

GENERAL PRINCIPLES AND BASIC INSTRUMENTS ON PROTECTING CHILD'S RIGHTS IN THE INTERNATIONAL AND EUROPEAN CONTEXT IN JUSTICE SETTINGS

INTRODUCTION

- Introduction of trainer, background and experience
- When we think of children involved in justice proceedings, there are a wide variety of different scenarios:
 - They include criminal, civil and administrative proceedings, ranging from, for example, a child accused of assault to a child involved in a family case triggered by parental separation;
 - They can be in a range of settings, including courts, before administrative bodies, or in mediation settings, for example, an asylum seeking child before an asylum officer in an office or a child providing evidence in a case involving a court, a judge and jury, lawyers for other parties and a defendant.
 - The children may be involved as plaintiffs, applicants, suspects, victims, witnesses or subjects of family law proceedings.
- We will not look at each of these diverse situations individually but instead focus on what they have in common, which is the need to ensure that:
 - Justice proceedings are adapted to ensure that children can properly access and participate in these proceedings and
 - Justice proceedings properly take account of the situation and views of the child and this is reflected in their outcomes.
- This may sound straightforward. But:
 - Recent research from the EU Fundamental Rights Agency into child friendly justice shows a number of recurring obstacles to achieving child friendly justice across the EU.
 - It draws from the perspectives of professionals on child friendly justice, and examines the perspectives of judges, prosecutors, lawyers, court staff, psychologists, social workers and police officers who are in daily contact with children going through judicial proceedings. (FRA will publish a second part to the study which will draw on the perspectives of children.)
 - They report various shortcomings, including insufficient support for children when participating in proceedings. The adoption of concrete measures to avoid intimidating settings, for example, ensuring that a child is not directly confronting a defendant in court, is not yet a common practice. The study does highlight some good practices. In general, it illustrates the need to further strengthen child friendly justice and to learn from good practices in each other's jurisdictions.
- A key element of this seminar is that it brings participants together from different countries, as well as bringing different professionals together. This should allow for a rich exchange of experience and reflection, not only on what child friendly justice is, but also on how to address shortcomings and practical obstacles to its achievement by the actors centrally involved.
- This first session provides the building blocks for understanding the legal framework that promotes the rights of children and the international and EU resources that can help both in

individual cases and in building better child friendly processes as a whole. There are very important other regional instruments, in particular, the European Convention on Human Rights and the Guidelines on child friendly justice developed by the Council of Europe. These will be explored in more detail in other sessions in this seminar.

- Part One provides an introduction to the general legal principles which apply in the area of child rights, in particular the UN Convention on the Rights of the Child. Some of you will already be familiar with these principles and indeed the aim here is not to provide a comprehensive training into child rights. [question on level of familiarity?] The key focus of this session is to identify the implications of a rights based approach to children's involvement in justice proceedings. In other words, what kinds of issues should be addressed when we are concerned with children's rights in justice proceedings?
- We will in particular look at what actors are or should be involved and how actors may need to cooperate with each other to ensure that children's rights are fulfilled, with due regard for confidentiality and respecting the children's best interests. This is often a particularly interesting area in which to compare different perspectives, or different national practices, about the roles of actors. It is a key issue in child friendly justice, which must be embedded in the overall and continuing obligations of the State for the child, before, during and after the process. For example, where children are in particularly vulnerable circumstances, the child protection system as a whole will play an important part in ensuring the justice process works properly.
- Part Two looks at the role of the EU in promoting and fulfilling these principles, as well as how the EU supports actors involved in justice proceedings. We will look at the different ways in which the EU does so, including as a law-maker and as a source of practical tools and guidance and research.
- Indeed this capacity building seminar is very timely when one looks at the EU agenda. Recent EU legislation in the field such as the EU Anti-Trafficking Directive obliges Member States to introduce specific safeguards to fulfil children's rights. There are also a range of practical measures of support such as EU funding for capacity building, including for this seminar.
- EU law and policy framework provide a means for exchange of good practice between professionals in different countries and allows us to draw on common resources to implement EU obligations nationally.
- After the introductory session, there will be a workshop where we break into smaller groups to explore scenarios which require us to draw down on this general introduction. Each workshop should involve different professionals, from judges, lawyers to civil servants and social workers, each of whom play different roles in child justice proceedings. The aim is to discuss specific aspects of a particular case, including:
 - what child rights are central to the case,
 - what actors might be involved in the process and
 - how what international and regional law and resources are available to support decision making in the case.

- The scenario and a resource sheet for working through the scenario are part of the pack you received in advance. This should allow us a rich exchange between the perspectives of the different professionals and the different countries involved.

In short, this introduction aims to:

- (a) Ensure familiarity with the general principles of child rights and to understand the implications of a rights based approach to justice.
- (b) Explore the practical side of achieving child friendly justice through a multi-disciplinary approach
- (c) Ensure awareness of EU acquis and resources that may be particularly relevant in this field, including law, guidance, studies and projects;
- (d) Facilitate exchange of different national experiences as well as the perspectives of different professionals concerned with children in justice.

The session should leave you equipped:

- (a) **Better to address individual cases in your professional roles.** For example, as a decision-maker, you are better placed to consider what issues, and what sources of information, should be involved to consider the best interests of the child when making a decision concerning a child. You should also better recognise the role of other actors and whether they are being discharged properly to fulfil the rights of the child. For example, as a lawyer for a child who has been trafficked, you will know to consider whether the child has received necessary support services before providing testimony;
- (b) **Better to work with other professionals so as to ensure fuller respect for the rights of children.** For example, it may be that police, social workers and lawyers should have case management meetings to expedite the procedure and avoid secondary victimisation, in the case of an abused child. It may be that different courts should be able to communicate with each other about proceedings related to the same child that are before each of them.
- (c) **Better to contribute to and build a more child friendly justice system in ways that are open to you, and drawing on common EU resources.** This might involve being inspired by good examples in other jurisdictions such as those mentioned in the FRA report, for example, training practices such as that in Austria, where judges and prosecutors are required to spend time working in a child welfare institution prior to taking their posts to broaden their experience beyond the judicial sector.

An overarching goal of the seminar is that it should provide you with the interest and the means to continue deepening your knowledge and experience of child friendly justice in an active and practical way.

It should also provide an opportunity and stimulus to continue exchanging perspectives with other professionals involved in cases concerning children, and with colleagues from other countries engaged in the field.