34. 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 the best interests assessment. Among the Council of Europe member states, the Irish law is currently 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.

35. 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 of the child, 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.

Working together to safeguard children: example of the United Kingdom

36. 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 assessment is targeted at 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. The method is a social service tool to assess the child's situation in the context of the family and community, based on the ecological model of human development and theories of child development.²⁴

Children's Needs in Focus (BBIC): example of Sweden²⁵

37. 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

²⁴ 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.

²⁵ 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.

providers as it guides them in ensuring quality and complying with legal regulations; it gives them legal certainty in their actions and decisions.²⁶

38. The BBIC programme uses a slightly adapted version of the Framework Assessment of Children in Need developed first in the UK 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.

Interdisciplinary guidelines on the best interests of the child: example of Austria²⁷

39. 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.²⁸ The guidelines are based on the 2013 Austrian Federal Child and Youth Welfare Act (§138), which sets out criteria for the best interests assessment. They have been informed by research and professional experience. Developed in a voluntary initiative, 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.

40. In working with the interdisciplinary guidelines, the authors observed a significant shift of focus. The traditional focus of case assessments on parental capacities tended to identify parents' mistakes or omissions as the main threats to the child's welfare and safety. Due to this approach, the casework centred on the shortcomings in parenting and more attention was given to verifying whether there was proof for the alleged omissions of parents and to what degree the state's interference with family life was justified based on the available evidence. 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 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. The applications took account more consistently of the family's resources and the possibility of activating additional sources of support and resilience for them.

41. 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. 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. 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.

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

42. 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

²⁶ Socialstyrelsen, [Barns behov i centrum](#), BBIC [Children's Needs in Focus], published 13 November 2018, last update 20 May 2024.

²⁷ 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.

²⁸ [Interdisziplinäre Leitlinie Kindeswohl](#) [Interdisciplinary Guidelines on the Best Interests of the Child].

interests of the child in five steps.²⁹ 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.

Key considerations for promoting guidance on the best interests determination procedure

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

- ***Setting out in law the factors for the best interests assessment***
- ***Promoting multidisciplinary and interagency co-operation as a standard through legal, policy and practical measures***
- ***Devising national guidance for the best interests determination procedure***
- ***Developing a compendium of assessment methods and tools***
- ***Consulting children, parents, officials and practitioners in the review and adaptation of national standards, guidance and tools used for the best interests determination***

2) Guidance on hearing children in civil proceedings

44. 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. Children have a right to form and freely express their opinions and their 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.³⁰

45. 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 to the best interests of the child. Where a competent authority decides to not hear a child, the

²⁹ 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.

³⁰ Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (2010), III.A.; IV.D.3.

decision should be motivated based on the best interests assessment.³¹ The Committee underlines that research demonstrates how “children’s levels of understanding are not uniformly linked to their biological age”.³² 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.³³

46. Member States, international associations and researchers have developed specific tools and methods that facilitate the hearing of the child in civil proceedings:

- Evidence-based protocols guiding the interview of children in legal proceedings;
- Research-based recommendations on forensic child interviewing 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;
- Council of Europe resources on child participation: facilitating the implementation of the child’s right to be heard
- National strategy and toolkit for child and youth participation: example of Ireland.

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

47. 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 for child-friendly justice.³⁴ The Council of Europe Committee of Ministers 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.³⁵

48. 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.³⁶ 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 a meaningful and genuine opportunity for the child to be heard, in

³¹ 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, par. 21.

³² 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

³³ 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.

³⁴ 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.

³⁵ Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (2010), IV.D.6.71.

³⁶ 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.

accordance with the child's age and level of development and taking account of the child's experiences and any trauma.³⁷

Forensic child interviewing: research-based recommendations by the European Association of Psychology and Law³⁸

49. 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.³⁹

50. 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.

51. 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, cognitive and social characteristics.

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

52. 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.

53. 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.⁴⁰ The

³⁷ 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.

³⁸ 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.

³⁹ 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.

⁴⁰ 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-

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.

