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The present ‘Regional Guidelines’ are a concrete tool to enable professionals (and volunteers) dealing with cases of child victims and witnesses of crime who are involved in the criminal justice process to treat these children in a child-sensitive manner as well as a collaborative manner.1 The 10 guidelines, presented in the next four

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1 The ‘UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime’ (2005) provides the following definitions (Guideline 9(a)(c)(d):

✓ “Child victim or witness means a person under the age of 18 who is a victim of or witness to a crime, regardless of his or her role in the offence or in the prosecution of the alleged offender or groups of offenders.”

✓ “Justice process encompasses detection of the crime, the making of the complaint, investigation, prosecution and trial and post-trial procedures, regardless of whether the case is handled in a national, international or regional criminal justice system for adults or juveniles or in customary or informal justice systems.”

✓ “Child-sensitive means an approach that gives primary consideration to a child’s right to protection and that takes into account a child’s individual needs and views.”
sections (§2 to §5), guide and support professionals to carry out their responsibilities in cases of child victims and witnesses of crime in the best profession manner and in close collaboration with their colleagues from the (child) justice system and social welfare system (see also UN Guideline 43 in the box). Children who are victims and witnesses of crime are particularly vulnerable and need special protection, assistance and support appropriate to their age, level of maturity and unique needs in order to prevent further hardship and trauma that may result from their participation in the criminal justice process. So-called ‘secondary victimization’, i.e. victimization that occurs not as a direct result of the criminal act but through the response of institutions and individuals to the victim, can occur while reporting the crime and recounting what has happened, while awaiting trial, and while testifying in court. The present regional guidelines on collaboration between actors involved in cases of child victims and child witnesses of crime are based on the ‘UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime’ (2005), hereinafter called ‘UN Guidelines’, and ‘UN Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice’ (2014), hereinafter called ‘UN Model Strategies’. These regional guidelines are divided in three subsets of guidelines (see overview below).

The group of professionals for whom these ‘Regional Guidelines’ have been designed and who should collaborate in cases of child victims and witnesses of crime at the various stages of the justice process consist of ten different professionals (and volunteers) (see overview on the next page).1

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1 Ideally, all professionals involved in cases of child victims/witnesses of crime are specialized in justice for children and/or child protection. The assumption is that they are aware of and able to apply the four cross-cutting principles laid down in Guideline 8 of the ‘UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime’ (2005):

- Dignity. Every child is a unique and valuable human being and as such his or her individual dignity, special needs, interests and privacy should be respected and protected;
- Non-discrimination. Every child has the right to be treated fairly and equally, regardless of his or her or the parent’s or legal guardian’s race, ethnicity, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability and birth or other status;
- Best interests of the child. While the rights of accused and convicted offenders should be safeguarded, every child has the right to have his or her best interests given primary consideration. This includes the right to protection and to a chance for harmonious development:
  - Protection. Every child has the right to life and survival and to be shielded from any form of hardship, abuse or neglect, including physical, psychological, mental and emotional abuse and neglect;
  - Harmonious development. Every child has the right to a chance for harmonious development and to a standard of living adequate for physical, mental, spiritual, moral and social growth. In the case of a child who has been traumatized, every step should be taken to enable the child to enjoy healthy development;
- Right to participation. Every child has, subject to national procedural law, the right to express his or her views, opinions and beliefs freely, in his or her own words, and to contribute especially to the decisions affecting his or her life, including those taken in any judicial processes, and to have those views taken into consideration according to his or her abilities, age, intellectual maturity and evolving capacity.

This first subset of guidelines apply to all stages of the criminal justice process, i.e. the investigation stage, pre-trial stage, trial stage and post-trial stage. They describe how professionals of the (child) justice system and social welfare system may treat child victims and witnesses of crime in a child-sensitive manner and how they may collaborate in these cases throughout the justice process. The main purpose of guideline 1 to guideline 4 is that child victims and witnesses of crime are provided with information, legal assistance, a support person as well as protective and safety measures throughout their participation in the justice process. Information, assistance and protection are preconditions to the participation of child victims and witnesses of crime in the proceedings and their ability to express views and concerns.

Guideline 1: Informing child victims and witnesses of crime about all relevant aspects of the justice process.

