

Realtime script

The European Commission has upheld efforts to make justice more child friendly in various ways. The agenda for the rights of the child contains proposals for procedural safeguards, research on legislation and policy on improving protections. The commission issued a policy statement on children's involvement in criminal, civil and administrative judicial proceedings in twenty eight member states.

The commission also committed itself to publicizing guidelines on child friendly justice. These guidelines promote children's rights to be heard, informed and protected as well as to be free from discrimination and have their best interests taken into consideration.

The Agency for Fundamental Rights has collected and analyzed data to determine whether these rights are fulfilled in practice. It did so by way of interviews with professionals and children who have had exposure to judicial proceedings. The agency's report in two thousand fifteen centered on the perspective of professionals.

The following summary presents the main findings of the report. It focuses on the perspectives of children and outlines their views on factors that impede their full participation. It also outlines efforts that can help overcome such barriers. It underscores that much remains to be done to make justice truly child friendly across countries.

Introducing particular measures to make judicial proceedings more child friendly promotes children's access to justice and their effective participation in judicial proceedings. This in turn helps avoid restrictions on the rights of children involved in legal proceedings.

Professionals spoke about the need for clear and consistent standards for all professionals. They support methods to monitor the implementation of those standards. The research with children reinforces that conclusion.

From the viewpoint of children, the behavior of professionals is key to making proceedings child friendly and for children to feel safe and comfortable. When children feel that professionals treat them with respect

and take their views seriously, they are more likely to report being treated fairly and in line with their best interests.

Professionals who are viewed positively by children are also more likely to use child friendly hearing locations and provide information that is both age appropriate and child friendly. How children are treated is important, and so there is a need for clear, practical guidelines and training for all professionals who work with children.

It is also very important to children that they participate. Children emphasize that they need information and support throughout proceedings in addition to procedural safeguards to be able to participate effectively. Children and professionals also provided concrete suggestions on how to make proceedings more child friendly and identified a number of valid practices.

The right to be heard and express one's views is essential for effective participation in judicial proceedings. It is a right guaranteed to children by the United Nations.

Some legislation gives specific rights and safeguards to children who are victims of crime or witnesses, but there are no similar safeguards for children involved in civil proceedings.

Procedural safeguards for child victims come in many forms. For example, policies on fighting against abuse and exploitation of children suggest limiting the number of interviews with child victims. It is also suggested that interviews take place in specific places and are carried out by trained professionals. Visual contact between children and offenders is avoided.

Children do not have to appear in court in person, but instead are able to testify through communication technology or audio visual means. Hearings are closed to the public and children are accompanied by a legal representative or adult of their choice.

Both professionals and children consider such procedural safeguards vital. Professionals emphasize that these safeguards reduce stress on children and help to avoid children becoming victimized by the process. In addition,

professionals from all member states gave examples showing that the failure to implement such safeguards very negatively affects both proceedings and the children themselves.

Children agree that safeguards reduce their stress when testifying and help them participate more freely. Safeguards that are not consistently used can be a major source of fear and anxiety.

Specifically, children appreciate testifying in the absence of defendants and their families or friends. When this is not practicable, screens to avoid visual contact may be used. Children feel stressed when they have to testify in front of a lot of people and in environments that are not child friendly. They often prefer having as few people present during hearings as possible and want to be informed about the roles of those who are present.

Children involved in criminal proceedings place great importance on being able to make informed decisions about the available procedural safeguards. They also value being able to choose the gender of professionals conducting the hearing and whether a person of trust will accompany them. Sometimes they prefer being alone with the professionals who are conducting the hearing.

Laws in the majority of member states mandate procedural safeguards for criminal proceedings. Those safeguards can include adapting the environment of the hearings and controlling contact with other parties, particularly the defendant. In general, criminal provisions appear more detailed than civil in terms of who is in charge of hearing the child.

Civil provisions are more fragmented. Depending on the type of case, obtaining testimony from a child is either mandatory, optional or not regulated at all. Mediation is frequently suggested as an alternative to civil proceedings.

Professionals recommend applying procedural safeguards to all children in both criminal and civil proceedings. Children involved in custody cases often complain that procedural safeguards that are available in criminal proceedings are unavailable in civil proceedings. This includes, for

example, the possibility of avoiding any contact with defendants who also may happen to be their parents.