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

54. 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-based collaboration 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 to 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.⁴¹ In Ireland, the Child and Family Agency Tusla has adopted “Signs of Safety” as a national practice model.⁴²

55. The method includes a set of tools to facilitate the participation of children and to ensure the child’s views are 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 reasons 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 method guides social workers in enabling the child to express the own views, taking into account the child’s age and evolving capacities and any challenges the child may have in communicating and expressing views.

Council of Europe resources on child participation: facilitating the implementation of the child’s right to be heard

56. 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.⁴³

57. To strengthen the implementation of the Recommendation, the Council of Europe Children’s Rights Division developed a number of resources on child participation. The Council of Europe Child Participation Assessment 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-

friendly criteria for family court proceedings Recommendation of child rights-based standards in child custody matters], 2022.

⁴¹ Signs of Safety, [What is Signs of Safety?](#)

⁴² 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.

⁴³ 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.

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.⁴⁴

58. The Council of Europe Handbook on children's participation "Listen – Act – Change"⁴⁵ 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.

National strategy and toolkit for child and youth participation: example of Ireland

59. 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.⁴⁶ 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.⁴⁷

60. The Irish Child and Family Agency Tusla developed a general children and youth participation training for its staff and the 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.⁴⁸ 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.⁴⁹

61. 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."⁵⁰

⁴⁴ Council of Europe Children's Rights, [Child Participation Assessment Tool](#).

⁴⁵ 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.

⁴⁶ Tusla, [Child and youth participation toolkit](#), 2016.

⁴⁷ Council of Europe Children's Rights, [Child Participation Assessment Tool](#).

⁴⁸ Tusla, [Child and youth participation toolkit](#), 2016, Forword.

⁴⁹ Tusla, [Child and youth participation toolkit](#), 2016.

⁵⁰ Tusla, [Child and youth participation toolkit](#), 2016, p. 6.

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

62. 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:

- ***Conduct and update research on the status and quality of child participation in civil proceedings***
- ***Develop national guidance and a compendium of methods and tools for consulting and hearing children in civil proceedings***
- ***Ensure officials and professionals are systematically trained on hearing children in civil proceedings***

3) Specific assessment tools

63. The best interests assessment is a consolidated case assessment process aimed at gathering and ascertaining information about the child and family, as 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.⁵¹

64. 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;
- social inquiry and family assessment, including parental capability assessment;
- risk assessment;
- mapping sources of support, skills and resources for empowerment;
- gathering of evidence, where appropriate, for instance through forensic medical examinations and a forensic child interview.

65. Member States have developed specific assessment tools and methods to facilitate the best interests assessment process, and some guidance is available from the Council of Europe:

- 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;

⁵¹ 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.

- trauma symptom checklist for children and young children.

Council of Europe guidelines for court-appointed experts

66. 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.⁵² 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.”⁵³ (see Box 10)

67. 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.⁵⁴ 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 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.⁵⁵

68. 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.⁵⁶

69. 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 related to 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

⁵² 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.

⁵³ 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.

⁵⁴ 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.

⁵⁵ 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.

⁵⁶ 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.

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.⁵⁷

70. 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.⁵⁸

71. 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 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.

72. 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.

73. The minimum standards define the role of the court-appointed expert, the need for a clear and binding mandate and the qualifications and appointment of experts. They require the use of objective and evidence-based methods and regulate the quality of expert opinions and the process for preparing them and guide judges in assessing whether an expert opinion complies with these standards and requirements.

Multi-agency risk assessment of children: example of Finland⁵⁹

74. 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 disputes or other challenges in their family or community. Multi-agency assessments offer a particularly comprehensive approach for assessing the risks of a child.

75. 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). The Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO)

⁵⁷ 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.

⁵⁸ 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.

⁵⁹ This section is based on a contribution by (to be added), as well as: Fadjukoff, M., Ellonen, N., *Lapsirikosasioiden moniammatillinen esikäsitte huomioitava lainsäädännössä* [Child abuse cases, Multidisciplinary pre-treatment to be taken into account in legislation], Policy brief 2023:39.

recommended that States parties develop a standardised procedure for risk assessments, which should be an integral part of legal proceedings.⁶⁰

76. The Finish Institute of Health and Welfare collaborated with the National Police Board to develop the Lasta-seula model, a multi-agency risk assessment method for cases of violence against children investigated by the police. The method enables 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 and to enable a coordinated service provision to build a safety network around the child and the family. It guides the police, child protection authorities and other state agencies or services involved in the case in sharing information on the child in a structured manner and as early as possible.