From the first contact with the justice process, which is usually the (child/specialized) police unit, and throughout the entire justice process, child victims/witnesses of crime need to be informed promptly and adequately about all relevant aspects of the justice process. Immediately after the reporting of the offence, the police officer or social...
worker assigned to the (child/specialized) police unit informs the child victim/witness and his/her parents/legal guardians (and their legal representatives) about:\(^5\)

- The assistance the child is entitled to, such as availability of health, psychological, social and other relevant services; means of accessing such services; availability of legal advice or representation (see Guideline 2) and other advice and support; emotional assistance of a support person (see Guideline 3) and emergency financial support (where applicable)
- The way legal proceedings are organized, including the importance, timing and manner of testimony; ways in which questioning will be conducted during the investigation and trial; existing support mechanisms for the child when making a complaint and participating in the investigation and court proceedings; specific places and times of hearings; availability of protective measures; existing mechanisms for review of decisions affecting child victims/witnesses; etc.
- The scheduling of the proceedings; the role the child can play in those proceedings if he/she decides to participate; the child’s right to express his/her views and concerns in relation to the proceedings; and the potential outcomes of the case

This information enables the child victim/witness and his/her parents/legal guardians to make an informed decision about his/her participation in the justice process and/or to request that the necessary steps are taken for his/her safety and protection. The above information is conveyed regardless of the child’s involvement in the justice process.

If the child and his/her parents/legal guardians decide to participate in the justice process, the police officer, social worker, (child) lawyer, (child) prosecutor, (child) judge, support person (if designated) and/or other professional (as laid down in national legislation) also provides, to the extent feasible and appropriate, the following information relating to the particular case in which the child is involved:\(^6\)

- The progress and disposition of the case, including the apprehension, arrest and custodial status of the accused; any pending changes to that status; prosecutorial decision; relevant post-trial developments; (early) release from detention; outcome of the case; etc.
- The existing opportunities to obtain reparation from the offender or from the State, i.e. through the justice process, alternative civil proceedings or other processes (for example restorative justice schemes) (see Guideline 10)

The professionals involved in the case provide the above listed information in a manner adapted to the age and maturity of the child victim/witness and in a language which the child can understand and which is gender and culture sensitive. They convey the information to the child victim/witness as well as the child’s parents/legal guardians (and their legal representatives), keeping in mind that informing the parents/legal guardians is not an alternative to communicating the required information to the child victim/witness. The (child) court ascertains whether the child victim/witness has received the required information in a child-sensitive manner and adapted to his/her age and evolving capacities. If the information has not been provided or not in an understandable manner, the (child) court ensures the child’s right to information.

Guideline 2: Ensuring access to legal assistance for child victims and witnesses of crime.

The police officer or social worker assigned to the (child/specialized) police unit informs the child victim/witness and his/her parents/legal guardians about their right to legal advice or representation throughout the justice process (see Guideline 1).\(^7\)

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\(^5\) In addition, the professional involved may provide the child and his/her parents/legal guardians with relevant brochures or leaflets or may explain how they can access relevant information available on the Internet.

\(^6\) This information is only provided to child victims, not to child witnesses, and their parents/legal guardian.

\(^7\) In this regard it is stated that: “As victims are not parties to the proceedings in common law countries, they are usually not provided with legal assistance. That is why, with some noticeable exceptions, most countries providing a right to legal assistance for victims belong to the civil law world. Most civil law countries recognize the right of child victims to legal assistance. [UNODC & UNICEF, Handbook for Professionals and Policymakers on Justice in Matters involving Child Victims and Witnesses of Crime, United Nations, New York, 2009, page 54.]"
Assistance of a (child) lawyer will be free of charge for those without sufficient means or when the interests of justice so require. A (child) lawyer will be provided in the following instances:

- At the child’s own request
- At the request of the child’s parents/legal guardians
- At the request of the support person (if designated)
- According to an order of the (child) court on its own motion, if the (child) court considers the assignment of a (child) lawyer to be in the best interests of the child

The (child) lawyer represents the child victim/witness independently from his/her parents/legal guardians, especially if the child’s parents/legal guardians or members of the family are the alleged offenders.

Guideline 3: Providing child victims and witnesses of crime with assistance from a support person.

