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Child-Friendly Justice in Europe - Participation and Restorative Justice: Online event – 12 May 2020

Welcome from Ms Marija PEJČINOVIĆ BURIĆ, Secretary General of the Council of Europe

Justice and justice systems are not always as friendly as they should be to the children and youth who rely on them. Over many years, the Council of Europe has produced standards, reports and recommendations to help member states address this issue, and improvements have been significant. The jurisprudence of the European Court of Human Rights has also played an important role. In the years to come, this progress will continue and the current Strategy for the Rights of the Child, due to conclude next year, will shed new light on the best ways to meet this challenge.

This online event provides a valuable opportunity to learn about the impressive reforms that Georgia and other member states have undertaken in order to better ensure accessible and child-friendly justice. We owe thanks to the Georgian Presidency of the Committee of Ministers for organising it. While the COVID-19 pandemic has prevented us from being together physically, our joint efforts to learn from one another and build our capacity to uphold human rights continues.

This is important because many children in Europe continue to face difficulties in accessing justice. Victims may experience fear, shame and the reality that they are among the least likely groups to be heard or have their views taken into account during judicial processes.

When they come into conflict with the law, or arrive with migrant or refugee status, it is too often thought that they can be “dealt with” by detention. These are children who have often suffered from the most terrible of situations. Our justice systems must help them to overcome such trauma, not compound it.

The COVID-19 pandemic has added further challenges to this mix.

Many member states have introduced broad confinement measures in a necessary effort to save lives. However, confinement can leave children locked in with their abusers, with little opportunity to raise the alarm. It is essential that member states ensure that measures are in place to provide these children with effective, speedy and accessible recourse to reporting mechanisms. These children must have a place to go, with access to professionals who can help them to piece their lives back together. This requires adequately funded emergency shelters and services at a time when many charities and NGOs are facing financial shortfalls.

During this period, many states have suspended judicial proceedings, including divorce and separation hearings. When these proceedings resume, they should not be expedited at the expense of a child's right to be heard. Child participation is an obligation enshrined in international law.

Lockdown measures are also resulting in a significant economic downturn at a time when children are already disproportionately affected by poverty. Their increased vulnerability may be exploited by others – including abusers and criminal gangs. In these circumstances, states must redouble their efforts to uphold the rights guaranteed by the European Social Charter, with policies and budget decisions that maintain children's rights despite the financial pressures.

Against the background of this new reality, it remains right and possible to ensure that justice systems are child friendly.

The Council of Europe Guidelines on Child-Friendly Justice, adopted by the Committee of Ministers in 2010, provide a comprehensive framework of principles for all stages of civil, administrative and criminal justice processes. They apply equally to all children – whether they are victims of crime or alleged perpetrators, or if they are involved in migration processes or a family law or other legal dispute. These Guidelines were prepared in consultation with approximately 4,000 children; to ensure that this is a practical tool that responds to real-life problems. The success of the Guidelines is demonstrated by their widespread use. A decade after their adoption, they have been translated into more than 25 languages, and are used by governments and authorities far beyond our continent.

Across the Council of Europe, child-friendly justice has been mainstreamed and integrated into our work. The Parliamentary Assembly has adopted a Resolution on child-friendly justice. The European Court of Human Rights has had recourse to the Guidelines and their principles in numerous judgments. Child-friendly justice is a major theme covered by the work of the Commissioner for Human Rights, as well as a key priority area for the Council of Europe Strategy for the Rights of the Child (2016-2021).

At international level, the recent General Comment on children's rights in the child justice system by the UN Committee on the Rights of the Child complements and strengthens our Guidelines and work and is highly welcome.

When it comes to the nature of justice itself, there is an increasing recognition of the value of restorative justice. This can be particularly effective for child victims and perpetrators. For child victims, it can be empowering and provide an important way to heal from the harm done. For children in conflict with the law, it may play a role in helping them to learn and move on from their mistakes. For this to work, appropriate safeguards must be in place to protect children involved in these processes – and to uphold their rights. This point was at the heart of a recent Recommendation by the Committee of Ministers.

Strong principles and frameworks for child-friendly justice systems are an important step. But the real test lies in their implementation.

The Council of Europe stands ready to support all of its 47 member states through capacity-building and the development of tools and co-operation activities. A range of measures is already available. Training on child-friendly justice has been developed and adapted to national legal systems and will be developed further still. During the next biennium, the newly established Steering Committee on the Rights of the Child (CDENF) will also work on non-binding instruments to better enable professionals to report violence, and on the prevention of peer violence and sexually abusive behaviour by children. A specific subordinate committee will address the protection of the best interests of the child in parental separation and child-care proceedings.

Children need justice systems that take account of their particular needs. Through these measures, and many more, our aim is to make accessible, empowering and child-friendly justice a reality across the board. Bringing the issues out into the open and discussing them in a clear, positive and sensitive manner paves the way to further progress. This forum is a valuable opportunity to do that.