77. 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. The Lasta-seula risk assessment covers 18 risk factors relating to the parents, the child-parent relationship, the family situation and the child. 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.

78. 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.

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

79. Family mediation and other alternative dispute resolution (ADR) processes can be used during or instead of proceedings. ADR processes are considered cost-effective as they support parents and families in resolving disputes concerning the care of the child or parental separation. As a general rule, participation in such processes should be voluntary and subject to certain safeguards.

80. 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 the 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.⁶¹

81. 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

⁶⁰ 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.

⁶¹ 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.

procedure; as well as training of professionals conducting the screening and allocation of resources.⁶²

82. 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.⁶³ 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 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.⁶⁴

83. The Mediator's Assessment of Safety Issues and Concerns (MASIC) is used in several Council of Europe member states, for instance Belgium and the Netherlands.⁶⁵ 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.⁶⁶

Trauma symptom checklists for children and young children

84. 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 checklists for children and young children are scientific tools that help to identify such experiences and whether they have led to trauma. Research has evidenced the reliability and validity of the checklists in identifying symptoms of childhood trauma. They help professionals in clinical practice to identify symptoms such as post-traumatic stress, anxiety, depression, anger, dissociation and sexual concerns and to determine the most appropriate form and focus of treatment.⁶⁷

85. The trauma symptom checklist method is designed for children aged three years and older. It consists of a self-report questionnaire suitable for children aged 8 to 17, as well as a parent or

⁶² McCutcheon, R., Addressing domestic violence in mediation: the need for more uniformity and research, Harvard Negotiation Law Review, 2021.

⁶³ 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.

⁶⁴ 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.

⁶⁵ 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.

⁶⁶ 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.

⁶⁷ 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).

caregiver report. The clinical professional is able to rate 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.⁶⁸ 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.

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

86. 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 specific assessment methods and tools, which are based on research and evidence, to be used in the best interests assessment process***
- ***Courts of law should be able to activate multidisciplinary and interagency services for the assessments***
- ***Quality standards and principles should be in place to guide expert opinions in civil proceedings***
- ***Risk assessment methods should use a multidisciplinary and interagency approach***
- ***Officials and professionals should be trained in the use of the available assessment tools, using a multidisciplinary approach***
- ***Screening tools should be in place to enable the effective identification of violence and trauma***
- ***Research and evaluation should be continued to assess the effectiveness and suitability of assessment tools, using a child-centred and rights-based approach***

4) Support services for children, parents and families

87. Families concerned by civil proceedings are likely to be in need of support and will benefit from services targeted to their needs, for instance, to resolve disputes regarding parental separation or childcare. Council of Europe member and observer States have devised a multitude of support services for children, parents and families, such as:

- positive parenting programmes,
- family group conferences,
- family therapy methods,
- support services for parents whose child is a victim of violence.

⁶⁸ 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.

Positive parenting programmes

88. In 2006, the United Nations study on violence against children recommended that governments implement human rights-based and evidence informed parenting programmes, which improve parents' understanding of child development, non-violent discipline, problem solving and conflict management.⁶⁹

89. 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.⁷⁰ The Council of Europe Committee of Ministers Recommendation (2006)19 on policy support to positive parenting⁷¹ was developed 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. It sets out principles of positive parenting, as well as guidance for policy support.⁷²

90. 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.⁷³ 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).⁷⁴

91. In view of the broad scope of support to positive parenting and its legal base rooted in international and Council of Europe standards⁷⁵, 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.⁷⁶

92. Some parenting programmes stand out as they have been developed based on research and evidence and are in use in member states and around the world: the Positive Discipline 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.⁷⁷

⁶⁹ Pinheiro, P.S., [World report on violence against children](#), United Nations Secretary-General's study on violence against children, 2006, p. 95.

⁷⁰ Council of Europe, [Policy support to positive parenting](#), undated, p. 5.