From the moment of first contact with the justice process and throughout the entire justice process, child victims/witnesses of crime are entitled to assistance from a support person. A support person is a specially trained person designated to assist a child victim/witness in order to prevent the risk of duress, re-victimization or secondary victimization. The police officer or social worker assigned to the (child/specialized) police unit informs the child victim/witness about his/her right to have a support person and to choose the gender of his/her support person. Also the child’s lawyer (if any) and the (child) prosecutor involved in the case may apply for the assignment of a support person to accompany a child at all times during his/her involvement in the justice process. If a support person is assigned, the police officer or social worker ensures that the support person has sufficient time to make acquaintance with the child victim/witness before the first interview takes place and that any interview is conducted in the presence of the support person. In order to reduce the harmful impact of the justice proceedings on the child victim/witness as much as possible, the support person has an extensive series of responsibilities, namely:

- Providing emotional support to the child
- Accompanying the child during all stages of the justice process
- Accompanying the child during medical examinations (see Guideline 5)
- Assisting the child in dealing with administrative matters arising from the circumstances of his/her case
- Advising whether therapy or counselling is necessary (see also Guideline 4)
- Liaising and communicating with the child’s parents/legal guardians, family, friends and (child) lawyer (if any)
- Informing the child about the composition of the investigation team and (child) court and other relevant issues (see Guideline 1)
- Discussing with the (child) court, the child and his/her parents/legal guardians the different options for giving evidence (see Guideline 8) [If the child victim/witness is represented by a (child) lawyer, the support person carries out this responsibility in close coordination with the child’s lawyer.]
- Discussing with the (child/specialized) police, (child) prosecutor and (child) court the advisability of ordering protective measures [If the child victim/witness is represented by a (child) lawyer, the support person carries out this responsibility in close coordination with the child’s lawyer.] (see Guideline 4)
- Requesting that protective measures be ordered (if necessary) (see Guideline 4)

Guideline 39 of the ‘European Guidelines on Child-Friendly Justice’ (2010) states in this regard: “Lawyers representing children should be trained in and knowledgeable on children’s rights and related issues, receive ongoing and in-depth training and be capable of communicating with children at their level of understanding. Children should be considered as fully fledged clients with their own rights and lawyers representing children should bring forward the opinion of the child.”

Guideline 4: Ensuring protective and safety measures (if required) for child victims and witnesses of crime.

Child victims/witnesses of crime can be at risk of intimidation, because of their involvement in the justice process. The risk of intimidation needs special attention, particularly in cases of sexual abuse, trafficking and where the alleged perpetrator is someone close to the child. In some cases, for example, organized crime, child victims/witnesses may even fear a threat to their life. The support person, in close coordination with the (child) lawyer representing the child victim/witness (if any), discusses with the (child/specialized) police, (child) prosecutor and/or (child) court the advisability of ordering protective and safety measures and requests that such measures are ordered, if necessary to prevent the child from being further harmed, intimidated or retaliated against. At any stage in the justice process where the safety of a child victim/witness is deemed to be at risk, the (child) court ensures that protective and safety measures are put in place. Those measures may include the following:

- Avoiding direct contact between the child and the accused at any point in the justice process
- Restraining orders from a court, supported by a registry system
- Pre-trial detention order for the accused from a court, with ‘no-contact’ bail conditions
- Court order to place the accused under house arrest
- Protection for the child by the police or other relevant agencies
- Protection of the whereabouts of the child from disclosure (‘right to privacy’)
- Other protective measures that may be deemed appropriate

The (child) court usually applies protective and safety measures before the trial in order to ensure that the child victim/witness will be available and fit to testify at trial. However, the (child) court ensures that these measures continue to apply as long as they remain necessary to protect the child victim/witness, including after his/her testimony, in order to avoid possible retaliation. Protection is most often provided to the child victim/witness him/herself, but may also be required for the child’s family and other close relatives. The (child) court orders, to
the extent possible, community-based support for the child victim/witness. However, the (child) judge may consider it necessary to order the removal of the child from his/her home and to place the child in an alternative form of family care in order to prevent further victimization. Institutional care and treatment is always a measure of last resort and family-based care is preferred. The (child) judge may consider placement of the child victim/witness in a special care or treatment institution when the (alleged) offender belongs to the direct family of the child and the other members of the child’s family are not able to guarantee his/her protection. The (child) court does not order such measure lightly, because child victims/witnesses of crime, especially young children, may consider protection/safety through institutionalisation as a punishment. The (child) court regularly reviews the placement of child victims/witnesses. The social worker assigned to the (child) court or the social worker assigned to the (child/ specialized) police unit contacts the competent social welfare agency or care/treatment institution in order to handover the child victim/witness to the care of his/her colleague.

