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for every child

Europe and Central Asia

IN FOCUS: ACCESS TO JUSTICE FOR CHILDREN

Helping children and families hold those who violate their rights to account

Few children in Europe and Central Asia seek justice. Fewer get it. Most children in the region find that their access to justice is blocked by systems that fail to recognize their rights or to take decisions in their best interests, and attitudes that make it unacceptable for children to come forward.

Why does this matter? Because access to justice for children is not only a right in itself. It is also the way to uphold and enforce all of the rights that should be guaranteed for every child, including access to health care, education and protection from violence.

UNICEF champions access to justice for all children whose rights are violated, pushing for justice systems across the region that are truly child-friendly. Access to justice for every child would generate a 'triple win' to benefit entire communities and nations, as well as children themselves.

- It would reinforce human rights.
- It would reinforce the rule of law.
- It would support sustainable development by upholding and enforcing the rights of every child to education, health care, social protection and a host of other rights.

At 15 years old, Dojchin (pictured above) from Bulgaria was denied his right to an education because of his disability. With the support of the advocacy organization MDAC, Dojchin and his family filed a legal complaint. Eventually Dojchin won the landmark case with the court deciding he had the right to continue to go to school. While it took over 3 years for the court to make a final decision, resulting in Dojchin missing out on years of valuable education, his case has helped many other children with disabilities in Bulgaria access their right to learn.

Fast Facts

UNICEF's work in Europe and Central Asia contributed to a

60%  **DECREASE**

in the **number of children in detention between 2006 and 2012**, according to a 2015

independent evaluation on juvenile justice in the region.

Toward 2030

16 PEACE, JUSTICE AND STRONG INSTITUTIONS



Target 16.3: Promote the rule of law at the national and international levels and ensure equal access to justice for all.

Challenges

Across Europe and Central Asia, children who are already disadvantaged are far more likely than other children to have their rights violated. But they are also far less likely to seek – or find – support from the justice system.

They include the boy living with a disability or the Roma girl denied access to schooling, the HIV-positive child denied access to treatment and the child living in poverty denied social benefits. They include the child on the move or seeking asylum, the child who faces violence at home, but also the child separated needlessly from a family that is struggling without proper support. And there are many other children whose rights are violated without any prospect of redress – of holding anyone to account.

UNICEF's research in the region confirms that most children whose rights are violated never come into contact with the justice system or with any other means of redress, such as Ombudsman offices. While children report that violence at home would be one of their main reasons for seeking justice, and while up to 60 per cent of children experience such violence, few would seek help outside the family.

Few, if any, know about their right to redress, let alone how to claim that right – or any other rights. And even if children had the information they need, they would struggle to navigate their way through the justice system without specialized support.

Access to justice (or lack of it) for children is often shaped by their age and their dependence on others to speak for them. In many cases, their right to take part in legal decisions that affect them is undermined by age restrictions – with only adults entitled to file cases – and even by attitudes towards childhood itself. Violence, for example, can be seen as a valid way to discipline a child – a normal part of life. Raising children can be seen as a private family matter, and confiding in people outside the home as unacceptable. Children are too often seen as 'less' than adults, without their own specific rights.

Those children who do engage with the justice system face further obstacles, from laws that overlook their specific rights and treat them as adults, to a lack of legal aid. They are confronted by professionals who do not understand their rights, as well as police and court procedures that are rarely adapted to their needs.

Our Aim

UNICEF promotes access to justice for children as a way to allow the most vulnerable and marginalized to deal with the policies and attitudes that exclude them from their rights.

Access to justice is crucial for the fight against poverty and discrimination. Courts can order the integration of children into schools that shut them out. Courts can order the provision of treatment for children who are denied it. They can allow families to challenge the removal of their children or the lack of social benefits. And they can end violence against children by bringing the perpetrators to justice.

Access to justice gives children the chance to seek redress if those responsible for their well-being fail to live up to their obligations.

