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MINISTRY OF JUSTICE



National Report
on the Child-Friendly Justice Assessment Tool of the Council of Europe

SLOVENIA

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Executive summary

The national report drawn on the basis of the Child-Friendly Justice Assessment Tool of the Council of Europe represents the first attempt to holistically map out the current state of child-friendly justice system in Slovenia. The report comments upon eighteen indicators proposed by the tool, making recommendations with regards to the issues identified, presented and commented upon throughout the report. The report delves into three major areas of law that are relevant for the case of children: criminal law (both in relation to child victims as well as juvenile offenders), civil law (family law) and administrative law (asylum proceedings). It points out issues such as the inaccessibility of written and oral information provided to children, lack of systemic training of legal professionals and others in contact with them and the general problem of the lengthiness of procedures in the Slovenian justice system. The report also highlights some of the examples of good practice, such as the Children's House (the Barnahus project), videos intended to inform children of official proceedings and the support available to children to ensure that their voice be heard. The report was drawn up by PIC – Legal Centre for the Protection of Human Rights and the Environment, making over thirty recommendations as to how the Slovenian justice system could be more child-friendly in law and in practice.

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Introduction

Child-Friendly Justice (CFJ) Assessment Tool was developed to support the member states of the Council of Europe in meeting and implementing the standards for child-friendly justice laid down in the Guidelines of the Committee of Ministers of the Council of Europe on Child-friendly Justice ('the Guidelines'). The guidelines encourage the member states to periodically review and evaluate domestic legislation, policies and practices in the national justice settings to ensure that children in contact with the law, in whichever position (as offenders, victims, witnesses or parties), are subject to child-friendly considerations by the authorities.

In this report we present observations made on the basis of the assessment tool for the case of Slovenia. The report was drawn up by PIC – Legal Centre for the Protection of Human Rights and the Environment which is a non-governmental organization working in the fields of access to justice, disability rights, migration, housing and the environment by means of providing legal assistance and advocating for change. The research and the editing of the report was undertaken by a two-member team of legal experts from PIC. The report evaluates the extent to which the Slovenian system is child-friendly by using eighteen indicators proposed by the assessment tool. The indicators focus on the position of children in the justice system by looking into various parameters such as provision of information, protection of children's privacy and identity, alternatives to judicial proceedings, training of professionals in contact with children etc. The report was drawn up in fall 2024.

The scope of the report is limited to presenting the position of children in the following situations: children as offenders, victims of crime or witnesses in criminal proceedings, children in family proceedings and children subject to asylum proceedings. The assessment was undertaken in order to outline the current state of the system, exploring the extent to which the Slovenian justice system is child-friendly in law and in practice. The limitation of the research is that it primarily focuses on the analysis of primary law and does not undertake empirical research due to limited resources. As thorough research into the processes of legislative implementation and practice was not possible, this report should be viewed as the first attempt to map out the field of child-friendly justice in Slovenia. As explained in the discussion section, there is plenty of room to improve both the tool as well as its use for reporting.

The overall objectives of the assessment are:

- 1) to show the current state of child-friendly justice in legislation and in practice in Slovenia
- 2) to make recommendations on how to ameliorate legislation, processes and the system in practice
- 3) to produce a report that would be used as an advocacy tool to push for change

The report is structured in the following way: upon introducing the context of the research, the assessment tool and its main objectives, the report outlines methodology undertaken to carry out the assessment. The methodology section presents the framework for analysis and research undertaken. The section can be viewed as complemented by the discussion part of the research which lays down limitations of the research and room for improvement therein. Following methodology, the report presents the outcomes of the assessment, indicator per indicator. Each indicator includes analysis of the indicator for the case of Slovenia, examples of good practices in the field and proposed points of action to be taken addressing the indicator. The report is concluded by some general observations made regarding the system, pointing out critical changes to be made in order for it to be more child-friendly.

Methodology

The assessment process began by screening the assessment tool indicator-per-indicator in order to better understand the range of topics to be covered in the assessment. The tool was read through and annotated with a view of deciding upon the methodology and parameters to be taken into account when undertaking the research. The research process began in August 2024 and wrapped-up in December 2024.

