

CHILD-FRIENDLY COURTHOUSES IN TURKEY

Guidance on International and Regional Law,
Standards and Implementation

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Acronyms

CCTV	Closed Circuit Television
CMC	Child Monitoring Centres
CPL	Child Protection Law
CRC	United Nations Convention on the Rights of the Child
ECtHR	European Court of Human Rights
POCSO	Protection of Children from Sexual Offences Act (India)

Executive Summary

Introduction

Over 500,000 children come in contact with the law in Turkey every year having been accused of or convicted of an offence, or as victims or witnesses of crimes.¹ Whether a child victim or witness of crime, or an alleged offender ('pushed to crime'), many of these children have to attend court as part of judicial proceedings. The International Children's Center, with the support of UNICEF, is working on a project with the Ministry of Justice in Turkey entitled "Enhancing the Capacity of the General Directorate of Legal Support and Victim Services." In the framework of this project, the Ministry of Justice has requested guidance on establishing and operating child-friendly courthouses. This builds on work undertaken by the Ministry of Justice in recent years to establish Judicial Interview Rooms in courthouses and recognises that the physical and operational environment of courthouses plays a very important role in ensuring that children can understand and participate safely in non-discriminatory proceedings that deliver child-friendly justice.

This report sets out guidance on key features of child-friendly courthouses and how they can be operated. It is framed by the definition of child-friendly justice provided by the Council of Europe² and was developed using a mixed methodology of desk review and online meetings with social workers, lawyers and public prosecutors to discuss the most significant bottlenecks and challenges they experience in courthouses in relation to child defendants, victims and witnesses. It examines child-friendliness in the context of proceedings where children are alleged offenders, victims and witnesses in either general criminal courts or in specialised Juvenile Courts and Juvenile Assize Courts. It considers child-friendliness in respect of different functions and spaces in the courthouse including entrances and exits, hearing rooms, waiting rooms, rooms for consultation with lawyers and social workers, Judicial Interview Rooms and detention areas.

It considers the framework provided by the international and regional standards in defining what 'child-friendly' means as well as measures that need to be taken to

1 Figures provided to author by UNICEF, December 2020.

2 Council of Europe (2010) Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice adopted by the Committee of Ministers of the Council of Europe on 17 November 2010 and explanatory memorandum, p.17

ensure rights to participation, protection and non-discrimination. It looks at good practices in other jurisdictions and focusses on practical measures that can be taken to make all children feel safe and protected and able to participate whether as child alleged offenders, victims or witnesses. Specific consideration is given to the needs of children with disabilities, including communication difficulties, and to the needs of girls, as well as to the sensitivities of certain cases, such as those involving sexual abuse.

Key Findings

There are many provisions relating to child-friendliness in courthouses in existing legislation and guidance in Turkey.³ It is recommended that a policy paper is developed in order to consolidate existing law and guidance and provide a vision and strategic direction for operationalizing child-friendly courthouses. This should provide information about the current context and legal framework, the ambition and vision for the future and a roadmap for implementation of priority measures such as familiarisation visits, separate entrances and exits for children, communication training etc.

An important aspect of this policy paper is that it should be developed following consultation with justice professionals and also with child victims, witnesses and alleged offenders with experience of the court process. Based on the policy paper, specific guidance will need to be sent out to judges, court administrators etc looking at how to operationalise these measures in practice and aligning these with existing strategies and plans.

Based upon the findings of the desk review, and interviews conducted for this report, emerging priority issues to be included in the policy paper include:

- the introduction of familiarization visits
- modifications to court buildings to allow for separate entrances and facilities for child victims and witnesses as well as for child alleged offenders
- modifications to court buildings to allow for private rooms to be available for consultations with lawyers and social workers
- procedural modifications in the courtroom aimed at supporting children's participation

³ Including the Child Protection Law (No. 5395) and related secondary legislation, the Criminal Procedure Code (No. 5271), the Law on the Establishment, Duties and Procedures of Juvenile Courts (No. 2253) and Law of Social Services and Child Protection Agency (No. 2828).

- a robust response to children's safety and security in the courthouse, including development of protocols for the care and treatment of children who are in pre-trial detention and who are brought to courthouses for hearings
- guidelines to address and support non-discriminatory treatment and specialised services and assistance to the most vulnerable children.

The following are some more specific options available to improve the child-friendliness of courthouses in Turkey. These recommendations constitute a starting point for further research and reform to inform a policy paper.

Location and numbers of courts

- An assessment of the numbers of Juvenile Courts, Juvenile Assize Courts, Judicial Interview Rooms and Child Monitoring Centres should be conducted in view of an increasingly heavy workload to determine where additional specialized institutions and resources are required as a priority across the 81 provinces.
- Courthouses should be located in areas that have good public transport links, safe pedestrian access and clear signage outside and on entry to the building. Children should have access in advance to information about how to locate the courthouse and relevant public transport links.

Prior familiarization and information

Child witnesses of crime and child alleged offenders should be provided in advance with information about the court process and their role that is appropriate for their age and level of maturity. They should also have the opportunity to have a familiarization visit to the courthouse in advance.

Lay-out and design

- Children's courthouses should be separate from adult court complexes. Where this is not possible, child victims and witnesses of crime should have access to separate entrances and exits to the courthouse and separate amenities (including restrooms) and waiting rooms. Child alleged offenders should also have access to separate entrances, amenities and waiting rooms where they are not exposed to adult alleged offenders.
- Waiting rooms, consultation rooms and hearing rooms should have comfortable and durable furnishings and provision should be made for furniture which is an appropriate size for young children.

- All courthouses should have designated rooms available for private consultations between social workers, lawyers and children.
- The courtroom should not be so big that the child is 'lost' in the room, nor so small that it is cramped and over-crowded; it should be well ventilated and lit with good acoustics; and décor should be neutral and not distracting.
- Every participant in a courtroom should be within hearing distance and be able to see each other.
- Children should be seated near to the judge, their lawyer and the other supportive adults in order to facilitate communication.
- The courtroom should be quiet and proceedings should not be disturbed by external noise or by people entering and leaving the room unnecessarily.
- Placing children in a dock should not be default practice as it segregates the child from proceedings, can mean that it is difficult for them to hear what is being said and is unlikely to promote participation.
- The judge's bench should be at floor level, or one step up. This is less intimidating for children and encourages their engagement and participation.

Child-friendly conduct

- All justice professionals should be trained to address children in a child-friendly and understanding manner; court staff including ushers and clerks should also have training on appropriate communication skills.
- Regular breaks in proceedings should be scheduled to allow for different attention spans than adults.
- The atmosphere should be informal whilst still retaining the authority of the court; for example, judges should not be robed.
- Child alleged offenders should not be hand-cuffed except in very exceptional cases, where the risk of violence is assessed to be significant.
- Language used in the courtroom should be clear and adapted to the age and maturity of the child. Formal legal language should be avoided.
- At the start of hearings, it is good practice for the judge to introduce participants

in the courtroom and explain the purpose and structure of the hearing. The judge should also explain the outcome of any hearing to a child and check understanding of its implications.

- Lawyers representing children should receive payment that acknowledges the challenges and time required for such cases.

Access to a complaint mechanism

- Children should be able to make a complaint when they consider that the care and treatment they received within the courthouse did not meet the required standard.
- Complaints mechanisms for children must be safe, child-sensitive, effective and easily accessible. They should be well publicised and accessible to all children regardless of their age, maturity, understanding or literacy level.

Keeping children safe in the courthouse

- In order to maintain separation of vulnerable children, examine the feasibility of listing cases involving children on days where adult courts are not sitting and/or arranging case listings so that particular types of cases are heard separately, for example, criminal and child protection cases not being conducted in the same area or at the same time.
- Ensuring a closed court is a priority and can be achieved by having dedicated court staff employed to check people as they enter the court-room to ensure they have the right to be there and are directly connected with a child's case.
- To protect the right to privacy, children should not have to wait for their cases to be called in public view, such as on the steps outside the court building. Additional precautions are required so that a child's identity is not disclosed in any information that is on public display such as a court listing on an electronic information screen or when a case is called.
- Children's information and data should be kept private. Paper files should be kept secure in locked file cabinets or secure file rooms that are not available to the public.
- Develop a specific protocol relating to the care and treatment of children who are in pre-trial detention and who are brought to the courthouse. This should include provision for separation from adults, being held in a safe, secure and private area of the courthouse, access to medical care, contact with family, access to lawyers and social workers, specialization of staff and procedures for release.

Preventing secondary victimization

- Measures should be taken to strengthen the acceptability of video-recorded testimony in CMCs as evidence in criminal trials, to avoid the need for subsequent interviews and attendance at court that can be traumatic for a child; for example, judges could be invited to visit CMCs to watch them in operation in order to build confidence in the strength of the evidence-gathering process. In addition, explicit provision should be made for permitting the defendant and his or her lawyers to view the DVD of a child's evidence.
- The number of Judicial Interview Rooms should be increased to match the caseload. Prosecutors and judges should be encouraged to use them for the purpose of interviewing child alleged offenders as well as for child witnesses.

Supporting children with specific needs

- Consideration should be given to better understand the prevalence of child alleged offenders in Turkey who have specific communication and learning disabilities and measures that are required to identify these needs and to respond to them (for example, the use of trained intermediaries).
- Courthouses should be designed explicitly to be accessible to all children with disabilities, including those with mobility difficulties including access to the building itself, to the courtroom, toilet facilities, refreshments, private consultation rooms and Judicial Interview Rooms.
- Provision should be made for children with other physical disabilities: for example, improving lighting and signage and providing child-friendly information in different formats (Braille) for children with visual impairments, the provision of audio induction loops for those with hearing impairments or permitting them to sit close to the judge in the courtroom and adapting door handles and the height of light switches.
- Foreign national children, asylum-seeking children and children who are temporarily present in the jurisdiction must be treated equitably. For example, children who do not have Turkish as their first language should be provided with interpretation services as required.
- Children who are charged with terrorist-related offences should be afforded equitable access to all of the protections in law afforded to children charged with non-terrorist-related offences.

1. Introduction

“Children’s access to justice requires a system that fully respects and protects the rights of the child; and also a system that children understand, trust and feel empowered to use, including when they are exposed to violence as victims, witnesses and alleged offenders.”⁴

The right to access justice means that children are entitled to a remedy when their rights are violated, to a fair trial if they are accused of a crime and to fair treatment if they are a victim or witness of a crime. In order to access justice, children need to be provided with equitable access to child-sensitive information and procedures must be adapted so that they are safe and can participate fully and be heard. In practice, there are many obstacles to realising the right to access justice for children. In many jurisdictions, courts do not specifically address the needs of children, they are treated in effect as adults and they experience proceedings as intimidating, confusing and complex.⁵ This is concerning given that children experience court proceedings very differently to adults. The United Nations Committee on the Rights of the Child notes that “[c]hildren differ from adults in their physical and psychological development. Such differences constitute the basis for the recognition of lesser culpability, and for a separate system with a differentiated, individualized approach.”⁶ In recent years, our understanding of children’s neurodevelopment has expanded significantly which has highlighted the importance of justice systems that are sensitive to children’s developmental stage.

The physical and operational environment of courthouses plays a very important role in ensuring that children can understand and participate safely in non-discriminatory proceedings that deliver justice. This means much more than providing a comfortable waiting room or newly painted walls. It also means having well-trained justice professionals, supportive adults and for the best interests of the child to be the animating principle of all decision-making.

⁴ Santos Pais, Marta (2015) “Children’s Rights, Freedom from Violence and Criminal Justice” in *Child-friendly Justice: A Quarter of a Century of the UN Convention on the Rights of the Child*. Leiden: Brill Nijhoff.

⁵ Berrick et al “International Perspectives on Child-responsive Courts” *International Journal of Children’s Rights*, 3 May 2018 Vol 26, Issue 2

⁶ Committee on the Rights of the Child, General comment No. 24 (2019) on children’s rights in the child justice system, CRC/C/GC/24, 18 September 2019, para 2

Over 500,000 children come in contact with the law in Turkey every year having been accused of or convicted of an offence, or as victims or witnesses of crimes.⁷ Article 5 sets out the critically important protective and supportive elements that are required for these children, while article 3(1)(a) of the Child Protection Law (CPL)⁸ defines these children as:

"1. Juvenile in need of protection: any juvenile whose physical, mental, moral, social or emotional development and personal safety is in danger, who is neglected or abused, or who is a victim of crime,

2. Juvenile pushed to crime: any juvenile about whom an investigation or prosecution is carried out on the allegation that he/she has committed an act which is defined as a crime in the Laws, or any juvenile about whom a security measure has been decided due to an act he/she has committed."

Whether a witness to, or victim of crime, or whether an alleged offender ('pushed to crime'), many of these children have to attend court as part of judicial proceedings. The International Children's Center, with the support of UNICEF, is working on a project with the Ministry of Justice in Turkey entitled "Enhancing the Capacity of the General Directorate of Legal Support and Victim Services." In the framework of this project, the Ministry of Justice has requested guidance on establishing and operating child-friendly courthouses. This builds on work undertaken by the Ministry of Justice in recent years to establish Judicial Interview Rooms in courthouses – as of 2020 there are 90 of these rooms in 70 provinces and 86 courthouses.⁹

This report sets out guidance on key features of child-friendly courthouses and how they can be operated. It is framed by the definition of child-friendly justice provided by the Council of Europe which refers to "justice systems which guarantee the respect and the effective implementation of all children's rights at the highest attainable level, bearing in mind the principles listed below and giving due consideration to the child's level of maturity and understanding and the circumstances of the case. It is, in particular, justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity."¹⁰

⁷ Figures provided to the author by UNICEF, December 2020.