⁷¹ Council of Europe, Recommendation [Rec\(2006\)19](#) of the Committee of Ministers to member states on policy to support positive parenting, 13 December 2006.

⁷² Council of Europe, [Policy support to positive parenting](#), undated, p. 1.

⁷³ 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.

⁷⁴ Council of Europe, [Policy support to positive parenting](#), undated, p. 2.

⁷⁵ 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.

⁷⁶ 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.

⁷⁷ A non-exhaustive overview is available in: United Nations Office on Drugs and Crime (UNODC), [Compilation of evidence-based family skills training programmes](#), undated.

a. Positive Discipline in Everyday Parenting Programme⁷⁸

93. 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”.⁷⁹

94. 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.⁸⁰ 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. Through carefully guided discussions and carefully crafted interactive activities, parents are gradually learning how 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.

95. Facilitators of the programme and their trainers go through the same learning process. The child rights-based approach is also guiding the programme evaluations.⁸¹ 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.

96. 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.⁸²

⁷⁸ 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.

⁷⁹ Council of the Baltic Sea States, [Parenting for non-violent childhoods](#), *Positive parenting to achieve an end to corporal punishment*, 2018, p. 18.

⁸⁰ 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.

⁸¹ 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.

⁸² 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.

b. International Child Development Programme⁸³

97. 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.⁸⁴

98. 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.

99. 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.⁸⁵

100. ICDP has been evaluated positively in different countries and with different target groups, including by the World Health Organisation, and received several rewards.⁸⁶ 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.⁸⁷

c. Incredible Years parenting programme: the experience of Estonia⁸⁸

101. 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, toddlers, preschoolers and school age children. It is implemented in weekly sessions over 16 weeks. The

⁸³ International Child Development Programme, [Welcome to ICDP](#), 2024.

⁸⁴ International Child Development Programme, [Projects](#), 2024. International Child Development Programme, [Chronology of main ICDP developments](#), undated. International Child Development Programme, [Evaluations of ICDP](#), 2024.

⁸⁵ 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>, pp. 2, 9, 12.

⁸⁶ International Child Development Programme, [Projects](#), 2024. International Child Development Programme, [Chronology of main ICDP developments](#), undated. International Child Development Programme, [Evaluations of ICDP](#), 2024.

⁸⁷ Bufdir [Directorate for Children, Youth and Family Affairs], *Foreldrehverdag [Everyday parenting]*, accessed on 22 October 2024.

⁸⁸ 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.

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.⁸⁹

102. 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.⁹⁰

103. 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'⁹¹ 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. The website provides guidance and advice on 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

104. 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 civil proceedings***
- ***Conduct a mapping of existing programmes and services***
- ***Strategic planning to support a systematic use of parenting programmes***
- ***Dissemination of information on available parenting programmes, including through digital platforms***
- ***Sustainable resources to roll-out parenting programmes and facilitate access***
- ***Generate national evidence on the use and impact of parenting programmes in accordance with international and European standards***
- ***Integrating parenting programmes in the national referral mechanism***

⁸⁹ The Incredible Years, An Empower Community Care Organisation, [Building brighter futures through early intervention programmes](#), 2024.

⁹⁰ The Incredible Years, An Empower Community Care Organisation, [Building brighter futures through early intervention programmes](#), 2024.

⁹¹ Tervise Arengu Instituut [Health Development Institute], [Tarkvanem](#) [How to be a smart parent?].

Family group conferences

105. The family group conference method has its origins in New Zealand and gained relevance in the 1970s when the Maori population 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. The Children's and Young People's Well-being 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.⁹²

106. 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, and improving the outcomes for children. Research has shown that the method is cost-effective in the longer-term.⁹³

107. 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 networks and, where necessary, professional support. The coordinators of the method act as facilitators who provide mentoring support rather than acting only as case managers.⁹⁴

108. 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, 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 2015⁹⁵ 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.⁹⁶

109. 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.⁹⁷ 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

⁹² New Zealand, Oranga Tamariki Act 1989, [Children's and Young People's Well-being Act 1989](#), Sections 20-38.

