

PRIORITISING ACCESS TO JUSTICE FOR ALL CHILDREN

In EU neighbourhood & enlargement policies
and relations with Central Asia



TENS OF THOUSANDS OF CHILDREN



THE ISSUE AT STAKE

Daily tens of thousands of children in Europe's neighbourhood and Central Asia continue to have their rights violated – including their right to health, their right to quality education and their right to be free from abuse, violence and exploitation. Yet, only a fraction of children and families have access to a fair, timely and effective remedy. In other words, only very few among them have access to justice.

Children in the region face tremendous obstacles in accessing justice. Children are confronted with the same barriers as other citizens, including lack of awareness, court fees, distrust in the system, fear of stigma. In ad-

dition, however, children face specific legal and social obstacles due to their particular status as minors. Justice systems often do not recognize or support children as legitimate complainants, whether because of age restrictions or persistent social norms tolerating violence against children or making it socially unacceptable for children to bring adults to court. Limited free legal aid is hampering children and their families to access the justice system. Vulnerable children, including children with disabilities, from a disadvantaged or poor family background or from minority communities, children without parental care, suffer disproportionately.



HAVE THEIR RIGHTS VIOLATED

Justice systems in the region are generally not adapted to children's rights. Only a few countries have specialised children's courts or fully specialized judges, prosecutors and investigators to handle cases involving children, including child witnesses and child victims. As a result, children sometimes appear in court without information and assistance, and are in certain cases directly confronted with their alleged perpetrator. Justice systems that are not adapted to children risk violating their rights instead of protecting them.

Access to justice is a right in itself; but it is also an enabling right empowering children to realise the rights enshrined in the United Nations Convention on the Rights of the Child. As stated clearly by the Committee on the Rights of the Child, 'for rights to have meaning, effective remedies must be available to redress violations... (...) States need to give particular attention to ensuring that there are effective, child-sensitive procedures available to children and their representatives¹'.

¹ United Nations Committee on the Rights of the Child, General Comment No. 5, CRC/GC/2003/5

THE VISION: ACCESS TO JUSTICE FOR ALL CHILDREN

Respect for human rights and fundamental freedoms is a core value of the European Union and a guiding principle for EU action at home and abroad.²

The Charter of Fundamental Rights of the European Union guarantees the right to an effective remedy and to a fair trial, including legal aid to those who lack sufficient resources. Promoting child-friendly justice systems is also a key priority in the EU's Agenda for the Rights of the Child.

In relations with third countries, support for the justice sector and justice sector reform has traditionally been one of the EU's principal avenues for promoting democratic governance, the rule of law, respect for human rights and development.³ With the support of the EU, substantial progress has been achieved over the last ten years in progressively establishing juvenile justice systems across the region (in some cases, child detention rates have fallen by 80 per cent).⁴ A new momentum, however, is building in recognition

of the pressing need to look beyond juvenile justice and address the situation of all children participating in justice processes.

At a high-level Regional Conference on Justice for Children, co-organised by the EU and UNICEF in June 2013, senior EU officials, Justice Ministers, and civil society partners from 21 countries and territories emphasised their commitment to ensure that all children, including the most vulnerable, can access the justice system in an effective way.

The March 2014 UN Human Rights Council Full-day Meeting on the Rights of the Child, co-sponsored by the European Union, also focused on Access to Justice for Children. In her speech, Mariangela Zappia, Head of the Permanent Delegation of the European Union to the United Nations in Geneva said that 'equitable access to justice means ensuring that all children are served and protected by justice systems'.

ACCESS TO JUSTICE FOR CHILDREN IS ABOUT

- Child rights
- Rule of Law
- Sustainable Development

² Human Rights and Democracy at the Heart of EU External Action – Towards a more effective approach, Joint Communication, COM (2011)886

³ Juvenile justice reforms in Central and Eastern Europe and Central Asia and their impact on children, 2006-2012, forthcoming UNICEF-EIDHR evaluation

⁴ See O'Donnell, D., Juvenile justice in the CEE/CIS region: Progress, challenges, obstacles and opportunities, UNICEF Regional Office for Europe and Central Asia, 2013



"The Union's action on the international scene shall be guided by the principles which have inspired its own creation... (..) democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms...(...) respect for the principles of the United Nations Charter and international law."

Treaty on European Union, Art. 21



A TRIPLE WIN

Prioritising access to justice for all children would help achieve progress on three fronts simultaneously:

1. Prioritising access to justice for all children will greatly advance the EU's broader human rights agenda in this region. As long as children are systematically denied access to an effective and inclusive justice system, child rights commitments will remain promises on paper. Accessing justice is a necessary pathway to the enforcement of all rights put forth in the United Nations Convention on the Rights of the Child and national laws.
2. Ensuring that all children have access to adapted, independent and efficient justice systems is a

prerequisite for the rule of law in any given country. There is no rule of law without equitable access to justice for children, especially the most vulnerable. Experiencing the rule of law as children will help citizens value it in their adult lives and therefore contribute to creating a rule of law culture.