⁸ Available in English at: <http://www.lawsturkey.com/law/juvenile-protection-law-5395> (last accessed on 30.12.20).

⁹ Figures provided to UNICEF by the Ministry of Justice, December 2020.

¹⁰ Council of Europe (2010) *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice adopted by the Committee of Ministers of the Council of Europe on 17 November 2010 and explanatory memorandum*, p.17

This report does not provide a full and comprehensive assessment of the ways in which courthouses in Turkey could be reformed to ensure they comply with this definition of child-friendliness. It aims instead to provide guidance as to the relevant international and regional law and standards and inspiration on practice and procedure from other jurisdictions (which are not necessarily the only models available). It also aims to define some of the key features of child-friendly courthouses and to give policy makers and justice professionals some recommendations to improve the justice system for children, taking into account the different specific settings across Turkey.

A mixed methodology was used to develop this report. A desk review was conducted of: relevant national, regional and international legal, policy and institutional frameworks, practices and case-law; good practices from other jurisdictions; and existing literature which included peer-reviewed publications, independent evaluations and analytical grey literature.¹¹ Online meetings were held with 1 social worker, 3 lawyers and 3 public prosecutors to discuss the most significant bottlenecks and challenges they experience in courthouses in relation to child defendants, victims and witnesses.

This report examines child-friendliness in the context of proceedings where children are victims and witnesses in general criminal courts as well as where children are alleged offenders in specialised Juvenile Courts and Juvenile Assize Courts. It considers child-friendliness in respect of different functions and spaces in the courthouse including:

- The geographic location of the courthouse and its accessibility.
- Hearing rooms/ courtrooms: the space used to conduct hearings.
- Private spaces: rooms and flexible space to which there is restricted access such as waiting rooms for victims and witnesses and judicial interview rooms.
- Public spaces: rooms and flexible spaces to which users, once through security, have unrestricted access. This includes reception areas, public waiting areas, legal consultation rooms and amenities.
- Detention areas: self-contained space within the court building designated for the care and management of detained children.

It considers the framework provided by the international and regional law and standards in defining what 'child-friendly' means as well as measures that need to be taken to

¹¹ Please see Annexe for a list of resources consulted for this report.

ensure children's rights to participation, protection and non-discrimination. It looks at good practices in other jurisdictions, and focusses on practical measures that can be taken to make all children feel safe and protected and able to participate whether as child alleged offenders, victims or witnesses. Specific consideration is given to the needs of children with disabilities, including communication difficulties, and to the needs of girls, as well as to the sensitivities of certain cases, such as those involving sexual abuse.

2. International and Regional Law and Standards

2.1 Overview of the four general principles of the CRC

International and regional law and standards offer substantial guidance as to how courthouses can be established and operate to deliver the rights of children. Key treaties have been ratified by and are applicable in Turkey. The United Nations Convention on the Rights of the Child (CRC) was ratified by Turkey in 1995¹² and the United Nations Convention on the Rights of Persons with Disabilities in 2009. Turkey ratified the European Convention on Human Rights in 1994 and has accepted the competence of the European Court of Human Rights to receive individual complaints. Once ratified by the Grand National Assembly of Turkey, international treaties have force of domestic law in Turkey and "in the case of a conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail."¹³

The CRC is the primary instrument for defining and protecting the rights of children. The rights and protections guaranteed under the CRC are universally applicable principles for all children. They apply even in times of emergency and regardless of the severity or nature of the offence a child is charged with. There are also a number of non-binding, but influential, standards relevant for the treatment of children in conflict with the law. These reinforce and elaborate on the CRC's provisions and include the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules, 1985) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules 1990).¹⁴

¹² Turkey has also ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and, most recently in 2017, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

¹³ Article 90, Constitution of Turkey. Official translation by the Grand National Assembly of Turkey.

¹⁴ These international standards include the United Nations General Assembly, United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), adopted by the General Assembly on 29 November 1985 (A/RES/40/33); the United Nations General Assembly, United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), adopted by the General Assembly on 14 December 1990 (A/RES/45/112); United Nations General Assembly, United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), adopted by the General Assembly on 14 December 1990 (A/RES/45/113); and the United Nations

There are obligations under the CRC to promote a separate and specialized justice system for child alleged offenders. A specialized justice system for children encompasses laws, standards, policies, procedures, mechanisms, institutions and bodies specifically applicable to children in conflict with the law who are over the age of criminal responsibility. It works to ensure the well-being of children and requires them to be treated not only in a fair way, but also in a way that promotes their reintegration into society. It also has the objectives of preserving public safety and holding a child accountable for their offending behaviour. Article 40(3) places a duty on States to "seek to promote" the establishment of institutions specifically applicable to children and the Committee on the Rights of the Child recommends that child justice courts are separate units or part of existing courts; where this is not feasible for practical reasons, then, at a minimum, specialized judges should be appointed.¹⁵

The CRC contains four overarching principles which must be applied to child alleged offenders, victims and witnesses of crime:

• ***Non-discrimination in their enjoyment of rights (Art. 2)***

At every stage of children's contact with the courthouse, they should be offered appropriate services without discrimination and be handled with sensitivity and an understanding of any issues that they may face due to their sex, age, race, disability and so on. The Committee on the Rights of the Child has stated that the principle of non-discrimination requires States to "actively identify individual children and groups of children" for whom "special measures" may be required, noting that non-discrimination does not necessarily mean "identical treatment."¹⁶ Special measures may be needed to ensure that children in the courthouse have their rights equally upheld and respected. For example, children who belong to an ethnic, religious or linguistic minority may need the use of an interpreter during legal proceedings.

Girls often face discriminatory treatment within the justice system, for example, there are fewer female justice professionals in most countries so girls are often interviewed about often highly sensitive issues by men. Furthermore, boys are often disproportionately represented as offenders. These specific gender-based needs

General Assembly, United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules), adopted by the General Assembly on 16 March 2011 (A/RES/65/229). These standards have been elaborated further in United Nations Committee on the Rights of the Child, General Comment No. 24 (2019) on children's rights in the justice system, 18 September 2019 (CRC/C/GC/24), and also the Secretary-General, Guidance Note on Justice for Children, 2008 and United Nations General Assembly, United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, adopted by the General Assembly on 28 March 2013 (A/RES/67/187).

¹⁵ *United Nations Committee on the Rights of the Child, General Comment No. 24 (2019) on children's rights in the justice system, 18 September 2019 (CRC/C/GC/24), para 107.*

¹⁶ *UN Committee on the Rights of the Child (CRC), General comment no. 5 (2003): General measures of implementation of the Convention on the Rights of the Child, 27 November 2003, CRC/GC/2003/5, para 12*

should be acknowledged and addressed appropriately, through the use of gender-sensitive and responsive approaches to the different needs of both boys and girls within the justice system.

Non-discrimination in the justice system

“Safeguards against discrimination are needed from the earliest contact with the criminal justice system and throughout the trial, and discrimination against any group of children requires active redress. In particular, gender-sensitive attention should be paid to girls and to children who are discriminated against on the basis of sexual orientation or gender identity. Accommodation should be made for children with disabilities, which may include physical access to court and other buildings, support for children with psychosocial disabilities, assistance with communication and the reading of documents, and procedural adjustments for testimony.”

Source: United Nations Committee on the Rights of the Child, General Comment No. 24 (2019) on children's rights in the justice system, 18 September 2019 (CRC/C/GC/24), para. 40.

• *The child's best interests be a primary consideration in all matters affecting the child (Art. 3)*

Every child has the right to have her or his best interests given primary consideration, but this may have to be balanced against conflicting best interests of other children, groups of children, or adults, such as defendants in criminal proceedings or siblings in contact disputes. The Committee on the Rights of the Child provides non-exhaustive guidance on factors to take into consideration when assessing the best interests of a child in its General Comment 14 (2013) including: the child's views; the child's identity; preservation of the family environment; care, protection and safety of the child; the child's health; vulnerability; and the right to education. When assessing a child's best interests, justice professionals should take into account the fact that the other general principles – survival and development, the right to be heard and non-discrimination – are all relevant.

• *The right to survival and development (Art. 6)*

The principle of protecting a child's right to survival and development is closely

connected with that of the child's best interests. Putting this right into practice in the context of the courthouse means protecting children from harm that could arise at every stage of the journey through the justice process: for example, ensuring that children have separate entrances, waiting rooms and toilet and refreshment facilities; keeping child witnesses safe from physical retribution from perpetrators; and preventing secondary victimization.

Case-law from the European Court of Human Rights recognises that criminal proceedings concerning sexual offences "are often conceived of as an ordeal by the victim, in particular when the latter was unwillingly confronted with the defendant" and that this was particularly an issue when children are witnesses.¹⁷ Therefore the ECtHR has stated that measures should be taken to protect child victims, although they should not jeopardise the adequate and effective exercise of the rights of the defence.¹⁸

The Lanzarote Convention¹⁹ (to which Turkey is a State party) is a regional treaty dedicated specifically to the protection of children from sexual violence. Article 31 sets out the general measures of protection States should take to protect the rights and interests of victims, which include providing information about their rights as victims, the availability of services and the general progress of the investigation or proceedings, the protection of their privacy and safety (including information on the release of the person prosecuted or convicted), access to legal aid and the avoidance of contact between victims and perpetrators in court.

• *The right to be heard (Art. 12)*

Article 12 of the CRC recognises that all children capable of forming their own views should have the opportunity to express them freely in any proceedings affecting them, and that due regard should be given to these views, in line with their age and maturity. The application of this right has been expressed as 'participation', although the term itself does not appear in the article. It is a very broad ranging right which:

- applies to every child capable of forming his or her own views. This does not just mean older children. The very youngest children who are victims or witnesses of crime, as well as children with disabilities, are able to form views, even where they are not able to communicate them verbally.

¹⁷ *AlHM, S.N. & İsvaç Davası, No. 34209/96, 2 Temmuz 2002, para. 47.*

¹⁸ *AlHM, BocosCuesta & Hollanda Davası, No. 54789/00, 10 Kasım 2005; AlHM, A.L. & Finlandiya Davası, No. 23220/04, 27 Ocak 2009; AlHM, W. & Finlandiya Davası, No. 14151/02, 24 Nisan 2007; AlHM, Kovaç & Hırvatistan Davası, No. 503/05, 12 Temmuz 2007.*

¹⁹ *Avrupa Konseyi, Çocukların Cinsel Suiistimal ve Cinsel İstismara Karşı Korunmasına İlişkin Avrupa Konseyi Sözleşmesi, 12 Temmuz 2007, CETS No.: 201*

- requires that children are able to express their views freely – in other words, that space and time are created for them to be heard and they express themselves voluntarily and safely.
- requires that children's views are given due weight in accordance with their age and maturity. This means it is necessary to take account of how far they have the capacity to understand the implications and consequences of those views.

At a minimum, children's participation must comply with the nine basic requirements for the implementation of the right of the child to be heard that are set out in the Committee on the Rights of the Child's General Comment No. 12²⁰. This states that children's participation must always be: transparent and informative, voluntary, respectful, relevant, child-friendly, inclusive, supported by training (of adults and children), safe and sensitive to risk, and is accountable to children.

This right is vitally important in the context of the courthouse. Article 40 (2) of the CRC provides a number of specific guarantees for children in conflict with the law which support the right to be heard. These include the right to be informed of charges promptly, to access legal or other appropriate assistance through the adjudication process, to have his or her parents or guardians informed, to an interpreter if necessary, and to full respect for his or her right to privacy throughout the proceedings. The UN Standard Minimum Rules for the Administration of Juvenile Justice ("the Beijing Rules") emphasise the need for proceedings to be "conducted in an atmosphere of understanding, which shall allow the juvenile to participate therein and to express herself or himself freely" (Rule 14.2).

The European Court of Human Rights (ECtHR) has also elaborated on specific requirements for ensuring children's effective participation in court when they are alleged offenders. The starting point is that proceedings should take account of the child's age, level of maturity and emotional capacities.²¹ Practical requirements for 'effective participation' include the child's presence during the hearings, in camera hearings, limited publicity, ensuring that the child understands what is at stake and limited formality of court sessions.²²

For children who are giving evidence as victims or witnesses of crime, the Committee of the Rights of the Child has established a number of standards that must be met in General Comment No. 12 to ensure their participation. Children have the right to

²⁰ UN Committee on the Rights of the Child (CRC), *General comment No. 12 (2009): The right of the child to be heard*, 20 July 2009, CRC/C/GC/12 Para 134.

²¹ *T. v. the United Kingdom*, ECtHR, No. 24724/94, 16 December 1999.