Children in detention

Children who are in trouble with the law in Europe and Central Asia have little chance to report maltreatment. Even though juvenile detention should always be seen as a last resort, most children in custody are accused of petty or non-violent offences. Children should not be detained because of their migration status. Children in detention are among the most isolated girls and boys and are at risk of severe rights violations, including violence and even torture.

“For rights to have meaning, effective remedies must be available to redress violations.”
Committee on the Rights of the Child

Access to justice for children needs ...

- Supply: a child-friendly justice system. It is not enough to extend the measures that apply to adults to children – especially where adults themselves struggle to get justice.
- Demand: children, no matter who they are or where they come from, need to know about their rights and get the support they need to access justice.

Our Actions

UNICEF promotes equitable access to justice for all children, whether they are children accused of crimes, or children who are claiming their rights.

We help authorities hear children in a way that is adapted to their age and that does no further harm. We train professionals, such as the police, social workers, judges and lawyers, hear children in a child-friendly way so decisions are made in the best interests of the child.

We support measures that are less intimidating for children than courts, such as interventions by Ombudsman's offices to resolve disputes.

We inform children and families about their rights and support legal aid for the most vulnerable – children with disabilities, children from minority communities, children from poor families – so that they can bring their cases to court or explore other legal ways to get justice.

In Bulgaria, for example, UNICEF supports the Bulgarian Helsinki Committee in providing legal aid and counselling to refugee and migrant children who have arrived in the country without their families. In particular, the Committee files lawsuits to get these children out of detention. In more than half of these cases (51 per cent), the court proclaimed the child's detention to be null and void, resulting in their immediate release.

We also promote tailored responses for children accused of a crime, viewing their deprivation of liberty as the very last resort and their full reintegration into society as the ultimate aim. Our work includes support for legislative and policy reform and the development of alternatives that have helped reduce the numbers of children in detention.

Unfinished Agenda

While the number of children in detention in Europe and Central Asia has fallen, there is a long way to go before every child has equitable access to justice that would allow them to claim their rights. As the UN's agency for children working on this issue across the region, UNICEF is well-placed to make a difference. With the right resources, we can help to ensure the rights of children are upheld in justice systems across the region, support the adaptation of police and court proceedings to the needs of children, expand education on child rights, and ramp up its work on legal aid and social support for children and their families.



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Key government commitments on access to justice

Universal Declaration of Human Rights, 1948

- Article 8: Everyone has the right to an effective remedy by national tribunals for acts that violate the fundamental rights granted by the constitution or by law.

International Covenant on Civil and Political Rights, 1976

- Article 2: State Parties must ensure that anyone whose rights or freedoms have been violated has an effective remedy.

Convention on the Rights of the Child, 1989

- Article 3: In all actions concerning children undertaken by courts of law, the best interests of the child shall be a primary consideration.
- Article 12: Children have the right to be heard in judicial and administrative proceedings affecting them.
- Article 37: No child shall be deprived of liberty unlawfully or arbitrarily. Children deprived of liberty have the right to legal assistance and to challenge their detention.
- Article 40: Every child accused of or convicted breaking the law has the right to be treated in a manner that safeguards their sense of dignity and worth.

Dojchin working at a perfume factory in Bulgaria. The landmark ruling in Dojchin's case has helped many children with disabilities access their right to go to school in Bulgaria.



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Dojchin with colleagues as his job at a perfume factory. At 15 years old, Dojchin was denied his right to an education because of his disability. Eventually Dojchin won a landmark case when a court decided he had the right to continue to go to school. Dojchin's case has helped many other children with disabilities in Bulgaria access their right to an education.

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**UNICEF Europe and Central Asia
Regional Office**

5-7 avenue de la Paix CH-1211
Geneva 10 Switzerland

Telephone: +41 22 909 5111
ecaro@unicef.org
www.unicef.org/eca

December 2017