3. Guidelines on Collaboration in Cases of Child Victims and Child Witnesses of Crime during the Investigation/Pre-Trial Stage and Trial Stage

This second subset of guidelines apply to the investigation/pre-trial stage and trial stage. They explain how professionals of the (child) justice system and social welfare system may treat child victims and witnesses of crime in a child-sensitive manner and how they may collaborate in these cases when the children (and their parents/legal guardians) have decided to participate in the justice process. The main purpose of guideline 5 to guideline 9 is that child victims and witnesses of crime are not secondarily victimized by the institutions and professionals of the (child) justice system and social welfare system while going through the justice process. Child-sensitive forensic examination, interviews by specially trained professionals, court orientation and familiarization programmes, CCTV-links with courts and other protective measures contribute to children’s willingness to participate in the investigation/pre-trial and trial proceedings and prevent undue distress and secondary victimization.

Guideline 5: Ordering forensic examination of child victims of crime only if indispensable.

The (child) court, (child) prosecutor or senior police officer of the (child/specialized) police unit orders a forensic examination of a child victim (not child witness) in order to assemble a solid evidentiary basis only when it is indispensable and in the best interests of the child victim. The (specialized) medical and forensic staff conducts the forensic examinations in a child-sensitive way and a way respectful of the cultural and religious background of the child as well as in a child-friendly environment. They guarantee that the examination is minimally intrusive and, wherever possible, only a single forensic examination is made. The (specialized) medical and forensic staff never forces a child victim to undergo a medical/forensic examination. Before starting the examination, they obtain the informed consent from the child victim and his/her parents/legal guardians or from the necessary authorities (as prescribed by local consent guidelines). In order to prepare the child victim for the examination, the (specialized) medical and forensic staff explains and shows the medical equipment and encourages the child to ask questions about the examination. They ensure the child’s privacy and are sensitive to the child’s feelings of embarrassment and vulnerability. They stop the examination if the child victim indicates discomfort or withdraws his/her permission to continue. The (specialized) medical and forensic staff ensures that the child victim does not feel responsible for the crime, the events surrounding the crime and what he/she has

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10 Internationally, ‘a multidisciplinary approach in child-related cases’ and ‘multidisciplinary child abuse teams’ are promoted, which implies that medical/forensic staff joins the team of representatives of social services, law enforcement and legal service agencies in order to coordinate the assistance needed to handle cases of child victims. (UNODC & UNICEF, Handbook for Professionals and Policymakers on Justice in Matters involving Child Victims and Witnesses of Crime, United Nations, New York, 2009 (The right to be treated with dignity and compassion/page 19.)
Guideline 6: Interviewing child victims and witnesses of crime by specially trained interviewers.

Child victims/witnesses of crime have to be interviewed by specially trained professionals, so that the interview minimizes distress or trauma to the children while maximizing the quality of information received from them. Specially trained interviewers are able to deal with child victims/witnesses in a sensitive, understanding, respectful, constructive, thorough and reassuring manner. Depending on the national legal system, child victims/witnesses of crime may be interviewed by:

- specialized/child police officer/investigator
- social worker assigned to the (child/specialized) police unit
- (child) prosecutor
- (child) investigative judge
- a combination of the above mentioned trained interviewers, e.g. social worker plus police investigator or interdisciplinary team (see also footnotes 10 & 11)

The assigned interviewer, preferably one of the gender of the child’s choice, conducts the interview in a child-friendly, preferably neutral, environment. For example, the child victim/witness may feel more comfortable and the alleged offender may have minimal control when the interview is conducted in the child’s school, in a specific room in the (specialized/child) police station or social welfare agency decorated in a child-friendly way and furnished with toys and small chairs or at a child advocacy centre. The interviewer ensures the presence of the child’s support person (if designated) as well as (child) lawyer (if any) during any interview. The interviewer limits, to the extent possible, the number of interviews in order to minimize unnecessary stress for the child victim/witness and prevents secondary victimization by keeping an accurate record of the original evidence given, i.e. either by way of a written statement or audio/video recording of the interview. The existence of audio/video recorded evidence, however, does not by itself guarantee that it will be used by the (child) court and that the child does not have to attend the court session and/or will not be cross-examined or asked questions on the original pre-recorded evidence. The interviewer explains these proceedings to the child. Although one single interview during the investigation/pre-trial stage is preferred, the interviewer may decide to conduct additional interviews, prioritizing the best interests of the child over the need for further information. This may happen, for example, in order to avoid long initial questioning sessions; to build the child’s confidence; and/or to double-check certain issues in the child’s statement.