²² European Union Agency for Fundamental Rights and Council of Europe, 2015, *Handbook on European law relating to the rights of the child*

adequate information on the procedures involved and on their case, there must be a presumption in favour of hearing children and judges and other justice professionals must take into account the best interests principle.²³ Where children can form views "in a reasonable and independent manner" their views must be "a significant factor in the settlement of the issue."²⁴

To put the right to be heard into practice, children must receive adequate information about the judicial process, the choices they have and the possible consequences of these choices. The right of the child to remain silent and not to participate is equally important. To be effective, this requires that the procedures and the physical environment of the courthouse be adapted to take into account their vulnerability and special circumstances and that they have access to legal representation and the support of family or other appropriate adults.

As well as being a right in itself, participation can also strengthen the justice process. It creates a more open and less formal atmosphere which can help judges and judicial support officers to understand better the underlying causes of a child's offending and what support they might need to stop offending in the future.²⁵ It can also encourage children to take responsibility for their offending. Children who are not fully engaged in the court procedure are less likely to respond to efforts for rehabilitation.²⁶ In all cases, the seriousness of proceedings and the importance of the right to fair trial should be upheld whilst simultaneously ensuring that the child can participate fully and understand proceedings.

The right of the child to be heard

"A child cannot be heard effectively where the environment is intimidating, hostile, insensitive or inappropriate for her or his age. Proceedings must be both accessible and child-appropriate. Particular attention needs to be paid to the provision and delivery of child-friendly information, adequate support for self-advocacy, appropriately trained staff, design of court rooms, clothing of judges and lawyers, sight screens, and separate waiting rooms."

United Nations Committee on the Rights of the Child, General Comment 12 (2009): The Right of the Child to be Heard, 20 July 2009, CRC/C/GC/12, para 34

²³ *Ibid*

²⁴ *Ibid*, para. 44

²⁵ Judicial Studies Board, *Youth Court Induction Training Delegate Workbook*, London: Judicial Studies Board, 2006, p12

²⁶ Arthur, R., "Giving effect to young people's right to participate effectively in criminal proceedings" (2016) 28(3) *Child and Family Law Quarterly* 223

2.2 Fundamental safeguards for children in the courthouse

Elaborating on the four general principles outlined above, the CRC further provides a list of fundamental safeguards to ensure the right to fair trial and fair treatment of children, including the right to information,²⁷ expeditious decisions,²⁸ privacy,²⁹ prompt access to legal assistance and prompt decisions by the court. The Committee on the Rights of the Child recommends that efforts be made to ensure that the court environment is as non-intimidating and is as child-friendly as possible.³¹ The Council of Europe Guidelines on Child-Friendly Justice³² hold that cases involving children should be dealt with in unthreatening and child-sensitive settings where they feel safe and can speak freely. The Guidelines set out the need for child-friendly waiting rooms for children; interview rooms where there are no disturbances or interruptions; avoiding direct contact between the child victim and alleged perpetrators; and having staff who are not in uniform.

Cases in which child victims and witnesses are involved will usually take place in adult courthouses. The need for appropriate measures to protect the rights and interests of child victims at all stages of criminal justice processes is specifically highlighted in the UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, and the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography. The Regional Guidelines on Collaboration between Actors involved in Cases of Child Victims and Witnesses of Crime are also a useful source of information and emphasize the importance of a child-friendly environment during legal proceedings.³³ In summary, putting these principles into practice requires court procedures that are informal, private, accessible, place children at the centre and use age-appropriate language and procedures. It also requires courthouses which are physically adapted to facilitate a child's understanding and participation, keep children safe and which employ specially trained personnel.

27 Art. 17 of the CRC

28 Art. 10 of the CRC

29 Art. 40 of the CRC

30 Art. 37(d) of the CRC

31 United Nations Committee on the Rights of the Child, General Comment No. 24 (2019) on children's rights in the justice system, 18 September 2019 (CRC/C/GC/24)

32 Council of Europe: Committee of Ministers, Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, 2011

33 UNICEF MENA (2017) Guidelines on collaboration between actors involved in cases of child victims and witnesses of crime

Priority issues for reform identified by practitioners include:

- restructuring the flow of people through courthouses so that children have separate entrances from adults;
- scheduling child witnesses to give their evidence on days when other courtrooms are not in active use;
- providing separate waiting rooms for children that are calm and not overcrowded;
- adequate provision of rooms in courthouses for private consultations with social workers and with lawyers;
- training and sensitisation of justice professionals as well as court staff (ushers and clerks) on the provisions of the Child Protection Law so it is fully implemented;
- incentives for specialized justice professionals to remain in the Youth Courts;
- active management of Juvenile Courts to ensure that only people connected with a child's case are present during hearings;
- developing clear protocols for the care and treatment of children who are deprived of their liberty and brought to courthouses;
- strengthening the use of video evidence to avoid children giving their testimony more than once at Child Monitoring Centres;
- increase the numbers of Child Monitoring Centres to match the case-load;
- using Judicial Interview Rooms flexibly for the purpose of interviewing child alleged offenders as well as for child witnesses;
- increase the numbers of Judicial Interview Rooms available to match the case-load and ensure that they are used effectively by prosecutors;
- increased access to courthouses for children with disabilities; and
- increased access to interpreters (particularly in rural areas).

Source: Telephone interviews conducted by author during December 2020 with a social worker, lawyers and public prosecutors in Turkey.

3. Participation

3.1 International and regional law and standards

The right to be heard and express one's views is guaranteed to children by both European and international human rights law and standards (as set out in part 2 above). It is a fundamental aspect of the right to fair trial and of child-friendly justice and was recognised as an element of the right to a fair trial by the European Court of Human Rights in *T and V v. the UK*.³⁴ The Court concluded that: "it is essential that a child charged with an offence is dealt with in a manner which takes full account of his age, level of maturity and intellectual and emotional capacities, and that steps are taken to promote his ability to understand and participate in the proceedings."³⁵ This was explored further in *SC v UK*³⁶ where the government was found in breach of the right to fair trial of an 11 year old child defendant with limited intellectual capacities. The court held that while "effective participation" would not necessarily require a detailed understanding of every technical aspect of the trial, it did require that the child have a "broad understanding of the nature of the trial process and of what is at stake for him or her, including the significance of any penalty which may be imposed."

³⁴ *T and V v. the United Kingdom* (Nos. 24724/94 and 24888/94), ECtHR (Grand Chamber), 16 December 1999.

³⁵ *Ibid.* Para 84

³⁶ *S.C. v. the United Kingdom* (2005) 40 EHRR 10, para 29

Effective participation

“To effectively participate, a child needs to be supported by all practitioners to comprehend the charges and possible consequences and options in order to direct the legal representative, challenge witnesses, provide an account of events and to make appropriate decisions about evidence, testimony and the measure(s) to be imposed. Proceedings should be conducted in a language the child fully understands or an interpreter is to be provided free of charge. Proceedings should be conducted in an atmosphere of understanding to allow children to fully participate. Developments in child-friendly justice provide an impetus towards child-friendly language at all stages, child-friendly layouts of interviewing spaces and courts, support by appropriate adults, removal of intimidating legal attire and adaptation of proceedings, including accommodation for children with disabilities.”

Source: United Nations Committee on the Rights of the Child, General Comment No. 24 (2019) on children's rights in the justice system, 18 September 2019 (CRC/C/GC/24), para 46

The Council of Europe's Guidelines on child-friendly justice, which apply to all justice proceedings, specify that meaningful participation requires a safe and friendly environment, access to information, legal counsel and representation, avoiding undue delay, training of professionals and the use of appropriate questioning methods to determine and respond to a child's specific needs in accordance with his or her age and maturity.

The following section examines some of the positive, active measures that are required to put the right to participate into practice:

- Ensuring there are sufficient numbers of children's courthouses and they are easily and safely accessible by children
- Providing children with accessible information and courthouse familiarization visits in advance
- Adapting the lay-out, design and procedures in courthouses to enable child participation
- Child-friendly conduct in the courthouse.

3.2 Location and accessibility

In 2014, the European Commission for the Efficiency of Justice issued Guidelines on the organisation and accessibility of court premises³⁷ which recommended that when planning court locations, the following factors should be balanced out: population density, size of the court; case-flow and geographical location, infrastructure and transportation. Other factors that should be taken into account include cooperation with detention facilities, specialized prosecutors and police as well as the availability of legal advice and the ease of recruitment of judges and staff.³⁸ Certain aspects should be highlighted when considering children's accessibility. They need good and affordable public transport links. Pedestrian access should be safe for children to use and there should be clear signage outside and on entry to the building.

Children should be able to access information in advance about how to find the courthouse and the relevant public transport links, the layout of the building etc. This information should be accessible to children in the form of child-friendly leaflets or on a website. On arrival at the courthouse, public areas should be safe and uncrowded places where children can easily access information regarding the lay-out of the court and about their specific case. For example, there should be clear signage on entry and information desks should have child-friendly materials such as maps of the court facilities, leaflets regarding how to access a lawyer, information about the court-room, information for victims about the legal process, how to make a complaint etc.

3.3 Advance information, familiarisation and orientation

Child victims, witnesses and alleged offenders in many jurisdictions are often not adequately prepared for their court appearance. They don't know how to behave in court, where they should sit or stand, when they are permitted to speak, or how to communicate with the judge, their social worker or legal representative and are uncertain how video links with courtrooms work in practice. Children can participate more effectively in proceedings where they are familiarised in advance with the layout of the court facilities, the court procedures and the role that they will be playing. Information should be made available in child-friendly formats such as brochures, leaflets, videos and workbooks and be available on websites, including the court website, and in police stations, courts and victim support services.³⁹

³⁷ European Commission for the Efficiency of Justice (CEPEJ) Guidelines on the organisation and accessibility of court premises, Strasbourg, 11-12 December 2014. Available at: <https://rm.coe.int/16807482cb>

³⁸ Revised Guidelines on the Creation of Judicial Maps to Support Access to Justice within a Quality Judicial System As adopted on the CEPEJ's 22th plenary meeting, on 6 December 2013. Available at: <https://rm.coe.int/1680748151>

³⁹ For further examples, see:

UK video orienting children attending court as alleged offenders: <https://yjlc.uk/for-young-people/>.

Workbook for young children (aged 6-9 years old) in the United States who are witnesses: <https://www.wicourts.gov/courts/resources/rid/docs/activitybook.pdf>

In some jurisdictions, children are given the opportunity of attending the courthouse in advance of any hearings for a familiarization programme. This kind of orientation is often offered by dedicated victim support bodies but can also be offered by court administrators. While these kind of visits are more frequently arranged for child victims and witnesses, lawyers or social workers with responsibility for child alleged offenders (who are not in pre-trial detention) can also arrange familiarization visits.

In respect of child witnesses, there is evidence that familiarization visits are very beneficial, for example, in a qualitative study in Northern Ireland, child victims and their families said that pre-trial familiarisation visits reduced stress and helped them become familiar with the video link or other technology.⁴⁰ In New Zealand, child witnesses can access a Court Education for Young Witnesses Service, a court preparation programme run by the Ministry of Justice and delivered by trained Victims Advisers. The programme does not discuss any aspect of the child's evidence and actively includes the child's primary carers. Children and their supportive adults attend the court three weeks in advance of a hearing and are given a tour of the whole courthouse. A set of age-appropriate resources, including activity books, has also been developed for the service. An evaluation of the programme found that:

“Young witnesses and parents/support people said that attending the Court Education service helped reduce levels of worry, fear and anxiety as they had an opportunity to become familiar with the court and the role of the people in the courtroom. The Court Education took away a certain amount of fear and misunderstanding, making young witnesses feel more confident and relaxed about the experience”.⁴¹

Extract from leaflet “For young witnesses and their parents, carers, family and whānau”

⁴⁰ Northern Ireland Statistics and Research Agency. (2017). *Research into the experiences of young victims of crime: Summary of key findings (15/2018; Research and Statistical Bulletin)*. Department of Justice for Northern Ireland.

⁴¹ Davies, E., Devere, H., & Verbitsky, J. (2004). *Court Education for Young Witnesses: Evaluation of the Pilot Service in Aotearoa, New Zealand. Psychiatry, Psychology and Law, 11(2)*, 226-235

***Closed circuit television:***

You might be able to give your evidence through a video link from a separate room, so you don't have to be in the courtroom. You will be able to see the judge and each lawyer when they ask questions but you will not be able to see anyone else.

***Behind a screen:***

If you are giving evidence in the courtroom, a screen can be set up so you don't see the defendant. You will be able to see the other people in the courtroom.

***Without a screen:***

You can choose to give evidence from the witness box and be seen by everyone in the courtroom.

In England, a pilot programme has been developed to allow children going through family law proceedings to experience a court through virtual reality. The headset wearer is taken through the process of coming to court, the security staff speaking as if to a visiting child, and taking bags off the child, the people who work at the canteen offering fruit juice and coffee, the lifts going up along the outside of the court, the ushers introducing themselves, going into the courtroom and seeing the lawyers lined up.⁴²

3.4 Lay-out, design and procedures to enable participation

Ensuring that the right to participate is realised, has some important practical implications concerning the lay-out and design of the courthouse as well as the procedures followed. Where children's cases are heard in courthouses alongside adult courts, child victims and witnesses of crime should have access to separate waiting rooms with comfortable and durable furnishings and provision should be made for furniture which is an appropriate size for young children. Child alleged offenders should also have access to separate waiting rooms where they are not exposed to adult alleged offenders.