The researchers decided to limit the scope of the assessment to the following fields of law and the position of children therein:

- Juvenile offenders in criminal law
- Minor victims and witnesses in criminal law
- Children in family proceedings
- Minors in asylum proceedings

These have been identified as the main fields of law in which children come into contact with law or authority.

The analysis of the indicators may be viewed as consisting of three types of analysis: structural analysis (analysis of legal provisions, legal framework, legal instruments, and institutions), process analysis (analysis of efforts made to implement the structural provisions) and outcome analysis (based on experiences felt with the implementation of structural provisions, i.e. experiences on ground).¹ In this report, the researchers undertook the analysis of the first two types, using primary law, secondary law, policy documents and legal research articles as its sources of information. The main limitation of this research is that empirical research, resulting in outcome analysis, was not undertaken. Limitations of this research are further presented in the discussion section.

In undertaking structural and process analysis, the researchers drew from both primary law (the constitution, legal acts) and secondary law (decrees, rules, orders and instructions), occasionally also case law and policy documents. Outcomes of the implementation of laws and policy documents were occasionally drawn from research articles in the field. The sources were predominantly of Slovenian origin, considering the Slovenian legal and policy framework. In conducting research, the following legal texts were consulted:

Constitutional law

- The Constitution of the Republic of Slovenia

¹ A similar analysis was undertaken in the drafting of the report on the implementation of the Child Participation Assessment Tool in Slovenia. The methodology of the present report was conceptualised on the basis of the report on child participation. Urban Boljka, Jasmina Rosič et al., *Implementing the Child Participation Assessment Tool in Slovenia* (2019), Inštitut Republike Slovenije za socialno varstvo, Available at: <https://irssv.si/wp-content/uploads/2023/10/CPAT-REPORT-Slovenia.pdf>

Criminal law

- Criminal Code (KZ-1)
- Criminal Procedure Act (ZKP)
- Enforcement of Criminal Sanctions Act (ZIKS-1)
- Child protection in criminal proceedings and comprehensive treatment of children in the Children's House Act (ZZOKPOHO)

Civil law

- Family Code (DZ)
- Non-Contentious Civil Procedure Act (ZNP-1)
- Civil Procedure Act (ZPP)
- Domestic Violence Prevention Act (ZPND)

Administrative law

- General Administrative Procedure Act (ZUP)
- The Administrative Disputes Act (ZUS-1)
- International Protection Act (ZMZ-1)
- Foreigners Act (ZTuj-2)

The Police

- Police Tasks And Powers Act (ZNPPol)

Data collection and analysis process went as follows: data was first collected and presented for the Indicator I A #2, using it as a pilot indicator to gather feedback on proposed way of analysis. Upon receiving feedback from the Council of Europe, research took place keeping the feedback in mind. The researchers proceeded by gathering data indicator per indicator, however later realised that gathering information across all eighteen indicators simultaneously would be more time efficient. Upon scanning one legal source, e.g. the Criminal Procedure Act, data was gathered under multiple indicators, as relevant. The researchers decided to change the data collection method also due to the finding that the content of some indicators have been overlapping.² The process of data collection continued across all eighteen indicators. Data was subsequently analysed and edited indicator per indicator.

The assessment was predominantly based on the definition of the indicator put forward in the CFJ Assessment Tool. Occasionally the definition of the indicator was interpreted more broadly to also include some other issues related to the indicator in the national report.

The CFJ Assessment tool also included a section of rating the system on a scale from 0 to 3. The assessment scale was not used by the authors of the present report as we experienced issues understanding the scaling³ and apply it particularly to evaluate the

² For example, several indicators concern the topic of secondary victimization of children.

³ For example, the scale of the Indicator I A #3 begins as follows: 0 = There are no laws protecting a child's right to privacy or data protection in proceedings. 1 = National law foresees the possibility for children to give testimony or to be heard through

situation in practice.⁴ A similar issue was experienced by the authors of the report on the Child Participation Assessment Tool.⁵

It shall be noted from the outset that since the assessment was conducted by PIC, a non-governmental organization, points of action laid down under each indicator are only of indicatory nature and do not represent official commitments made by the government as such. The action plan is thus still to be drawn up by the state. In order for the necessary reform to take place, official authorities should draw from the recommendations and delineate action points that they will carry out. The action plan is to be presented together with a reasonable timeline. The state should commit to carry out actions in practice, rendering the recommendations and the overall substance of the report meaningful.

audiovisual means and in camera, in all matters involving them. Still, no laws or rules govern confidentiality, data sharing, or the media's coverage of cases involving children. The researchers cannot assess the situation with number 0 as there are some laws protecting a child's right to privacy or data protection in proceedings while number 1 could also not be assigned as children cannot generally give testimony or be heard through AV means in all proceedings, e.g. asylum proceedings. Furthermore, there are some rules governing confidentiality, data protection and media coverage concerning children, particularly in criminal proceedings.