A child's maturity is critical to determining how he or she can participate in judicial proceedings. That assessment is mostly based on individual judges' opinions or determined by age group, but this practice is without a clear set of criteria. Competency assessments are not consistently used across countries. In addition, many professionals underestimate children's wisdom and capacity for understanding because they lack knowledge and experience with specific child behaviors.

The right to be heard is a choice, not an obligation, and children point out that they should have a say in how they are heard. Professionals should acknowledge that children have clear opinions and suggestions on how they believe proceedings could be more child friendly.

Where a child chooses to participate in judicial proceedings, more needs to be done to encourage their involvement. Measures taken should be based on an individual assessment of the child and be adapted based on their age and maturity as well as the events of their particular case.

Children indicate in interviews that an open, attentive and friendly approach is key to getting them to better communicate their wishes and feelings. Both professionals and children say that using child friendly communication is not standard practice. Specific rules and guidelines for how professionals should conduct hearings are often missing, especially in civil proceedings.

As a result, practices in both criminal and civil proceedings depend on the individual skills of the professionals involved. They also vary depending on the court and region. It has been determined that police officers and judges, for example, generally lack specialization in child hearings.

When more standardized and detailed rules or guidelines are provided, a child's right to be heard is better protected. Professionals observe that the number of hearings decreases and the behavior of professionals becomes more child friendly, thus making children feel safe and comfortable.

ADDITIONAL MATERIAL

Not all member states have criminal or civil courts, panels, or judges that are trained in working with children. Some entities or judges are more likely to use specialized professionals with training in child psychology and development. Some courts are also more likely to have child friendly facilities and informational materials as well as other tools such as video links.

The law in some countries requires that child victims in criminal trials be interviewed in locations designed or adapted for that purpose. However, spaces where children are likely to feel comfortable and safe are not always available as a standard practice. They are more often used in criminal rather than civil hearings.

Even in criminal cases, children often meet defendants in corridors or waiting rooms. When children are heard in regular offices or at court, rooms are rarely specifically designed for child hearings. It is left to the respective specialist to create a more child friendly environment.

A number of countries have made efforts to make child friendly hearing rooms available for criminal cases. Some police stations are equipped with interview rooms containing toys, video recorders and other tools for collecting evidence. Professionals and children view specifically adapted rooms very positively.

Although availability varies, some countries have developed child friendly rooms which contain a viewing space behind a two way mirror for judges and other appropriate persons. In still other countries, specific buildings provide services for child victims and witnesses in one location purposely situated away from courts.

Children generally find court settings intimidating and associate them with bad behavior and punishment. Therefore, they prefer that hearings be conducted away from courts or in hearing rooms with child friendly features.

Children involved in both civil and criminal proceedings have consistent opinions about what constitutes a child friendly setting. It should be away from the court environment, painted in bright colors and contain plants or flowers. In addition, children indicate that toys or games should be available for a wide range of age groups.

Legislation in the area of criminal law grants child victims the right to free legal counseling or representation when the victim has insufficient financial resources. Child victims should also be provided with a special representative if those with parental responsibility are not allowed to represent the child.

United Nations guidelines on access to legal aid in criminal justice systems declare that children should always be exempt from means tests. In six of the countries researched, child witnesses have the right to legal aid.

All countries report that legal representation for children in civil law cases is lacking because children have to reach a certain age to be considered legally capable. In family law proceedings, for example, the parents often have a lawyer while the child does not. However, legal counsel or guardians can be appointed to represent the child's interests.

Professionals have raised a number of issues regarding access to legal aid. Those issues include the lack of guidelines on how to request free legal assistance and the number of lawyers who specialize in representing children. Promising practices do exist in several countries, including contact points where children have access to lawyers for information about their rights in civil or criminal matters.

In both criminal and civil law, professionals usually consider national frameworks too general. The information provided varies, leaving many children inadequately informed. Research shows that most member states lack clear requirements or established practices. They often leave it up to the judgment of the individuals providing the information about what, when

and how to inform children. Particularly in civil proceedings, most member states have only generic laws on the obligation to inform.

European law establishes a right to information in proceedings for victims of crime. Guidelines specify that child victims and their parents or legal guardians shall be informed of any measures or right specifically focused on the child. The guidelines also provide for the general right of victims to information at different stages of proceedings and on specific matters.