11 To establish whether a child has suffered from, or witnessed, the commission of an offence, an initial interview with the child is required. Since several professionals and agencies may need to participate in the investigation, a child could be subjected to repeat questioning by many different officials. Moreover, if these officials have not received proper training on issues relating to child victims/witnesses, the way they conduct the interviews may reveal harmful and/or elicit tainted evidence. In both cases, this can have important repercussions for the child and/or the prosecution of the case. As a result, ‘multidisciplinary teams’ have been created in various countries. A ‘multidisciplinary team’ enables joint investigation in a child-sensitive way. The ‘child advocacy model’ adopts the multidisciplinary approach during the investigation. The most important component of this model is the fact that law enforcement officials are accompanied by child specialists and mental health-care providers when they conduct interviews of child victims/witnesses of crime. [see also footnote 10]
Guideline 7: Preparing child victims and witnesses of crime for their appearance in court.

It is likely that a child victim/witness of crime, whether he/she has provided pre-recorded audio/video-evidence or not, needs to provide life evidence, i.e. either via closed circuit television link (CCTV) or by appearing in (child) court (see Guidelines 8 & 9). If a child victim/witness has to give evidence in court, his/her support person or (child) lawyer invites the child and his/her parents/legal guardians to participate in a court orientation/familiarization programmes. These programmes prepare child victims/witnesses and their parents/legal guardians for their court experience without specifically discussing the details of the child’s individual case. Court orientation/familiarization programmes demystify the court building and courtroom procedures and make the experience of attending and testifying in court less frightening for the child victim/witness. At the same time, the child’s parents/legal guardians are given an opportunity to feel as though they are part of the process and are equipped with some tools to support their child before and after his/her testimony in court. Court orientation/familiarization programmes may be conducted by:

- A social worker or other professional trained to conduct such activities (social worker assigned to the child/specialized police unit, social worker working from a competent social welfare agency or staff of a community-based-organisation)
- The child’s support person (if designated)
- The intermediary who will assist the child during his/her testimony in court (if applicable) (see Guideline 8)

If the support person does not conduct the programme him/herself, he/she accompanies the child and his/her parents/legal guardians during the programme, so that the child feels more at ease and is able to ask questions he/she may have. Also the child’s lawyer (if any) may contribute to the orientation/familiarization of the child. Most court orientation/familiarization programmes include a combination of the following activities prior to the start of the trial proceedings:

- Showing the child the court building, i.e. the entrance, separate waiting rooms and the way to the courtroom and interview room
- Explaining to the child which justice professionals will be present during the trial
- Showing the child around the courtroom, including:
  - location of the defendant in the dock
  - where the various justice professionals will sit
  - location of the witness box
- Showing the child the interview room where he/she will testify (if available), including:
  - demonstrating the closed circuit television link (CCTV)
  - explaining who will be able to see and hear the child on the screen in the courtroom
  - showing/practicing the use of the screen
  - showing/practicing the use of the microphone
- Explaining what the child can expect to be questioned on and how the proceedings will run (see also Guidelines 1 & 9)

If a physical visit to the court building and court room is not possible, the child’s support person, (child) lawyer, (child) prosecutor or (child) judge introduces the child and his/her parents/legal guardians to one of the following age-appropriate orientation/familiarization-tools:

- Court preparation videos and/or simulations
- Court preparation booklets, brochures, leaflets and/or pictures
- Court preparation games and/or puzzles
Guideline 8: Preventing secondary victimization of child victims and witnesses of crime during trial.