⁴ During the project's roundtable event in Strasbourg it has been noted that the scaling can sometimes be used to assess the situation in law but not always in practice. Although the law may safeguard the children's rights to information, in practice information may not be conveyed to them in a way that they understand it. The authors of the present report agree with that standpoint.

⁵ The authors of that report also experience issues with overlapping of some topics. Urban Boljka, Jasmina Rosič et al., *Implementing the Child Participation Assessment Tool in Slovenia* (2019), Inštitut Republike Slovenije za socialno varstvo, Available at: <https://irssv.si/wp-content/uploads/2023/10/CPAT-REPORT-Slovenia.pdf>

Outcomes of the Child-Friendly Justice Assessment process

In this chapter the report presents the state of child-friendly justice system in Slovenia. The definitions of each indicator are omitted from the presentation due to the lengthiness of the report. In order to better understand the assessment, the reader is invited to first consult the definition of each indicator as laid down in the CFJ Assessment tool.

Indicator I A #1 // Child-friendly justice is enshrined in domestic law.

Analysis notes

Child-friendly justice as a concept is generally not codified under Slovenian law. While the concept has been progressively used in Slovenian politics and policy documents, the concept cannot be found in the legislative framework. Instead, the principle of safeguarding *the child's best interests* is more often codified. In the following we present the inclusion of both the concept and the principle in different areas of law in Slovenia.

Constitution of the Republic of Slovenia

The Constitution of the Republic of Slovenia is the highest national legal source safeguarding the rights of children. According to the Constitution, children shall enjoy special protection and care as well as human rights and fundamental freedoms consistent with their age and maturity.⁶ Children shall be guaranteed special protection from economic, social, physical, mental, or other exploitation and abuse, which should be regulated in law.⁷ Children and minors who are not cared for by their parents, who have no parents, or who are without proper family care shall enjoy the special protection of the state.⁸ The protection of the child's interests is further protected within the meaning of the rights and duties of their parents. According to the Constitution, the right and duty of parents is to maintain, educate, and raise their children, however if child's interests are to be protected for the reasons provided by law, the right may be revoked or restricted.⁹ Protection of child's interests is thus of utmost importance.

⁶ Article 56(1), the Constitution

⁷ Article 56(2), the Constitution

⁸ Article 56(3), the Constitution

⁹ Article 54, the Constitution

The child-friendly justice concept is also closely manifested in the proceedings at the Children's House. The institution established on the principle of safeguarding the best interests of the child and manifesting the child-friendly justice system when it comes to criminal proceedings is the Children's House. The house was modelled upon the Icelandic Barnahus project, providing a setting to children where they could testify in due regard of their rights, their needs, and in avoidance of secondary victimization of the child.¹⁰ By establishing the Children's House in April 2021, a major step has been made in the Slovenian criminal justice system towards ensuring that child victims, witnesses, and in some cases even juvenile defendants can be heard in an environment that protects them, minimizes the level of distress and enables them to fully participate in criminal proceedings. Consideration of minors in the Children's House contributes to justice being more accessible, age-appropriate, speedy, diligent, adapted to, and focused on the needs and rights of an individual child. The Children's House is thus pivotal in setting up a child-friendly criminal proceeding which may be available to children across Slovenia.

Unfortunately, not all criminal proceedings involving children take place in the Children's House. The decision to hear a case in the Children's House lies in the hands of the court, namely the presiding judge, who decides upon whether or not a minor will be interviewed in their premises.

Criminal proceedings that take place in a conventional way are subject to two pivotal legal instruments in the field, the **Criminal Code (KZ-1)** and the **Criminal Procedure Act (ZKP)**. Children also enjoy special protection of their rights and interests under these two acts – in several provisions, the acts provide higher protection standards for minors during the procedure in comparison to adults. Protection standards are higher whether the minor is a victim (an injured party), a witness, or a defendant.