3. Accessible justice systems contribute directly to inclusive and sustainable development. Justice systems have an important role to play in combatting discrimination, restoring entitlements that were denied or challenging exclusion from school or health and social services. Investing resources and political capital to ensure children's access to justice is thus an investment in a country's future.



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THE WAY FORWARD

Access to justice for children requires specific interventions, tailored to the particular situation of children. Simply extending to children generic measures designed for adults is not sufficient. A comprehensive approach requires action in four key areas:

Prioritise access to justice for children in EU external action

Prioritise children's access to justice within the 'fundamentals first' approach in accession countries, including in Rule of Law Dialogues, rule of law missions and related IPA-II programming.

Benchmark domestic reforms and progress in ENP countries on progress achieved in progressively ensuring access to justice for all children, including the most vulnerable.

Systematically prioritise access to justice for children in policy dialogues and Human Rights Dialogues, including in the EU's Rule of Law Initiative for Central Asia.

Invest in objective, reliable and comparable data focused on children in justice systems

Introduce child-focused benchmarks and indicators to monitor and assess progress in reforming

justice systems in accession and ENP countries, rewarding good progress in line with the 'more for more' principle.

- ❑ Support partners and national governments in setting up comprehensive data collection systems that demonstrate how children's rights are respected within the justice sector.
- ❑ Invest in enhancing transparency and accountability in national justice systems' treatment of children, utilising UNICEF's global good practices and lessons learned in the region.

Adapt justice systems to the particular rights of children

- ❑ Allocate additional resources to implement the UN Guidelines for justice in matters involving child victims and witnesses of crime (2005) and the Council of Europe Guidelines on child-friendly justice (2010).
- ❑ Scale-up existing programmes to adapt police and court procedures to children's rights and needs, including the establishment of specialized police units/officers and interviewing rooms, the setting up of specialized procedures in administrative, civil and criminal courts and building the capacity of the police, judges and other professionals work-

ing with children, with a focus on multidisciplinary practices.

- ❑ Systematically embed 'access to justice for children' in judicial training programmes, rule of law initiatives, Twinning and TAIEX programmes.
- ❑ Develop greater links between social protection and justice systems and ensure improvements in preventive measures and take up of alternatives to judicial proceedings.
- ❑ Develop regional platforms to enable national governments, civil society and other partners to share lessons learned and good practices, and build regional know-how and cooperation on justice for children.

Empowering children to claim their rights

- ❑ Provide children with adapted information about their rights, the possibility to claim these rights and the avenues for doing so.
- ❑ Expand the provision of legal, paralegal and social support to children going through justice processes, for example, through decentralized, community-based, multi-disciplinary child rights centres or legal clinics.

FORTHCOMING UNICEF REPORTS ON CHILDREN'S ACCESS TO JUSTICE:

- Children's Equitable Access to Justice in the Central and Eastern Europe and Central Asia – in partnership with the International Development Law Organization. The study sheds light on the state of children's access to justice in the region. The study gives voice to 175 children who took part in the research.

- Juvenile justice reforms in Central and Eastern Europe and Central Asia and their impact on children (2006-2012) – in partnership with EIDHR. This multi-country evaluation reviews the reforms of the juvenile justice systems since 2006 and assesses the impact on children in conflict with the law. The study covers 11 countries and territories: Albania, Armenia, Azerbaijan, Georgia, Kosovo (UNSCR 1244), Kazakhstan, Kyrgyzstan, Moldova, Montenegro, Tajikistan and Ukraine.



"We remain committed to supporting projects and policies that enhance child protection systems and strengthen the rights of children, including as victims or in the context of criminal proceedings."

Štefan Füle, Commissioner for Enlargement and European Neighbourhood Policy



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FOR ADDITIONAL INFORMATION:

Listen to Voices of Children: [OneMinutesJr](#) videos on children's access to justice

[My heart is bleeding](#)

[I am not guilty](#)

UNICEF Policy Briefing: [Promoting equitable access to justice for all children, Insights, Issue 1/2014](#)

Conference Report: [EU-UNICEF High-level Regional Conference on Justice for Children, June 2013](#)

See [UNICEF's website](#) for more information on children's access to justice for children in Europe and Central Asia.

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CRC@25 CONVENTION ON THE
RIGHTS OF THE CHILD

AGENDAforACTION

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