In jurisdictions such as Turkey where lawyers play a vital role in supporting children's right to participate, all courthouses should have designated rooms that are available for confidential consultations with children. Social workers also play a crucial role in interviewing and preparing a court report for child alleged offenders as well as supporting them during interrogation and cross-examination.⁴³ However, they experience significant challenges in fulfilling this role in the courthouse owing to lack of time to review a child's file as well as inadequate provision for confidential interviews to take place.⁴⁴ They also require dedicated rooms in which to undertake private interviews.

The European Court of Human Rights in the case of *T and V v. the United Kingdom* found that the physical layout of the courtroom at a criminal hearing was one element that breached the right to a fair trial. The courtroom should not be so big that the child is 'lost' in the room, nor so small that it is cramped and over-crowded; it should be well ventilated and lit with good acoustics; and décor should be neutral and not distracting.

⁴² University of Salford (2020) *VR project to demystify the family court process for children* <https://madeatuni.org.uk/university-salford/vr-project-demystify-family-court-process-children>

⁴³ Article 34 of the Child Protection Law.

⁴⁴ UNICEF and the Union of Turkish Bar Associations (undated) *Legal Assistance Services within the scope of Children's Right to Access Justice - Project Report*. During interviews, a social worker working in a Juvenile Court disclosed that they sometimes had to interview children in a small room used for storing cleaning equipment.

⁴⁵ *T and V v. the United Kingdom* (Nos. 24724/94 and 24888/94), ECtHR (Grand Chamber), 16 December 1999.

In Turkey, the child is entitled to have parents/guardians or other caregivers, a court-assigned social worker and where relevant a representative from the Ministry of Family, Labour and Social Services present in the courtroom to support him or her.⁴⁶ Each of these participants should be within hearing distance and be able to see each other.⁴⁷ Children should have a designated place to sit in the court-room when they are not giving evidence and should be seated near to the judge, their lawyer and the other supportive adults in order to facilitate communication. The courtroom should be quiet and proceedings should not be disturbed by external noise or by people entering and leaving the room unnecessarily.

In many countries, it is standard practice to have alleged child offenders who are detained pre-trial to sit in a secure dock regardless of whether or not the offence they are charged with was violent. This segregates the child from proceedings, can mean that it is difficult for them to hear what is being said and is unlikely to promote participation. Whilst it may be necessary in a small minority of cases to make use of secure docks to protect the court from violent behaviour or prevent escape, it is excessive for the vast majority of cases.

It is common in many courtrooms for the judge's bench to be elevated. This provides a visual sense of the importance of the judge's role as a representative of the state. It gives the judge clear sightlines to those present in the courtroom including those giving evidence, lawyers, prosecutors, court staff and children themselves. It also allows for all participants to see the judge as the central authority in the courtroom. On the other hand, many courtrooms where children's cases are heard have the judge's bench at floor level, or one step up. This is less intimidating for children and encourages their participation.

The following are some examples of different approaches to design, lay-out and procedures followed in children's hearings from different justice systems (characterised as inquisitorial, moderately inquisitorial and adversarial) in New Zealand, France, Switzerland, Scotland and England.

Design, lay-out and procedures of a Youth Court in New Zealand

In New Zealand, the majority of children who offend are diverted from the formal justice system. Where offending is particularly serious or repetitive, children aged between 14 and 18 (and sometimes 12 and 13 if the offending is very serious) will first appear in the Youth Court, at which time a Family Group Conference will be directed. In a Family Group

⁴⁶ Art 22(1) of the Turkish Child Protection Law 2005.

⁴⁷ This was the finding of research in Europe into courtroom practice, Rap S (2013) *The participation of juvenile defendants in the youth court. A comparative study of juvenile justice procedures in Europe*. Pallas Publications, Amsterdam

Conference, the child, their family, the victim, a youth justice co-ordinator, member/s of the police and any other relevant professionals meet to discuss the offending, the effect this has had on all involved and a possible plan to address it in an inquisitorial manner. The child will then report back to the Youth Court with the plan. The Youth Court Judge will nearly always approve the plan and the Court will then oversee that the child carries it out properly.

The Youth Court is much less formal than an adult court and the Judge calls the child by their first name, although does wear robes. The seating is arranged in a horse-shoe shape and the room is small enough to ensure good communication between participants. The following people are present during the hearing:⁴⁸

1. *Judge: The Judge will hear from the parties and make the final decision*
2. *Court note-taker*
3. *Prosecutor*
4. *Police youth aid officer*
5. *Ministry for Children youth justice coordinator*
6. *Communication assistant*
7. *Young person*
8. *Youth Advocate: a lawyer who is specially-trained in youth justice*
9. *Lay advocate: a specially-appointed person who will bring to the attention of the Court important cultural information about the young person and their whānau (extended family). They are not legally-trained.*
10. *Ministry for Children social worker*
11. *Alcohol and drug clinician or youth forensic services worker*
12. *Education officer*
13. *Young person's family and whānau*



⁴⁸ List of people present from: <https://youthcourt.govt.nz/about-youth-court/whos-in-the-court-room/>

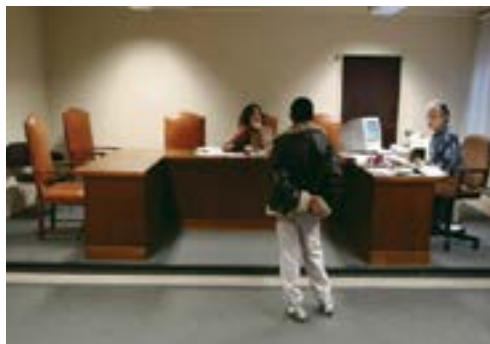
Design, lay-out and procedures of a Youth Court in France

In France, children can only be held criminally responsible from the age of 10. Under this age, children can be found capable of discernment when they have committed an offence, but only protective and educational measures can be imposed. Children aged between 10 and 13 years old can only receive an educational measure or sanction. Children above 13 can receive criminal sanctions (but community service can only be imposed after 16). Although there are separate youth justice and child protection systems, youth court judges can deal with both types of cases in a system which has been characterized as 'moderately inquisitorial'.⁴⁹

During the preliminary phase, which can last several years, the youth court judge is responsible for imposing pre-trial measures and may close the case before trial if educational measures are satisfactorily fulfilled.⁵⁰ Social workers play a critical role and are part of the youth court. They provide the judge with information about the child before every hearing and advise on appropriate measures, they also provide the child with information about procedures. They do not always attend every hearing.

Hearings in Chambers⁵¹

The youth court judge often conducts closed hearings in their chambers in an informal atmosphere. The judge does not wear a gown and the prosecutor is not present. There are some formal elements since the judge's chambers are located inside a court building and the judge sits behind a desk. The child is represented by a lawyer and a clerk is also present. Because the focus of these hearings is on assessing the best education measure to respond to the offending behaviour, a considerable amount of time is spent talking directly to the child and asking them about their personal circumstances.⁵² Parents usually sit next to the child and are also questioned by the judge.



⁴⁹ Rap S., (2013) *The participation of juvenile defendants in the youth court. A comparative study of juvenile justice procedures in Europe.* Pallas Publications, Amsterdam, p.184

⁵⁰ As above, p.204

⁵¹ Photo at: <https://www.humanite.fr/et-la-justice-des-mineurs-en-parle-quand-57765>

⁵² Rap S (2013) *The participation of juvenile defendants in the youth court. A comparative study of juvenile justice procedures in Europe.* Pallas Publications, Amsterdam, p.251

The Youth Court (Tribunal pour enfants) ⁵³

If the case progresses to the Youth Court, the child is always accompanied by a lawyer and family members. The judge is assisted by two lay judges who have experience in working with children. The judge sits in the centre of the bench and the two non-professional judges sit either side, along with a court clerk. The court is closed to the public. The professionals wear robes and the atmosphere is more than formal than chambers hearings. The child has to stand when being questioned and sentenced but is still the focus of attention and has the opportunity to provide their side of the story. The social worker also has the opportunity to advise on the child's background and circumstances and parents may also talk directly to the judge from the witness stand. Parents are seated in the back of the courtroom during the rest of the hearing.



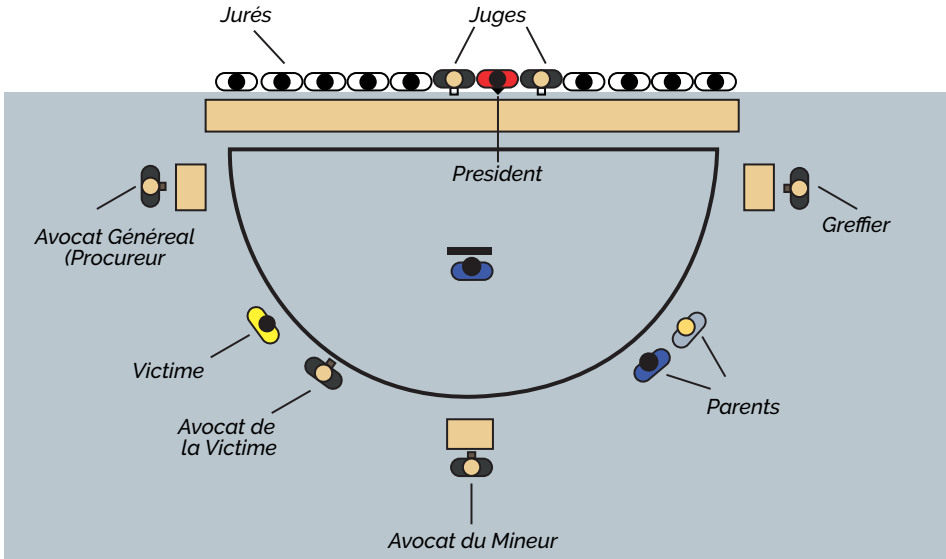
Juvenile Assize Court (Cour d'Assises des Mineurs)

The most serious offences committed by children aged 16 and above are tried in closed session in a Juvenile Assize Court before a judge, two non-professional youth court judges, a jury of six people (please note the diagram below says 9 jurors but should say 6), the child alleged offender, the child's lawyer, the child's parents, the prosecutor, the victim and the victim's lawyer, social services and the court clerk. ⁵⁴

⁵³ For more information see: <http://www.justice.gouv.fr/organisation-de-la-justice-10031/lordre-judiciaire-10033/tribunal-pour-enfants-19650.html>

⁵⁴ Diagram from: <http://www.avocatdesmineurs93.org/mineur-delinquant.htm?num=25> For further information see: <https://www.service-public.fr/particuliers/vosdroits/F1486>

Design, lay-out and procedures of a Children's Hearing Room in Scotland



In the Scottish justice system, a child aged from 12 to 16 who has admitted or been found guilty in the Sheriff's court is referred to the Children's Hearings System. Other children of any age up to 16, are also referred to the Children's Hearings System for child protection concerns. The hearing system focuses on a child's 'needs' rather than 'deeds', which means that children are treated in the same way whether they are there for welfare or justice reasons. They do not focus on punishment but hearings aim to find the root cause of offending (or other behaviours for those in the child protection system) and to find a suitable remedy, as such they have been categorized as 'inquisitorial' in nature.⁵⁵

Hearing Rooms are not located in a general court building, but in an entirely separate location. They are made up of a panel of three lay people who sit next to each other and who are trained to investigate the causes of the child's offending and any other difficulties. This is done in conjunction with other services such as social care, and with the child's parents or carers. At the end of the hearing, decisions are made on the measures that should be taken, such as compulsory supervision or time in custody.

At the start of the hearing, the chair introduces everyone and explains the purpose and

⁵⁵ Rap S (2013) *The participation of juvenile defendants in the youth court. A comparative study of juvenile justice procedures in Europe*. Pallas Publications, Amsterdam

the order of the proceedings that will be followed. During the hearings, panel members engage directly with the child and their contribution is taken seriously; child-friendly language is used and legal jargon avoided. The focus is on the most appropriate response to the offending behaviour rather than on passing moral judgment on the child. This process has been described by an academic as meeting "the requirements for the effective participation with regard to hearing juvenile defendants in many aspects and it can serve as an example of best practice in Europe."⁵⁶ Furthermore, parents have the right and obligation to attend the hearings and are actively involved in discussions with the panel members.⁵⁷ It should be noted that the Scottish system as a whole has been criticised, since the Children's Hearings are not used for all offences committed by children. More serious crimes are tried in the adult system which creates a two tier system for children, one centred around welfare and the other more punitive.⁵⁸ One recommendation has been for the system to be reformed so that all children under 18 are dealt with in the Children's hearing system with youth courts being developed to address the most serious offences (such as murder and sexual offences).⁵⁹

Children's Hearing Room in Scotland ⁶⁰

Children's Hearings are attended by three panel members, the child, family members and other relevant adults such as social workers and lawyers. They are always closed hearings so there is no space for the public. Children can choose where they want to sit. In the photo below of a room where Children's Hearings are held, note the horse-shoe seating shape, neutral décor, large windows and informal and comfortable furnishings. It is not easy for participants to take notes and this has been raised as a problem.