The experience of attending (child) court and giving testimony can be a stressful and daunting ordeal for child victims/witnesses. Therefore, the (child) court ensures that protective measures are put in place so that hardship and stress are reduced as much as possible, in particular when the child victim/witness may be confronted with the accused. The main protective measure the (child) court can take in this regard is the use of closed circuit television (CCTV) (also called ‘live audio/video link’), which enables the child victim/witness to be absent from the courtroom where the proceedings are being held and to give best evidence at court. The (child) judge, (child) prosecutor and defence lawyer in the courtroom can hear and see the child victim/witness as well as the adults accompanying him/her in the separate interview room, i.e. the intermediary, the child’s support person (if designated) and/or his/her parents/legal guardians (if allowed). The CCTV-link can be created between the court room and another room inside the same court building or another court building or a separate remote facility which has a CCTV-link facility, for example a Child Advocacy Centers (see Guideline 6). The (child) court considers a CCTV-link as a valuable alternative in cases where face-to-face confrontation with the accused would cause a child victim/ witness to be severely traumatized or unable to testify. If no CCTV-link facility is available, at all or at that moment, the (child) judge decides which other protective measure(s) will be taken in order to exempt the child victim/witness from being confronted by the accused and to assist the child in giving evidence. Possible measures are:

✓ Having the accused temporarily leave the courtroom and view the testimony of the child on a monitor in a separate area of the court building (In such cases, the defence lawyer remains in the courtroom and questions the child, so that the accused’s right of cross examination is respected.)
✓ Using a screen or curtain so that the child cannot see the accused, for example, a removable opaque partition preventing the child and the accused from seeing each other; a one-way mirror allowing the accused to see the child but not vice versa; or a removable opaque partition with a video camera transmitting the image of the child to a television monitor visible to the accused
✓ Ordering that the identification of the accused by the child (if required) occurs after the completion of all his/her evidence, including cross- and re-examination and that the child does not stay in the presence of the accused more than necessary for purposes of the identification.12

The (child) judge may order these measures ‘pro proprio motu’ or at the request of a party, including the child, his/her parents/legal guardians, (child) lawyer, support person or other child-expert designated to provide assistance to the child. Considering the best interests of the child, the (child) court may also take one or more of the following measures to protect the physical and mental well-being of the child victim/witness and to prevent undue distress and secondary victimization during trial proceedings:

✓ Where possible, ordering that the child’s testimony is given in a closed session (‘in camera’), i.e. excluding persons from the courtroom who are not necessary to the proceedings, the defendant and/or the media in appropriate circumstances.13
✓ Granting priority to the child’s case over other pending cases on the roll of the (child) court
✓ Scheduling the child’s appearances in court in a way that is compatible with his/her own rhythm, with respect to school attendance, late sessions, etc.
✓ When preparing the schedule for a session, giving priority to the child’s case so that he/she is heard first, at the beginning of the session
✓ Favouring an informal and friendly atmosphere for the child’s hearing by, for example, ordering the removal of formal court outfits

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12 When the child testifies from a child-friendly interview room equipped with CCTV and is asked to identify the accused, the child is shown a panoramic view of the courtroom on the monitor in the interview room so that he/she can see everyone present.
13 Child victims/witness of crime should have their privacy protected as a matter of primary importance. Information relating to their involvement in the justice process should be protected. This can be achieved through maintaining confidentiality and restricting disclosure of information that may lead to identification of a child who is a victim or witness in the justice process.
✓ Ordering that the child is accompanied by a support person (if not yet designated)
✓ Appointing a psychological expert or other child expert if the child needs special assistance (and not yet appointed)
✓ Limiting the duration of a child’s stay in (child) court or the number of questions put to him/her and ordering rest breaks
✓ Monitoring the appearance of the child to ensure that he/she is not unduly tired, distressed or otherwise suffering undue discomfort
✓ Closely monitoring the examination, and in particular cross-examination, of the child in order to protect him/her from harassment or intimidation and ensuring that the language used is appropriate
✓ Prohibiting direct cross-examination of the child by the accused who is not legally represented and, where necessary, assigning a representative to the accused for the sole purpose of the child’s cross-examination

Guideline 9: Questioning child victims and witnesses of crime in a child-sensitive manner during trial.

Child victims/witnesses of crime have the right to be protected from hardship and secondary victimization caused by their involvement in the justice process (see Guideline 8). However, they also have the right to express their views, to be heard in proceedings and thus, to participate in the justice process (article 12 of the CRC). The (child) court carefully assesses the situation of the child victim/witness in order to decide which intervention is in the best interests of the child. In some cases, the need for protection will lead to a decision not to involve the child in judicial proceedings. The (child) court does not consider the age of the child victim/witness as a barrier to his/her right to participate fully in the justice process. The (child) judge treats every child victim/witness as a capable witness, subject to examination, and does not presume his/her testimony invalid or untrustworthy by reason of the child’s age alone as long as his/her age and maturity allow the giving of intelligible and credible testimony, with or without communication aids and other assistance. The (child) court makes every effort for child victims/witnesses to give evidence in the most favourable setting and under the most suitable conditions.