⁹³ See section 'Evidence of impact' further below.

⁹⁴ 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.

⁹⁵ 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.

⁹⁶ Dietrich, A., *Family group conference – a promising intervention in child protection*, Lucerne University of Applied Sciences and Arts – Social Work, undated, p. 2.

⁹⁷ FGC European Network, [The Network](#).

that support the care, protection and well-being of the person or persons referred” to the social care or child protection system.⁹⁸

110. 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.”⁹⁹

111. 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.¹⁰⁰

112. 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.

113. 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 relationship between perpetrators and victims of crime in the child justice system. The method is appropriate for situations where families are facing multidimensional challenges.

114. 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.¹⁰¹ Family group conferences may be appropriate in situations where family members have used violence against the child or between adults in the family.¹⁰²

⁹⁸ Eigen Kracht Centrale, [Family group conferences, Purpose, values and processes](#), 2012, p. 1.

⁹⁹ van Lieshout, H., *Family group conferences, Vision, roots, implementation, practice and research*, 2024, p. 1.

¹⁰⁰ van Lieshout, H., *Family group conferences, Vision, roots, implementation, practice and research*, 2024, p. 1.

¹⁰¹ 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.

¹⁰² 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.

115. 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.

116. 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.¹⁰³

117. 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. 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.

Key considerations for promoting family group conferences to secure the best interests of the child in civil proceedings

118. Based on the experience of member states, the following key considerations are proposed for promoting the use of family group conferences in civil proceedings:

- ***Build a multidisciplinary and interagency partnership for the pilot phase***
- ***Appoint a lead agency***
- ***Develop a research-based implementation plan***
- ***Develop systematic training of officials, professionals and FGC coordinators***
- ***Ensure legal regulation and standardisation with appropriate safeguards***

Family therapy methods

119. 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. The multi-dimensional family therapy and the combined parent-child behavioural therapy are particularly well-established in Council of Europe member states, such as Belgium, Ireland, the Netherlands, Sweden and UK, to support parents and families in reducing conflicts and focusing on the needs and best interests of the child. Both methods are suitable for application before, during and after civil proceedings, based

¹⁰³ 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.

on the needs of the family and the circumstances of the case, including in situations where violence has been used.

120. Parents and families may be referred to family therapy 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.

Support tools for parents whose children are victims of violence (United Kingdom)

121. In the United Kingdom, the Centre of expertise on child sexual abuse (CSA Centre)¹⁰⁴ 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.

122. 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. 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, 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.

123. 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.

5) Specialised support for parents and children concerned by parental separation

124. 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

¹⁰⁴ Centre of expertise on child sexual abuse, [CSA Centre](#).

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.

125. 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. 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.

126. 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 more 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.

127. Council of Europe member states have developed support programmes for parents and children concerned by civil proceedings under family law, such as:

- information and counselling for separating parents;
- child-friendly information on parental separation and care;
- group consultations for children concerned by parental separation.

Information and counselling of separating parents

128. 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.

129. As an example, the Austrian federal law regulates family counselling for separating parents. 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.¹⁰⁵

130. 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

¹⁰⁵ Bundeskanzleramt [Federal Chancellor's Office], [Elternberatung vor Scheidung](#) [Parental counselling before separation]. 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.

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.¹⁰⁶ 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.

131. 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.¹⁰⁷

Child-friendly information on parental separation and care proceedings

132. 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.¹⁰⁸ These materials can be used in member states and can inspire an adaptation to the national or local context. When developing child-friendly information materials, their dissemination should be carefully planned to ensure officials and professionals use them actively in communicating with children and that children and parents are able to access them in the public domain.

Digital platforms for children and parents concerned by parental separation: example of Germany

133. 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, as well as contact information of service providers that offer personalised information, counselling and help. 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 also resources and information for professionals working with parents and children in these situations.

Group consultations for children concerned by parental separation¹⁰⁹

134. 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.¹¹⁰ 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,

¹⁰⁶ Bundeskanzleramt [Federal Chancellor's Office], [Familien-, Eltern- oder Erziehungsberatung](#) [Family, parental or educational counselling].