⁵⁶ As above, p.236

⁵⁷ Children's Hearings (Scotland) Act 2011

⁵⁸ UNICEF UK (2020) Youth Justice Report https://www.unicef.org.uk/wp-content/uploads/2020/12/UnicefUK_YouthJusticeReport2020_screen.pdf

⁵⁹ As above, p.29

⁶⁰ Photo from: <http://www.scra.gov.uk/wp-content/uploads/2016/05/Pilot-Hearing-Room-evaluation-report-2016.pdf>

Design, lay-out and procedures of a Youth Court in Switzerland

The minimum age of criminal responsibility in Switzerland is 10 years. Children aged 10 to 15 years can be sanctioned by an admonition or a community sentence and those above 15 can also be fined or imprisoned. The child justice system and the child protection system are separate. The child justice system has been characterised as 'moderately inquisitorial'.⁶¹ In some parts of the country, the youth prosecution office handles all but the most serious cases, while in other parts the youth judges have this mandate. Only the most serious cases are tried in court (with a judge and two lay judges), while less serious cases are investigated by the prosecutor or judge during which he or she hears the young person in chambers and can impose preliminary measures. The judge or prosecutor works in close cooperation with social workers attached to the court.

The prosecutor will often hear the child in his or her office which is usually located in a separate building to that of the courts. The hearing is informal, the prosecutor does not wear a robe and sits at a table with the child along with parents and sometimes a lawyer. The prosecutor explains to the child why they are there and what is going to happen during the hearing. In other parts of the country, hearings are conducted

by a judge in a separate youth court building (tribunal des mineurs) where the judge does not wear a robe and parents are present, but lawyers only sometimes. The views of the child are "thoroughly reviewed" in both settings and the language used is appropriate; one observer commented that "because of the close physical distance between the professionals and the juvenile defendant a lack of understanding on the part of the young person is noticed almost immediately, when for example the young person has a questioning look on his face."⁶² The most serious



*İsviçre'de Yura Kantonu'ndaki Ayrı Bir Binada Bulunan Gençlik Mahkemesi*⁶³

cases are heard in a formal court setting, although even then, the professionals are not robed and there is significant focus on engaging directly with the child as well as with parents.

⁶¹ Rap S (2013) *The participation of juvenile defendants in the youth court. A comparative study of juvenile justice procedures in Europe*. Pallas Publications, Amsterdam, s.184

⁶² Rap S (2013) *The participation of juvenile defendants in the youth court. A comparative study of juvenile justice procedures in Europe*. Pallas Publications, Amsterdam, p.253

⁶³ Photo from Canton of Jura website: <https://www.jura.ch/JUST/Instances-judiciaires/Tribunal-des-mineurs.html>

Design, lay-out and procedures of a Youth Court in England and Wales

Children who have not been diverted from the justice system in England and Wales, end up in the criminal justice system which has been characterized as adversarial in nature.⁶⁴ Which court they attend depends on both the availability of court sittings and the gravity of the offence – magistrates courts (either designated Youth Courts, or those designed for adults) have more limited sentencing options, therefore more serious crimes are tried in the Crown Court.

The Youth Court in England is for children aged 10 to 17 years old who have committed serious criminal offences and is intended to be more informal than an adult court setting. Trials are heard by either three magistrates or a district judge. There is much research demonstrating that children do not feel they can participate in these hearings; formal language is used, there is a lack of specialised training of justice professionals and lack of understanding of how the process works.⁶⁵

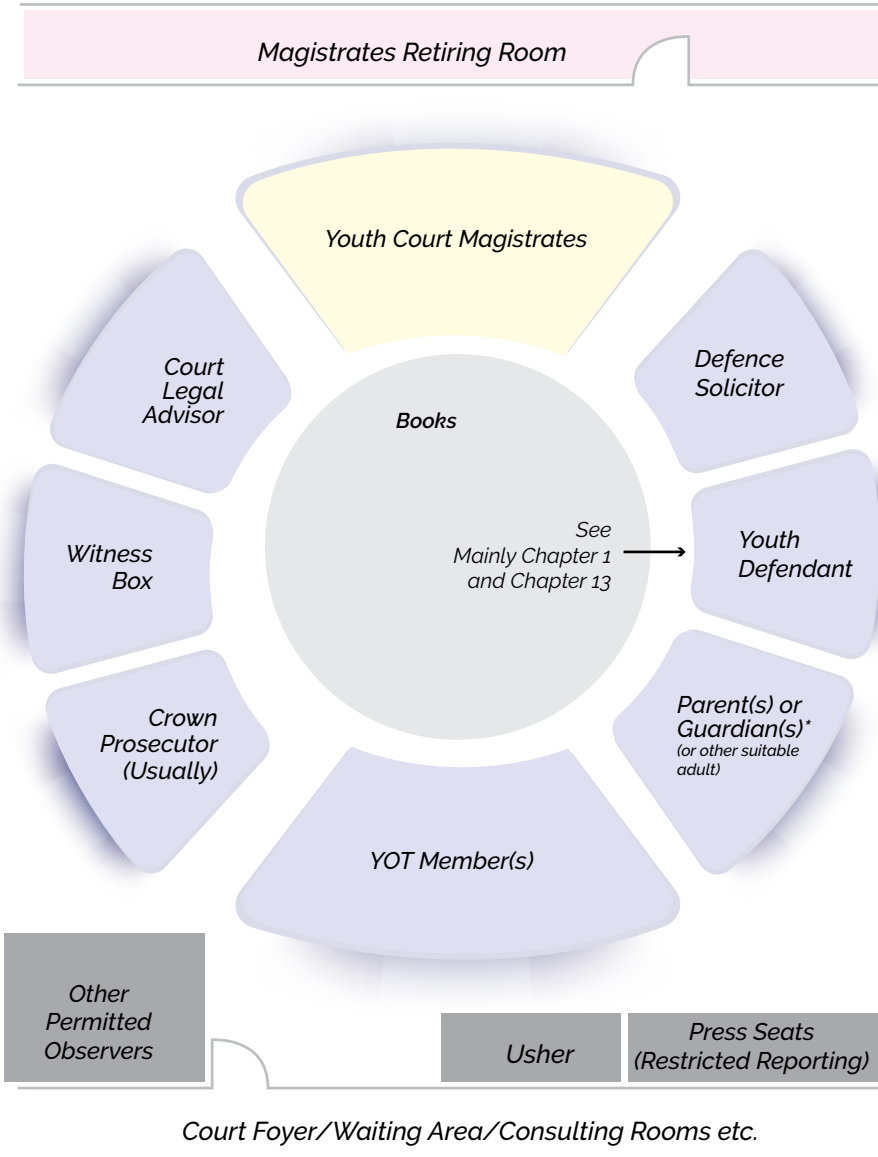
The diagram below shows the lay-out of a typical Youth Court in England and Wales. The child does not sit in a dock but instead sits between the lawyer and their parent/guardian and is near to the judge.⁶⁶ Parties are seated in a rough circle to facilitate communications. There is provision for the media to sit at the back of the room because in very limited circumstances it is permitted for press to attend children's hearings although the nature of the reporting is restricted.

⁶⁴ Rap S (2013) *The participation of juvenile defendants in the youth court. A comparative study of juvenile justice procedures in Europe*. Pallas Publications, Amsterdam, p.184

⁶⁵ For example, Taylor, C. (2016). *Review of the Youth Justice System in England and Wales*. London: Ministry of Justice and Rap S (as above).

⁶⁶ For more information see: <https://www.sentencingcouncil.org.uk/wp-content/uploads/youth-court-bench-book-august-2017.pdf>

Layout of a Youth Court in England and Wales



Example of a youth court layer

3.5 Child-friendly conduct

A number of different measures should be taken to create a child-sensitive setting in which children are able to participate. Regular breaks in proceedings should be scheduled to allow for different attention spans than adults. The atmosphere should be informal whilst still retaining the authority of the court; for example, judges should not be robed. Child alleged offenders should not be hand-cuffed except in very exceptional cases, where the risk of violence is assessed to be significant. This is reflected in the CPL in Article 18 (1) "Chains, handcuffs and similar tools cannot be put on juveniles. However, when necessary, the law enforcement may take necessary measures to prevent the juvenile from escaping, or to prevent dangers that may arise with regard to the life and physical integrity of the juvenile or others."

An issue that is frequently overlooked is the importance of training justice professionals, including ushers and clerks, to communicate with children taking into account their age and level of understanding and avoiding the use of complex legal vocabulary. In Scotland, panel members for the children's hearing system receive extensive training delivered by universities, have to observe hearings and have to attend refresher courses throughout their membership of the panel. Part of the training focusses on how to communicate with children during hearings, which includes the following checklist.

A Checklist for Child-Friendly Language

Panel members should ask themselves the following questions about their use of words:

- did I use easy words instead of hard words?
- did I use specific names and places instead of pronouns and adverbs?
- did I break long sentences/questions into shorter ones that had one main idea in each?
- did I avoid legal words and phrases? Was I alert to my use of words that mean one thing in everyday life but something else in law?
- did I avoid using negatives if I could?
- was I careful about the 'Why?' and 'How?' questions? In addition, to ensure that they are keeping in step with the child, panel members should ask themselves:
- did I make it clear at the beginning that the child's contributions, comments and questions were important?
- did I let the child know what each subject of discussion was, and why we were discussing it?
- did I frame my questions in terms of the child's experience?
- did I run a check on the child's understanding of my language and explanations?

- did I allow sufficient time for the child to process my questions and explanations?
- when I shifted topics, did I alert the child to the fact that I was going to do so?

Children and Families Directorate (2013) Children's hearings training resource manual: volume 2, available at: <https://www.gov.scot/publications/training-resource-manual-volume-2-childrens-hearings-handbook/pages/36/>

To support the child's understanding of the process, it is good practice at the start of the hearing for the judge to introduce the participants, briefly explain the nature of the offence and the process that will be followed. The judge should also explain the outcome of any hearing and check a child's understanding of its implications.

Language used in the courtroom should be clear and adapted to the age and maturity of the child. Complex and lengthy sentences and vocabulary should be avoided; short sentences and simple grammatical constructions should be used. In the Netherlands and in the UK, judges have attempted to increase the child-friendliness of their rulings with the use of clearer language, less formality and jargon. In February 2016, a High Court judge in England wrote a judgment in a case concerning contact between a father and his four young children, where there was suspicion the father wished to remove the children to Syria. The judgment was written so that the children could understand it, using short sentences combined with a legal summary at the end of every paragraph including emoji features.⁶⁷ For example, the judge explained some key legal concepts in very straightforward language:

“Children can't be taken away from their parents unless social services prove to a judge that it would be harmful for them to live at home. If children are taken away, judges will always try to return them if that is safe. Another thing is that children are not taken away from their parents simply because the parents have lied about something. Even if they do tell lies they can still be good enough parents. People can tell lies about some things and still tell the truth about other things. Also, children are not taken away because parents are rude or difficult or because they have strange views, even if those views offend people. The only reason to take children away is because they need protecting from harm.”⁶⁸

⁶⁷ Liefwaard T., *Leiden Law Blog* (2020) <https://leidenlawblog.nl/articles/child-friendly-judgments>

⁶⁸ *Family Court* (2016) *EWFC 9, Lancashire County Council v Mr A, Mr B and the children*, available at: <http://www.baillii.org/ew/cases/EWFC/HCI/2016/9.html>

Guidelines On Child-Friendly Justice – Organisation Of The Proceedings, Child-Friendly Environment And Child-Friendly Language

54. In all proceedings, children should be treated with respect for their age, their special needs, their maturity and level of understanding, and bearing in mind any communication difficulties they may have. Cases involving children should be dealt with in non-intimidating and child-sensitive settings.
56. Language appropriate to children's age and level of understanding should be used.
57. When children are heard or interviewed in judicial and non-judicial proceedings and during other interventions, judges and other professionals should interact with them with respect and sensitivity.
58. Children should be allowed to be accompanied by their parents or, where appropriate, an adult of their choice, unless a reasoned decision has been made to the contrary in respect of that person.
61. Court sessions involving children should be adapted to the child's pace and attention span: regular breaks should be planned and hearings should not last too long. To facilitate the participation of children to their full cognitive capacity and to support their emotional stability, disruption and distractions during court sessions should be kept to a minimum.
67. Training in communication skills, in using child-friendly language and developing knowledge on child psychology, is necessary for all professionals working with children (police, lawyers, judges, mediators, social workers and other experts).

Source: Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, adopted by the Committee of Ministers of the Council of Europe on 17 November 2010

Many jurisdictions provide specialized support to children in recognition of the difficulties they experience in understanding and participating in court proceedings. In Montenegro, for example, children in civil law proceedings are allocated a 'support person' who helps ensure the protection of the best interests of the child. These support persons can be psychologists, social pedagogues, or child experts with a minimum of five years of experience, appointed by the Ministry of Justice. They have the right to copy the case file, attend hearings, interact with the child, build a relationship and explain to the child what is happening, and obtain the child's views. Most European civil law countries rely on specialists to interview vulnerable child witnesses, usually under judicial supervision. For example, Norway uses a specialist forensic interviewer to elicit children's evidence under the directions of the judge, with scope for defence and prosecution lawyers to contribute to the questions asked.