Questioning of child victims/witnesses of crime should be carried out only by trained professionals. The (child) judge, (child) prosecutor and the child’s lawyer ensure that questioning during trial proceedings is conducted in a child-sensitive manner and closely monitor the way parties address the child victim/witness. For example, through the following safeguards:
✓ Adapting the length of the interview to the child’s age and attention span
✓ Allowing for rest breaks
✓ Preventing the asking of any question that may expose the child to intimidation, hardship or undue distress, such as:
  - asking irrelevant questions designed to intimidate or upset the child
  - asking questions rapidly or repeatedly to put the child off or confuse him/her
  - asking questions in language beyond a child’s developmental age
  - in the case of sexual abuse specifically, assuming the child has consented to the activity or asking a child questions relating to his/her sexual history
✓ Avoiding leading questions and thereby enhance reliability of the child’s evidence
✓ Ensuring that the language used is appropriate to the child’s age and developmental stage as well as gender-sensitive
✓ Ensuring the number of questions put to the child is limited
✓ Using testimonial aids (by trained professionals)

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4. Guidelines on Collaboration in Cases of Child Victims and Child Witnesses of Crime during the Post-Trial Stage

This third subset of guidelines consists of only one guideline relating to the right of child victims of crime (not child witnesses of crime) to reparation. The main purpose of guideline 10 is that child victims of crime obtain, wherever possible, reparation in order to achieve full redress, reintegration and recovery. Receiving reparation may convey to child victims (and their parents/legal guardians) that some justice has been achieved, despite the fact that a crime has been committed and that they may never fully recover from the harm done to them.

Guideline 10: Providing child victims of crime with the opportunity to receive reparation.

After delivering the verdict, the (child) court informs the child victim, his/her parents/legal guardians, his/her support person (if designated) and (child) lawyer (if any) of the right to reparation. Reparation is an important step for child victims in having the harm they have suffered recognised and redressed. It helps child victims to recover from the consequences of the crime that has been committed against them. Reparation can be in the form of financial restitution of material loss or damages that have occurred due to the crime; compensation for costs of psychosocial and educational reintegration, medical treatment, mental health care and legal services and/or recognition for the suffering that the child victim has endured or for ongoing suffering. The (child) judge, child’s lawyer and/or support person explains to the child victim and his/her parents/legal guardians how they can access existing reparation schemes (according to national legislation). If the (child) court considers a restorative justice process, the (child) judge or the child’s lawyer or support person informs the child victim and his/her parents/legal guardians about the available restorative justice programmes and how they can access these programmes run by non-governmental and/or governmental community-based organizations (NGOs/G-CBOs). They also explain the possibilities of seeking restitution and compensation in court if the restorative justice programme fails to achieve an agreement between the parties.

5. Potential Collaboration between Formal and Informal Actors in Cases of Child Victims and Child Witnesses of Crime

Within the framework of the ‘Regional Study on Child-Sensitive Treatment of Children in Contact with the Law and Inter-Agency/Sector Collaboration in the MENA-Region’ the existing and possible collaboration between formal (child) justice professionals and informal justice providers in cases of child victims and witnesses of crime has not been systematically examined. Informal justice providers in the MENA-region may be umdas, sheikhs, mukhtars, tribal leaders, religious leaders and other respected community leaders. The only two issues relevant to collaboration between formal and informal justice actors in all cases of children in contact with the law that have been mentioned in the course of the study and may be significant to child victims and witnesses of crime in the MENA-region as well are:

- Informal justice providers need to be aware of the child rights incorporated in the Convention on the Rights of the Child (1989), especially the four guiding principles and child rights relevant to alleged child-offenders and child victims and witnesses of crime.
- Some informal justice providers differentiate between children who have not yet reached puberty and children who have reached puberty and apply different proceedings to these two groups of children.

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15 Reparation may include restitution from the offender ordered in the criminal court; aid from victim compensation programmes administered by the State; and damages ordered to be paid in civil proceedings.