¹⁰⁷ Bundeskanzleramt [Federal Chancellor's Office], [Elternberatung vor Scheidung](#) [Parental counselling before separation].

¹⁰⁸ Council of Europe, Children's Rights, [Child-friendly material](#), 2024.

¹⁰⁹ This section is based on contributions by Paola Farinacci, Catholic University 'Sacro Cuore' of Milan, Italy, 12 December 2024.

¹¹⁰ 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.), [Gruppi di Parola per i figli di genitori separati](#), Vita e Pensiero, 2010.

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.¹¹¹

135. 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's degree in family mediation, which provides a solid basis of expertise and methodological experience for introducing the conversation group method, considering its synergies with family mediation methods.

136. 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 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.¹¹²

137. 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.

138. 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.¹¹³ 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.¹¹⁴

¹¹¹ Autorità garante per l'infanzia e l'adolescenza [Independent Authority for Children and Adolescents], [Gruppi di parola](#) [Conversation Groups], 12 October 2022.

¹¹² 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.

¹¹³ 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.

¹¹⁴ Università Cattolica del Sacro Cuore Roma, [Depliant](#), *Gruppi di parola*, undated.

Key considerations for supporting children, parents and families concerned by civil proceedings

139. 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 among children, parents and professionals, addressing different types of proceedings, age groups and concerns***
- ***Offer counselling services for children and parents involved in civil proceedings, which are accessible at a low threshold***
- ***Enable parents' access to information sessions on separation, facilitating referral to support programmes for children and parents***

6) Legal professionals working with children in civil proceedings: training, specialisation and support

140. 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.¹¹⁵

141. 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.¹¹⁶

142. 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.¹¹⁷

¹¹⁵ 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.

¹¹⁶ 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.

¹¹⁷ 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.

143. 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”.¹¹⁸

144. Council of Europe member states take different approaches regarding the specialisation of professionals representing children in civil proceedings and support in view of their complex and sensitive tasks, such as:

- 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 from 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 from member states.

Legal requirements for the specialisation of legal professionals: example of Georgia

145. 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 justice system. 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.¹¹⁹

146. The Code on the Rights of the Child establishes the specialisation of professionals as one of the requirements of child-friendly justice, which shall be achieved progressively. 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.

147. Chapter III of the Juvenile Justice Code is dedicated to the specialisation of officials and professionals working with children in the justice system. The requirement of specialisation applies to all persons who are administering juvenile justice procedures or are a party, such as judges, prosecutors, police officers, lawyers, social workers and mediators (Article 3.6). They must undergo special training. 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.

148. The Government is tasked to define the standards of professional specialisation in the child justice system by an ordinance. The High Council of Justice of Georgia is responsible for defining the standards for judges. (Article 16.3) The Georgian Bar Association is responsible for defining the format of the certification document of lawyers specialised in juvenile justice (Article 101). In addition,

¹¹⁸ Council of Europe (2010), [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#), V.f.

¹¹⁹ Law of Georgia, Code on the Rights of the Child, Articles 3.1, 5.5.c, 61, 73, among others. Law of Georgia, Juvenile Justice Code, Chapter III.

the Legal Aid Service shall ensure that a permanent group of specialised lawyers is available to provide legal assistance to children (Article 20).

Legal requirements for the specialisation of family judges, lawyers and guardians *ad litem*: example of Germany¹²⁰

149. 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.

150. The new Section 23b(3) of the Courts Constitution Act 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. The qualification requirements were introduced as family court judges often make decisions with significant relevance to the fundamental rights of children and parents, particularly in child custody cases.

151. Section 158a of the Act on Proceedings in Family Matters and in Matters of Non-Contentious Jurisdiction (FamFG) also specifies the eligibility requirements for guardians *ad litem*. Guardians *ad litem* are responsible for acting as an advocate for the child and asserting the best interests of the child in the proceedings. The eligibility requirements set out criteria for 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.