Children should be able to rely on access to a lawyer to support their participation in proceedings. The European Court of Human Rights found Turkey in breach of article 6 in the case of *Guvec v Turkey* concerning a 15 year old boy arrested and prosecuted on terrorist-related charges because "the de facto lack of legal assistance for most of the proceedings, exacerbated the consequences of the applicant's inability to participate effectively in his trial and infringed his right to due process."⁶⁹ It has been noted that payments to lawyers in Juvenile Courts and Juvenile Assize Courts is low despite the challenges and time required to represent children⁷⁰ and in 2012, the United Nations Committee on the Rights of the Child urged Turkey to take measures to provide incentives for lawyers to work on cases involving children.⁷¹

Children should be able to make a complaint where they consider that the care and treatment they received within the courthouse did not meet the required standard or where the facilities were not acceptable. Such a complaint might be made to a higher court, to the Ministry of Justice or to an external monitoring body such as a national human rights institutions or ombudsperson. Complaints mechanisms for children must be safe, child-sensitive, effective and easily accessible. They should be accessible to all children regardless of their age, maturity, understanding or literacy level. If necessary the child should be able to request assistance from family members, legal counsellors, civil society organisation or others. It is particularly important that children who have literacy or learning difficulties should receive help making a complaint. For example, the Scottish Children's Hearing system has a complaints mechanism within its secretariat which has produced a child-friendly form for children to use that includes the following questions:⁷²

- Please describe your complaint, giving as much detail as possible, including the date your complaint relates to, where it happened, what you think went wrong and who was involved?
- Have you raised this matter with Scottish Children's Reporter Administration before? If yes, please state who dealt with it.
- What can we do to help put the matter right?
- For more information on SCRA's complaints policy and procedure, please visit our website www.scra.gov.uk, where you can also complete an electronic version of this form.

⁶⁹ *Guvec v Turkey*, ECtHR, Application no. 70337/01, 2009, Para 132

⁷⁰ Interviews with lawyers and author, December 2020

⁷¹ United Nations Committee on the Rights of the Child, Concluding Observations Turkey, CRC/C/TUR/CO/2-3, July 2012, para 67(b)

⁷² The Scottish Children's Hearing system has also produced a child-friendly video explaining how to go about making a complaint: <https://www.scra.gov.uk/wp-content/uploads/2019/06/Complaints-2019-2.mp4>

4. Protection and privacy

4.1 International and regional law and standards

International standards prioritise the protection of children involved in judicial proceedings. Article 39 of the CRC requires that States parties take all appropriate measures to promote the physical and psychological recovery and social reintegration of child victims and article 40 requires that children alleged as, accused of or recognized as having infringed the penal law, be treated in a manner that is both consistent with their human dignity and worth, and conducive to the reintegrative aim that the child assumes a constructive role in society.

Being a victim or witness of crime, particularly violent crime, can have life-changing consequences for children including harmful, long-term effects on a child's psychological and physical development, on relationships with caregivers, siblings and peers, and on their ability to learn and thrive. Often children who have survived serious abuse are more vulnerable to becoming victims of abuse and exploitation at a later stage of their life. It is essential that justice proceedings are effective and sensitive to their age, maturity, needs and circumstances so they are spared further hardship and trauma that may result from their participation in the criminal justice process.

A recent judgment from the European Court of Human Rights exposed many deficiencies in the treatment of a child victim of sexual abuse and exploitation in Turkey amounting to a violation of Articles 3 (prohibition of inhuman or degrading treatment) and 8 (right to respect for private and family life) of the European Convention on Human Rights.⁷³ The ECtHR found a raft of shortcomings in criminal proceedings which exposed the victim to secondary victimization which have important implications in defining the scope of child-friendly courthouses.

For example, the child had no support from a psychologist or other welfare expert for over a year after making the initial complaint either before the police or the public prosecutor or during the Assize Court hearings. No steps were taken to keep the child separate from the adult defendants during hearings at the Assize Court with the result that she had to recount the threats and rapes in court in front of them. At the close of the hearings, the applicant required a police escort because of the aggressive attitude of the defendants' relatives in the courthouse. Furthermore, the child was subjected to unnecessary reconstruction of the rape incidents, the lack of a calm and secure environment at the hearings and excessive length of the proceedings.

⁷³ *N.Ç. v. Turkey*, ECtHR, application no. 40591/11, 2021

The United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (2005) provide a very useful source of guidance on the protection of child victims at all stages of the justice process and are elaborated further in the UN Handbook for Professionals and Policymakers on Justice in Matters involving Child Victims and Witnesses of Crime (2009). The Guidelines on Child Victims and Witnesses stress that child victims and witnesses have the right to be protected from hardship throughout the process and recommend a number of child-sensitive trial procedures, including:

- interview rooms specifically designed for children;
- videotaping interviews to limit the need for repeated questioning;
- procedures that allow children to be questioned away from the alleged perpetrator, without jeopardizing the rights of the defence;
- modification of courtroom environments (for example, child-sized furniture, informal modes of dress);
- breaks during a child's testimony, hearings scheduled at appropriate times for the age and maturity of the child, and an appropriate notification system to ensure the child goes to court only when necessary; and
- separate courthouse waiting rooms.⁷⁴

At the European level, there is a well-defined framework setting out measures of protection for victims of violence, and specific measures for children, including the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) and the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention). The Victims' Rights Directive emphasises children's vulnerability to secondary victimization and makes provision for individual assessment to identify specific protection needs (Art. 22) and protection during criminal proceedings (Art.23).⁷⁵

Article 40(2)(b)(vii) of the CRC requires states to respect the privacy of the child at all stages of criminal proceedings. This means that criminal cases involving children in conflict with the law should be heard in closed court settings not open to the public. This should also apply to civil and administrative cases involving children, to ensure

⁷⁴ UN Guidelines on Child Victims and Witnesses, section XI, paras. 30-31

⁷⁵ Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA

that the identities of children are protected. The Beijing Rules state that the child's 'right to privacy shall be respected at all stages in order to avoid harm being caused to her or him by undue publicity or by the process of labelling'. The Council of Europe Guidelines on Child-friendly Justice also recommends that when children are heard or give evidence, this should take place behind closed doors and only those directly involved should be present. They also state that "no information or personal data may be made available or published, particularly in the media, which could reveal or indirectly enable the disclosure of the child's identity, including image, detailed descriptions of the child or the child's family, names or addresses, audio and video records, etc." ⁷⁶

The right to privacy

67. States parties should respect the rule that child justice hearings are to be conducted behind closed doors. Exceptions should be very limited and clearly stated in the law. If the verdict and/or sentence is pronounced in public at a court session, the identity of the child should not be revealed. Furthermore, the right to privacy also means that the court files and records of children should be kept strictly confidential and closed to third parties except for those directly involved in the investigation and adjudication of, and the ruling on, the case.
68. Case-law reports relating to children should be anonymous, and such reports placed online should adhere to this rule.
69. The Committee recommends that States refrain from listing the details of any child, or person who was a child at the time of the commission of the offence, in any public register of offenders. The inclusion of such details in other registers that are not public but impede access to opportunities for reintegration should be avoided.
70. In the Committee's view, there should be lifelong protection from publication regarding crimes committed by children. The rationale for the non-publication rule, and for its continuation after the child reaches the age of 18, is that publication causes ongoing stigmatization, which is likely to have a negative impact on access to education, work, housing or safety. This impedes the child's reintegration and assumption of a constructive role in society. States parties should thus ensure that the general rule is lifelong privacy protection pertaining to all types of media, including social media.

⁷⁶ UN Guidelines on Child-Friendly Justice, para. IV, art. 6

71. Furthermore, the Committee recommends that States parties introduce rules permitting the removal of children's criminal records when they reach the age of 18, automatically or, in exceptional cases, following independent review.

Committee on the Rights of the Child, General comment No. 24 (2019) on children's rights in the child justice system, CRC/C/GC/24, 18 September 2019

In many jurisdictions, including in Turkey, courthouses serve different functions. They contain administrative offices, criminal courts for adult cases where children of all ages give evidence as victims and witnesses, civil courts where child protection cases are heard, prosecution interview rooms where children give evidence, as well as courtrooms designated specifically for hearing children's criminal cases. There are potential risks to children's safety such as encounters in the court buildings with alleged perpetrators and adult defendants leaving children vulnerable to physical intimidation and physical attack. There is also the risk for a child of secondary victimization when giving evidence of traumatic experiences without proper protective measures in place.

Courthouses need to provide a safe and protective environment where children can participate effectively and avoid any potential re-traumatisation. All children attending court need to be safe and protected at each stage of the journey – getting to court, in the courthouse itself, in judicial interview rooms, in public spaces, in waiting and consultation rooms and in the courtroom. This applies to children of different age groups - while child alleged offenders will be over the minimum age of criminal responsibility of 12 in Turkey, child victims and witnesses may be very young. In some jurisdictions, it is possible to have entirely separate facilities for child victims and witnesses, but in many cases, a single facility needs to handle a full range of different child-related cases. The design of the courthouse therefore needs to accommodate the needs both of a young child who has been the victim of abuse as well as an older child charged with criminal offences who is in detention.

Putting this into practice requires consideration of the following issues:

- Separation of children from adults in the courthouse
- Ensuring the right to privacy
- Keeping children in detention safe
- Preventing secondary victimization (including access to legal representation, effective use of video recordings and links, supportive adults, mandatory training and limiting the number of hearings)

4.2 Separation from adults

The geographical location of a court is vitally important. It is a clear obligation in international and regional law and standards to have a separate and specialized justice system for children and it is recommended by the Committee of the Rights of the Child that children's courts are separate units. Stand-alone children's courts, which are physically separate from adult courts, will help to ensure children are kept safe and separate from adult offenders. In some jurisdictions, children's courthouses are in completely separate buildings to adult courts, for example, the Scottish Children's Hearings and the Youth Courts in Switzerland as described above.

In other jurisdictions, it is quite commonplace to have children's courts located inside adult court complexes, as is often the case in Turkey. Article 26 of the Child Protection Law stipulates the jurisdiction of Juvenile and Juvenile Assize Courts. As of December 2020, it is estimated that there were 81 Juvenile Courts and 12 Juvenile Assize Courts in Turkey which are actively working.⁷⁷ In some provinces, there are not sufficient numbers of Juvenile Courts with the result that children's cases are instead heard in general criminal courts without adequate protections for child alleged offenders.⁷⁸ Furthermore, the number of Judicial Interview Rooms and Child Monitoring Centres (CMCs) does not match the case-load.⁷⁹

When children's courts are not stand-alone, special attention is needed to ensure that children are kept physically separated from adults. It is imperative that children have separate entrances and exits from adults. This is needed in order to protect victims and witnesses from contact with an alleged offender involved in an individual child's case. It is also required to protect child alleged offenders from contact with adult alleged offenders. In addition, separate waiting rooms for child alleged offenders and for child victims and witnesses should be provided. These waiting rooms should be bright, clean and spacious with provision for separate refreshment and restrooms and spaces and equipment to play for younger children. Another issue concerning children's safety is that many courts have crowded hallways and waiting areas. Child protection and children's criminal cases often have more people associated with than typical adult cases and as a result require a proportionately larger area for people to wait and circulate. All waiting areas should have access to natural lighting and a calm and quiet environment.

⁷⁷ Figures provided to UNICEF by the Ministry of Justice, December 2020.

⁷⁸ UNICEF and the Union of Turkish Bar Associations (undated) *Legal Assistance Services within the scope of Children's Right to Access Justice - Project Report*

⁷⁹ As above

In some jurisdictions, the issue of separation of vulnerable children from adults is addressed by listing cases involving children on days where adult courts are not sitting. It is also possible to arrange case listings so that particular types of cases are heard separately, for example, criminal and child protection cases not being conducted in the same area or at the same time. If a child is giving testimony to a public prosecutor, it is recommended to arrange this to take place on a day when there are no other hearings taking place.

Special courts for child victims and witnesses in India

The Protection of Children from Sexual Offences Act (POCSO) was passed in India in 2012. The objective was to address growing rates of child sexual abuse and low rates of conviction. POCSO provides for designation of a special child-friendly court that is staffed by specialized public prosecutors, specifies timelines for recording children's evidence and for completing trials as well as child-friendly procedures during investigation, evidence-recording and medical examination regarding sexual offences. Whilst implementation of POCSO has been slow, there has been a significant amount of training of justice professionals working on sexual offence cases, some states have set up child-friendly rooms for child victims to give evidence and others have developed Standard Operating Procedures to specify how Special Courts need to operate.⁸⁰ In some Indian states, the Special Courts are located separately from other court buildings.

Child-friendly Court in Telangana, India⁸¹



⁸⁰ HAQ (2018) Implementation of the POCSO Act. Available at: <https://haqrcr.org/wp-content/uploads/2018/02/implementation-of-the-pocso-act-delhi-mumbai-study-final.pdf>

⁸¹ https://www.womensafetywing.telangana.gov.in/child_friendly_court.html

*Separate entrance for Child-Friendly Court in Bengaluru*⁸²



4.3 The right to privacy

The right to privacy is protected in Turkey's Criminal Procedure Code⁸³ which specifies that children's criminal cases are not open to the public and that only judges, victims, witnesses, lawyers, parents (or other guardians) and social workers may be present during proceedings. However, in busy courthouses, lawyers may sit in courtrooms waiting for their case to start and other members of the public may also be present during children's hearings. Ensuring a closed court is a priority and can be achieved by having dedicated court staff employed to check people as they enter the court-room to ensure they have the right to be there and are directly connected with the case.

As well as preventing the media and public from being present in the courtroom, children's privacy should be protected throughout the courthouse buildings. Child alleged offenders should not have to wait for their cases to be called in public spaces such as outside the court building, where they are on public view. Consideration should be given to how children are called into court when their cases are ready to start. Having a loudspeaker is not appropriate if a child's name is used. Rather a case number should be used to ensure the child's right to privacy. Additional precautions are required so that a child's identity is not disclosed in any information that is on public display such as a court listing on an electronic information screen. Children's information and data should also be kept private. Paper files should be kept secure in locked file cabinets or secure file rooms that are not available to the public.

⁸² Photo from <https://www.newindianexpress.com/cities/bengaluru/2017/aug/06/in-a-first-bengaluru-gets-two-child-friendly-courts-1639114.html>

⁸³ Art. 185 of the Criminal Procedure Code. English translation: https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang-en&p_isn-69829&p_country-TUR&p_classification-01.04 (accessed 22.12.20)

4.4 Care and protection of children deprived of their liberty

Some child alleged offenders who are deprived of their liberty will be brought to the courthouse, directly from detention facilities. In some jurisdictions, children are held in dedicated temporary detention facilities within the courthouse while waiting for hearings to start and for transportation. However, in order to comply fully with international and regional law and standards relating to the deprivation of liberty of children, these children should be accompanied by law enforcement officials but not be held in a specifically closed part of the courthouse. Instead, they should wait for their hearings to start in a safe, secure and private waiting room designated for the purpose where they have access to amenities, food and refreshments, health care and to their lawyers and other supportive adults. They should not be hand-cuffed in line with the CPL Article 18 (1) "Chains, handcuffs and similar tools cannot be put on juveniles. However, when necessary, the law enforcement may take necessary measures to prevent the juvenile from escaping, or to prevent dangers that may arise with regard to the life and physical integrity of the juvenile or others."

All of the international and regional law and standards relating to the deprivation of liberty of children apply in these circumstances, and it is imperative that there are clear policies and procedures in place to ensure appropriate care and treatment of children in this situation. Critical issues to consider include:

- Children must be kept separate from adults and those who might present a risk to them at all times, including when moving around the courthouse, in corridors and in waiting areas;
- Children should not be held in cells but in a safe, secure and private area of the courthouse;
- Children should have access to medical care if required;
- Children should have access to meet confidentially with their legal representatives and to social workers;
- Staff accompanying children should be specialized in working with children;
- Girls should have access to female staff who have responsibility for their safety and well-being;
- Children should spend as short a time as possible waiting in courthouses;

- If released from detention while at court, this must be done safely and with due consideration for their well-being; and
- The spaces where children are detained within the courthouse must be open to inspection from national, regional and international detention monitoring bodies.

4.5 Preventing secondary victimization

There can be huge psychological stress for a child victim or witness when they are recounting crimes to justice professionals, especially crimes of sexual abuse, trafficking or where the perpetrator is a family member. The child may be concerned about harm or reprisals from the perpetrator, being blamed or rejected for reporting the crime, not being believed, or negative parental or community reactions. Case-law from the European Court of Human Rights recognises that criminal proceedings concerning sexual offences in particular "are often conceived of as an ordeal by the victim, in particular when the latter was unwillingly confronted with the defendant" and that this is a prominent issue when children are witnesses.⁸⁴ Therefore the ECtHR has stated that measures should be taken to protect child victims, although such measures should not jeopardise the adequate and effective exercise of the rights of the defence.⁸⁵

Specific procedures are needed to ensure that child victims and witnesses can give their testimony safely and without exposing them to the risk of secondary victimization through the treatment of the justice system. If child victims and witnesses feel they are being treated in a dignified and compassionate way, they may be more comfortable with participating in the justice process and ultimately be better able to assist in the detection of crime. Where a child is giving testimony as a witness, then a range of different protective measures can be used:

- Use of screens in the court-room so that the child cannot see the alleged offender.
- Evidence pre-recorded and played to the court to avoid multiple interviews and to improve the quality of evidence since children's memories deteriorate over time.
- Use of live video-link rooms, so that the child does not have to enter the courtroom, but can give evidence and be asked questions in another room where he or she would sit with a supporter. Evidence is relayed by video link, allowing the defendant to see the child but for the child not to see anyone in the court other than the judge and the prosecutor/ lawyer.

⁸⁴ ECtHR, *S.N. v. Sweden*, No. 34209/96, 2 July 2002, para. 47

⁸⁵ ECtHR, *BocosCuesta v. the Netherlands*, No. 54789/00, 10 November 2005; ECtHR, *A.L. v. Finland*, No. 23220/04, 27 January 2009; ECtHR, *W. v. Finland*, No. 14151/02, 24 April 2007; ECtHR, *Kovač v. Croatia*, No. 503/05, 12 July 2007.

Child Monitoring Centres (CMCs) are specialist units operating in hospital settings and aim to prevent child victims' secondary trauma. They have been established to take the testimony and to provide services for children who are victims of serious forms of abuse, such as physical or sexual abuse.⁸⁶ As of 2018, there were 31 Child Monitoring Centres in 28 provinces in Turkey.⁸⁷ They are staffed by psychologists, social workers and staff from the Ministry of Social and Family Affairs. Specially trained legal interviewers take a child's evidence in the presence (behind a one way mirror) of a prosecutor and lawyer. A DVD of the interview is provided to the prosecutor with a back-up retained at the CMC.

Despite these very positive practices, judges do not always rely on the videoed recording of a child's evidence given at the CMCs to trained legal interviewers and so the child is called upon to testify again in person in court. The reasons behind this are not entirely clear but it has been suggested that it is to test the evidence in person in order to fulfil the defendant's right to fair trial. Judges do not always have access to the video recording made at the CMCs but instead use the transcript of the interview and furthermore the video recording is not always disclosed to a child or to the child's lawyers. There is a lack of coordination between lawyers, social workers and public prosecutors regarding how best to protect child victims and witnesses with the result that children have to testify more than once.

Turkey has also been successful in establishing Judicial Interview Rooms ("Adli Görüşme Odası") which is a room in the courthouse, with high-technology equipment designed to be used to interview child victims and witnesses as well as child alleged offenders (and other vulnerable witnesses and offenders). In practice, these rooms are rarely used for child alleged offenders. Furthermore, the workload in many Juvenile Courts is such that there are not enough rooms to accommodate the interviews that are needed.

Scottish Evidence and Hearing Suite for Children⁸⁸

This room has been designed to let child witnesses pre-record their evidence and for vulnerable witnesses to give evidence remotely away from the formality of a court room. The décor is neutral and it has comfortable furnishings.



⁸⁶ Prime Ministerial Circular no. 2012/20 published in the Official Gazette of 04.10.2012

⁸⁷ Council of Europe (2018) GREVIO Baseline Evaluation Report Turkey. Available at: <https://rm.coe.int/eng-grevio-report-turquie/16808e5283>

⁸⁸ For more information see <https://www.scotcourts.gov.uk/about-the-scottish-court-service/scs-news/2019/11/18/new-evidence-and-hearings-suite-for-children-and-vulnerable-witnesses-opens>

Child-friendly room in Georgia for use by prosecutors⁸⁹

Georgia has initiated a pilot programme to introduce child-friendly rooms in police departments, regional prosecutor office, legal aid bureau and city court. They are bright, clean and painted in neutral colours and have toys and drawing equipment. Each room includes recording equipment, which means interviews can be captured. This minimises the amount of times a child is interviewed and limits the amount of people they have contact with.



⁸⁹ UNICEF (2019) *Child-friendly Spaces for children in contact with the law in Georgia*
<https://www.unicef.org/georgia/stories/child-friendly-spaces-children-contact-law-georgia>

5. The right to non-discrimination

It is imperative that the child's right to non-discrimination is upheld while they are in the court facility. The Committee on the Rights of the Child has stated that the principle of non-discrimination requires States to "actively identify individual children and groups of children" for whom "special measures" may be required, noting that non-discrimination does not necessarily mean "identical treatment."⁹⁰

Courthouses should be designed explicitly to be accessible to all children with disabilities, as specified in the United Nations Convention on the Rights of Persons with Disabilities. As a starting point, courthouses must be physically accessible for children with mobility difficulties including access to the building itself, to the courtroom, restrooms, refreshments, private consultation rooms and Judicial Interview Rooms. Provision should be made for children with other physical disabilities: for example, improving lighting and signage and providing child-friendly information in different formats (for example Braille) for children with visual impairments, the provision of audio induction loops for those with hearing impairments or permitting them to sit close to the judge in the courtroom and adapting door handles and the height of light switches. Very often, this work also helps improve the quality of the environment for all children.

When planning and implementing this work, it is important to involve children with disabilities themselves. In the Netherlands, for example, the Hague District Court invited a group of people with disabilities to visit its court building and to make suggestions to improve its accessibility as a result of which tactile surface guide strips were introduced to enable persons with a visual impairment to find the entrance to the court building by themselves.⁹¹

Many jurisdictions are increasingly providing the public with access to information about the justice system digitally. According to the EU 2020 Justice Scorecard - a comparative overview of the efficiency, quality and independence of justice systems in all EU Member States - 12 EU Member States have not equipped their courts with computer terminals with internet connection available to the public. Even in countries that do have this service, it is not certain whether they have accessibility settings, such as screen readers for blind persons or those with low vision. When introducing increased digitalisation of information, it is important to ensure that information is accessible to children and is also accessible to children with disabilities.⁹²

⁹⁰ General Comment No. 5, 2003, para 12

⁹¹ Netherlands questionnaire, <https://www.ohchr.org/EN/Issues/Disability/SRDIsabilities/Pages/GoodPracticesEffectiveAccessJusticePersonsDisabilities.aspx>

⁹² European Disability Forum (2020) <https://www.edf-feph.org/newsroom-news-what-does-digitalisation-justice-mean-persons-disabilities/>

Foreign national children, asylum-seeking children and children who are temporarily present in the jurisdiction must also be treated equitably. For example, children who do not have Turkish as their first language should be provided with interpretation services as required.

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Committee on the Rights of Persons with Disabilities, Concluding Observations for Turkey

28. The Committee recommends that the State party:

- (a) Take steps to facilitate accessible and non-discriminatory access to the justice system for persons with disabilities by ensuring procedural and age-appropriate accommodation and clear administrative procedures on the basis of legislation;
- (b) Ensure human and financial resources to provide persons with disabilities with legal aid, which is accessible and affordable, including through accessible information from and communication with lawyers;
- (c) Allocate resources and develop a plan within the judiciary with a time frame and benchmarks to ensure the accessibility of police stations, courts and prosecution units, including the provision of accessible transportation;
- (d) Amend the law on judges and prosecutors (Law No. 2802) and adopt legal measures to allow and facilitate the effective participation of all persons with disabilities in the justice system, including as judges, witnesses, complainants and respondents.

Source: Committee on the Rights of Persons with Disabilities, Concluding Observations for Turkey, CRPD/C/TUR/CO/1, 1 October 2019

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In many jurisdictions, child alleged offenders have high levels of communication and learning disabilities which often go unrecognised. A comprehensive review of the research evidence reveals a disproportionately high prevalence of neurodevelopmental disorders amongst children and young people in detention facilities that is consistent across various international contexts.⁹³ There needs to be a mechanism by which these communication needs are identified in advance and addressed by justice professionals so that children can participate effectively and are clear what is going to happen to them. In response to the COVID pandemic, many countries increased the use of video hearings during children's cases. However, it should be noted that often these are not suitable for children who require additional support with communication and can cause important information to be missed, disconnection and separation from the process.

⁹³ Hughes N, Williams H, Chitsabesan, P, et al. *Nobody made the connection: The prevalence of neurodisability in young people who offend. Office of the Children's Commissioner for England, 2012.*

Specialized experts can play a crucial role in supporting child alleged offenders with specific communication and learning disabilities. In England, vulnerable child victims and witnesses have the option of having an intermediary who facilitates communication with other participants in the legal process, and ensures that children's own communication is as complete, accurate and coherent as possible. To become a Registered Intermediary applicants must undertake rigorous training. They are officers of the court and take an oath in the same way that interpreters do. They monitor questioning by justice professionals for developmentally inappropriate language. The role may also involve relaying answers that would not otherwise be understood or interpreting non-verbal methods of communication. Different agencies can refer children to an assessment by an intermediary including the police, witness care services, prosecutors, lawyers and the court. The assessment itself is intensive and covers the witness' intelligence, medical conditions, attention span, developmental age and language competence and need for communication aids. The report from the assessment is shared with all justice professionals involved in the case and is relied on to support appropriate questioning and language. During court hearings, the intermediary sits or stands beside the witness in court or in the CCTV suite. In an evaluation of the intermediary programme, the father of a child witness with hearing difficulties explained that:

“The girls were panicking coming up to the trial. The intermediary put them a lot more at ease than they would have been otherwise. She had the right skills. Without her, my daughter would not have coped at all as she said she could not lip-read the prosecutor. We thoroughly recommend the intermediary scheme: it is incredible.”⁹⁴

94 *The Advocate's Gateway – Intermediaries*, available at: <https://www.theadvocatesgateway.org/intermediaries>

6. Recommendations and next steps

There are many provisions relating to child-friendliness in courthouses in existing legislation and guidance in Turkey (notably the Child Protection Law (No. 5395) and related secondary legislation, the Criminal Procedure Code (No. 5271)), the Law on the Establishment, Duties and Procedures of Juvenile Courts (No. 2253) and Law of Social Services and Child Protection Agency (No. 2828). It is recommended that a policy paper is developed in order to consolidate existing law and guidance and provide a vision and strategic direction for operationalizing child-friendly courthouses. This should provide information about the current context and legal framework, the ambition and vision for the future and a roadmap for implementation of priority measures such as familiarisation visits, separate entrances and exits for children, communication training etc.