Youth Lawyer Commission of the Flemish Bar Association: example of Belgium

152. In Belgium, the Flemish Bar Association and its Youth Lawyer Commission are offering a specialisation course on children's rights for lawyers. The two-year course provides training on the rights of the child under national, European and international law, combined with basic training in child psychology and development. It includes 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 a "youth lawyer".¹²¹

153. 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. The non-profit organisation Union of Youth Lawyers offers a database of specialised youth lawyers on its website, which children or their family members can use to find and

¹²⁰ This section is based on a contribution by Barbara Fellberg, Federal Ministry of Justice, Germany, 15 October 2024.

¹²¹ Unie van Jeugdadvocaten [Union of Youth Lawyers], [Home \(jeugdadvocaat.be\)](https://jeugdadvocaat.be).

contact a lawyer close to where they live.¹²² 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.

154. 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 and entry into the database of accredited youth lawyers, which is publicly available through the Union's website and facilitates children's access to a specialised lawyer.¹²³

Advanced Studies in International Children's Rights: example of the Netherlands

155. 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 in Europe.¹²⁴ The programme combines 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.

156. 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.

Specialised training for guardians *ad litem*: example from Ireland

157. In Ireland, the NGO Barnado'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. Barnado's is operating a database of trained guardians *ad litem* in each of the regions and local areas that courts can choose from.

158. 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 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.

159. 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 standards¹²⁵ for guardians *ad litem*, which set out principles and operational guidance for guardians. 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

¹²² Unie van Jeugdadvocaten [Union of Youth Lawyers], [Home \(jeugdadvoaat.be\)](http://jeugdadvoaat.be).

¹²³ Unie van Jeugdadvocaten [Union of Youth Lawyers], [Home \(jeugdadvoaat.be\)](http://jeugdadvoaat.be).

¹²⁴ University of Leiden, [International Children's Rights \(Advanced LL.M.\)](http://internationalchildrensrights.leidenuniv.nl).

¹²⁵ Barnado's, Service standards, [Service Standards - Barnardos](http://barnados.ie/service-standards).

the child and family. These consultations help the guardian *ad litem* in understanding 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.

160. 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

161. 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.

162. 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. To be prepared for this challenging task, judges require a broad set of skills and competences.¹²⁶

163. 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. (...) 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 (...)." ¹²⁷

164. 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

¹²⁶ 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.

¹²⁷ 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.

support which is both meaningful for judges and appropriate in view of their independent and impartial role.

165. 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.¹²⁸ 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-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.¹²⁹

166. 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.”¹³⁰

167. 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 feedback, monitoring or supervision; knowledge management and teamwork; positive ethics; prevention of psychosocial risks and emotional stress in the workplace.¹³¹

¹²⁸ 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.

¹²⁹ 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.

¹³⁰ 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.

¹³¹ 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.

Key considerations for promoting high quality representation of children and supporting judges in civil proceedings

168. 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***
- ***Ensure legal aid services provide specialised legal representation of children***
- ***Review the national academic and vocational training curricula on the rights of the child and child justice, ensure multidisciplinary and interfaculty training on child-friendly justice is available and develop a national advanced study or master programme on children's rights***
- ***Encourage the development of codes of ethics for legal professionals representing children***
- ***Assess and monitor the quality of legal representation and legal aid services for children***
- ***Develop strategic measures, such as special counselling, training and peer programmes, to reduce the isolation of judges and offer psychological support***

CONCLUSIONS AND PROPOSALS FOR ACTION

169. The case studies and examples from member and observer states presented in the report *“Securing the best interests of the child in civil proceedings: a selection of guidance, methods and tools used in Council of Europe member state”* 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.

170. 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 and observer 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.

171. Based on the consolidated practice of numerous member states, the study concludes with the following proposals for the continued debate and development for securing the best interests of the child in civil court proceedings in Slovenia:

- ***Promote a multidisciplinary and interagency culture in child justice and service provision for children and families***
- ***Ensure that methods for the best interests determination procedure in legal proceedings are firmly anchored in the child protection system***
- ***Develop standards and criteria for the specialisation of professionals working with children in legal proceedings***
- ***Foster a service culture engaging children and parents as competent service users and strengthening protective environments in communities***
- ***Support communities of practice of officials and professionals working in the child justice field***
- ***Develop and disseminate digital platforms to provide information to parents and children, as well as professionals***