An important aspect of this policy paper is that it should be developed following consultation with justice professionals and also with child victims, witnesses and alleged offenders with experience of the court process. Based on the policy paper, specific guidance will need to be sent out to judges, court administrators etc looking at how to operationalise these measures in practice and aligning these with existing strategies and plans.

Based upon the findings of the desk review, and interviews conducted for this report, emerging priority issues to be included in the policy paper include:

- the introduction of familiarization visits
- modifications to court buildings to allow for separate entrances and facilities for child victims and witnesses as well as for child alleged offenders
- modifications to court buildings to allow for private rooms to be available for consultations with lawyers and social workers
- procedural modifications in the courtroom aimed at supporting children's participation
- a robust response to children's safety and security in the courthouse, including development of protocols for the care and treatment of children who are in pre-trial detention and who are brought to courthouses for hearings

- guidelines to address and support non-discriminatory treatment and specialised services and assistance to the most vulnerable children.

In addition, the following are some options available to improve the child-friendliness of courthouses in Turkey. As noted in the introduction, these recommendations are not based on a comprehensive assessment of existing practice and bottlenecks, but serve instead as guidance based on international and regional standards and on good practice in other jurisdictions. As such they constitute a starting point for further research and reform to inform a policy paper.

Location and numbers of courts

- An assessment of the numbers of Juvenile Courts, Juvenile Assize Courts, Judicial Interview Rooms and Child Monitoring Centres should be conducted in view of an increasingly heavy workload to determine where additional specialized institutions and resources are required as a priority across the 81 provinces.
- Courthouses should be located in areas that have good public transport links, safe pedestrian access and clear signage outside and on entry to the building. Children should have access in advance to information about how to locate the courthouse and relevant public transport links.

Prior familiarization and information

- Child witnesses of crime and child alleged offenders should be provided in advance with information about the court process and their role that is appropriate for their age and level of maturity. They should also have the opportunity to have a familiarization visit to the courthouse in advance.

Lay-out and design

- Children's courthouses should be separate from adult court complexes. Where this is not possible, child victims and witnesses of crime should have access to separate entrances and exits to the courthouse and separate amenities (including restrooms) and waiting rooms. Child alleged offenders should also have access to separate entrances, amenities and waiting rooms where they are not exposed to adult alleged offenders.
- Waiting rooms, consultation rooms and hearing rooms should have comfortable and durable furnishings and provision should be made for furniture which is an appropriate size for young children.

- All courthouses should have designated rooms available for private consultations between social workers, lawyers and children.
- The courtroom should not be so big that the child is 'lost' in the room, nor so small that it is cramped and over-crowded; it should be well ventilated and lit with good acoustics; and décor should be neutral and not distracting.
- Every participant in a courtroom should be within hearing distance and be able to see each other.
- Children should be seated near to the judge, their lawyer and the other supportive adults in order to facilitate communication.
- The courtroom should be quiet and proceedings should not be disturbed by external noise or by people entering and leaving the room unnecessarily.
- Placing children in a dock should not be default practice as it segregates the child from proceedings, can mean that it is difficult for them to hear what is being said and is unlikely to promote participation.
- The judge's bench should be at floor level, or one step up. This is less intimidating for children and encourages their engagement and participation.

Child-friendly conduct

- All justice professionals should be trained to address children in a child-friendly and understanding manner; court staff including ushers and clerks should also have training on appropriate communication skills.
- Regular breaks in proceedings should be scheduled to allow for different attention spans than adults.
- The atmosphere should be informal whilst still retaining the authority of the court; for example, judges should not be robed.
- Child alleged offenders should not be hand-cuffed except in very exceptional cases, where the risk of violence is assessed to be significant.
- Language used in the courtroom should be clear and adapted to the age and maturity of the child. Formal legal language should be avoided.
- At the start of hearings, it is good practice for the judge to introduce participants in the courtroom and explain the purpose and structure of the hearing. The judge

should also explain the outcome of any hearing to a child and check understanding of its implications.

- Lawyers representing children should receive payment that acknowledges the challenges and time required for such cases.

Access to a complaint mechanism

- Children should be able to make a complaint when they consider that the care and treatment they received within the courthouse did not meet the required standard.
- Complaints mechanisms for children must be safe, child-sensitive, effective and easily accessible. They should be well publicised and accessible to all children regardless of their age, maturity, understanding or literacy level.

Keeping children safe in the courthouse

- In order to maintain separation of vulnerable children, examine the feasibility of listing cases involving children on days where adult courts are not sitting and/or arranging case listings so that particular types of cases are heard separately, for example, criminal and child protection cases not being conducted in the same area or at the same time.
- Ensuring a closed court is a priority and can be achieved by having dedicated court staff employed to check people as they enter the court-room to ensure they have the right to be there and are directly connected with a child's case.
- To protect the right to privacy, children should not have to wait for their cases to be called in public view, such as on the steps outside the court building. Additional precautions are required so that a child's identity is not disclosed in any information that is on public display such as a court listing on an electronic information screen or when a case is called.
- Children's information and data should be kept private. Paper files should be kept secure in locked file cabinets or secure file rooms that are not available to the public.
- Develop a specific protocol relating to the care and treatment of children who are in pre-trial detention and who are brought to the courthouse. This should include provision for separation from adults, being held in a safe, secure and private area of the courthouse, access to medical care, contact with family, access to lawyers and social workers, specialization of staff and procedures for release.

Preventing secondary victimization

- Measures should be taken to strengthen the acceptability of video-recorded testimony in CMCs as evidence in criminal trials, to avoid the need for subsequent interviews and attendance at court that can be traumatic for a child; for example, judges could be invited to visit CMCs to watch them in operation in order to build confidence in the strength of the evidence-gathering process. In addition, explicit provision should be made for permitting the defendant and his or her lawyers to view the DVD of a child's evidence.
- The number of Judicial Interview Rooms should be increased to match the caseload. Prosecutors and judges should be encouraged to use them for the purpose of interviewing child alleged offenders as well as for child witnesses.

Supporting children with specific needs

- Consideration should be given to better understand the prevalence of child alleged offenders in Turkey who have specific communication and learning disabilities and measures that are required to identify these needs and to respond to them (for example, the use of trained intermediaries).
- Courthouses should be designed explicitly to be accessible to all children with disabilities, including those with mobility difficulties including access to the building itself, to the courtroom, toilet facilities, refreshments, private consultation rooms and Judicial Interview Rooms.
- Provision should be made for children with other physical disabilities: for example, improving lighting and signage and providing child-friendly information in different formats (Braille) for children with visual impairments, the provision of audio induction loops for those with hearing impairments or permitting them to sit close to the judge in the courtroom and adapting door handles and the height of light switches.
- Foreign national children, asylum-seeking children and children who are temporarily present in the jurisdiction must be treated equitably. For example, children who do not have Turkish as their first language should be provided with interpretation services as required.
- Children who are charged with terrorist-related offences should be afforded equitable access to all of the protections in law afforded to children charged with non-terrorist-related offences.

Resources

A. International law and standards on children and access to justice

- United Nations Convention on the Rights of the Child (1989)
- Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (2011)
- United Nations Convention on the Rights of Persons with Disabilities (2006)
- Optional Protocol to the Convention on the Rights of Persons with Disabilities (2006)
- United Nations Committee on the Rights of the Child, General Comment 10 (2007): Children's Rights in Juvenile Justice, 25 April 2007, CRC/C/GC/10
- United Nations Committee on the Rights of the Child, General Comment 12 (2009): The Right of the Child to be Heard, 20 July 2009, CRC/C/GC/12
- UN Committee on the Rights of the Child (CRC), General comment No. 13 (2011): The right of the child to freedom from all forms of violence, 18 April 2011, CRC/C/GC/13
- United Nations Committee on the Rights of the Child, General Comment 14 (2013): The Right of the Child to have His or Her Best Interests Taken as a Primary Consideration (Article 3(1)), 29 May 2013, CRC /C/GC/14
- United Nations Committee on the Rights of Persons with Disabilities, General Comment 1 (2014): Article 12: Equal recognition before the law, 19 May 2014, CRPD/C/GC/1
- United Nations Committee on the Rights of Persons with Disabilities, General Comment 2 (2014): Article 9: Accessibility, 22 May 2014 CRPD/C/GC/2
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (1985) (the Beijing Rules)
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990) (the Havana Rules)
- United Nations Guidelines for the Prevention of Juvenile Delinquency (1990) (the Riyadh Guidelines)
- United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (2005)
- Guidance Note of the United Nations Secretary General: United Nations Approach to Justice for Children (2008)
- United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (2013)
- General Assembly, Human Rights Council, Twenty-fifth session, Rights of the Child: Access to Justice for Children, A/HRC/25/L.10, 25 March 2014

B. Regional law, standards and guidance on children and access to justice

- Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols 11 and 14, (1950)

- Recommendation CM/Rec (2008) 11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures (Adopted by the Committee of Ministers on 5 November 2008 at the 1040th meeting of the Ministers' Deputies)
- Guidelines of the Committee of Ministers of the Council of Europe on Child-friendly Justice (2010)
- Council of Europe, Council of Europe Convention on the Protection of children against sexual exploitation and sexual abuse, 12 July 2007, CETS No.: 201 (Lanzarote Convention)
- Directive 2010/64/EU on the Right to Interpretation and Translation in Criminal Proceedings, 2010
- Directive 2012/13/EU on the Right to Information in Criminal Proceedings, 2012
- Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA
- Directive 2013/48/EU on the Right of Access to a Lawyer in Criminal Proceedings, 2013
- Directive (EU) 2016/343 on the Presumption of Innocence and the Right to be Present at the Trial in Criminal Proceedings, 2016
- Directive (EU) 2016/1919 on Legal Aid for Suspects and Accused Persons in Criminal Proceedings, 2016
- Directive (EU) 2016/800 on Procedural Safeguards for Children who are Suspects or Accused Persons in Criminal Proceedings, 2016
- Council of Europe, CEPEJ (2008), Checklist for promoting the quality of justice and the court, 3 July 2008

C. Further reading

- CRIN (2016) Rights, Remedies & Representation: Global Report on Access to Justice for Children
- Defence for Children International (2016) Twelve, Children's right to participation and the juvenile justice system: Theory and Practices for Implementation
- ECPAT International (2017) Through the Eyes of the Child: Barriers to Access to Justice and Remedies for Child Victims of Sexual Exploitation
- EU Agency for Fundamental Rights (2017) Child-friendly Justice: Perspectives and experiences of children involved in judicial proceedings as victims, witnesses or parties in nine EU Member States
- EU Agency for Fundamental Rights (2015) Child-friendly Justice: Perspectives and experiences of professionals on children's participation in civil and criminal judicial proceedings in 10 EU Member States
- Hakeri (2018), The Rights of the Children in Turkish Criminal Justice System
- Kennan, N. and Kilkelly, U., Children's involvement in criminal, civil and administrative judicial proceedings in the 28 Member States of the EU. Policy Brief (Luxembourg: Publications Office of the European Union, 2015)

- Liefwaard, T., Access to Justice for Children: Towards a Specific Research and Implementation Agenda, *International journal of children's rights* 27 (2019) 195-227
- Liefwaard, T., Child Friendly Justice: Protection and Participation of Children in the Justice System, *Temple Law Review* 2016, vol. 88.
- New York State Permanent Judicial Commission on Justice for Children – Tools for Engaging Children in their Court Proceedings, available at: <https://www.nycourts.gov/ip/justiceforchildren/PDF/PJCJC%20Handbook%20-%20Encouraging%20Child%20in%20Court.pdf>
- Rap S (2013) The participation of juvenile defendants in the youth court. A comparative study of juvenile justice procedures in Europe. Pallas Publications, Amsterdam
- UNDP, Access to Justice: Practice Note, 9 March 2004
- UNDP, Programming for Justice: Access for All. A Practitioner's Guide to a Human Rights- Based Approach to Access to Justice, 2005
- UNDP (undated) Building Capacity Of Turkish Legal Aid, SILA Outcome II Needs Assessment and Recommendations for Enhancing the Capacity of Legal Aid Lawyers to Provide Services to Disadvantaged Groups
- UNICEF (2018) Guidelines for Child-Friendly Legal Aid, ECARO
- UNICEF (2015) Children's Equitable Access to Justice, Central and Eastern Europe and Central Asia, UNICEF, Geneva
- UNICEF (2014) Interview Rooms For Children: Needs, Examples of Best Practices and Standards for Child Friendly Interview
- UNICEF and the Union of Turkish Bar Associations (undated) Legal Assistance Services within the scope of Children's Right to Access Justice - Project Report
- UNODC (2009) United Nations Handbook for Professionals and Policymakers on Justice in Matters involving Child Victims and Witnesses of Crime (2009)