The principle of the child's best interest is safeguarded on several occasions throughout the two acts. For example, the principle is highlighted in the context of an adult detainee's request for her child to live with her until the child reaches the age of two ("if this is in *the child's best interest*"),¹¹ or in cases where the public shall be excluded from the trial "if this is necessary for the protection of */.../ the interests of a minor*".¹² Furthermore, the principle is evoked when considering the person of trust of a minor in criminal proceedings – if the presence of their parents or a guardian would be contrary to "*the best interests of the minor*", the minor may choose another adult in whom they have confidence to accompany them.¹³ Furthermore, the principle is most strongly pronounced in cases involving juvenile defendants, as the authorities involved

¹⁰ Child Protection in Criminal Proceedings and Comprehensive Treatment of Children in the Children's House Act (ZZOKPOHO)

¹¹ Article 212a, ZKP

¹² Article 295, ZKP

¹³ Article 452c, ZKP

in proceedings against a minor “shall have regard to *the best interests of the minor* in all proceedings in which the minor is involved.” ZKP and KZ-1 particularly oblige the authorities to safeguard the interests of juvenile offenders.

While there are provisions directly referring to the principle of a child’s best interest,¹⁴ little to no provision seem to directly codify the concept of “child-friendly justice” in criminal law.

→ Age-appropriate justice

The criminal law advocates for justice that is age-appropriate. For example, ZKP states that official authorities “must treat the injured parties, suspects, accused persons and convicts with particular care and act with due consideration where necessary because of their vulnerability such as *age*, health condition, disability, or other similar circumstances.”¹⁵ Here age is listed as an important factor for adjusting proceedings to children like it is in some other provisions (e.g. individual assessment of a victim,¹⁶ or proceedings against a minor).¹⁷ It may be said that criminal law takes due regard of age in legislation.

Civil law

In the field of civil law, children often get into contact with law in family proceedings. The pivotal act in this regard is the **Family Code (DZ)** which safeguards the principle of the best interests of the child in the introductory provisions of the act.¹⁸ The act places responsibility for ensuring the best interests of the child on parents as well as on national authorities and public authorities. For example, parents shall consider the best interests of the child in all their actions concerning children and shall raise children in respect of their person, individuality and dignity. They shall have priority over any other person concerning responsibility and actions in the best interests of the child. They act in the best interests of a child if, considering the child's personality, their age, level of development and aspirations, they adequately satisfy their material, emotional and psycho-social needs, through conduct which demonstrates their concern and responsibility for the child, and provide them with adequate guidance and support for their development. Additionally, national authorities and public authority holders, local authorities and other natural and legal persons shall also act in the best interests of the child, ensuring the principle in all activities and proceedings they carry out. The state shall support non-governmental organizations and professional institutions in

¹⁴ Article 452d, Article 473(2)(3), 485(2) ZKP

¹⁵ Article 18a, ZKP

¹⁶ Article 143č, ZKP

¹⁷ Article 453, ZKP

¹⁸ Article 7, DZ

developing programmes for positive parenthood,¹⁹ supporting parents in their knowledge on how to protect the child's best interests from their side. In practice, however, the state does not support enough of such programmes to fulfil the needs on ground.²⁰

RECOMMENDATION #1: *Support programmes for positive parenthood carried out by social work centres and NGOs. Support them both in terms of finance as well as providing training for the staff.*

The state also has a special obligation to protect children “wherever their healthy development is threatened or wherever this is required to protect other interests of children.”²¹ The obligation to protect the child’s best interest is thus pronounced several times throughout the act.²²

When it comes to proceedings involving children, the **Non-Contentious Civil Procedure Act (ZNP-1)** is another key act in safeguarding the principle of the child’s best interest. The act prescribes that every effort shall be made throughout the proceedings to have the rights and legal interests of the participants established and protected *as soon as possible* as well as the that the court must adopt *ex officio* any measures aimed at protecting the rights and legal interests of *inter alia* children”²³ Expediency of proceedings (limiting undue delay) and the protection of children’s rights and legal interests is thus an obligation on parties involved in non-contentious civil procedures. The act lists and defines proceedings that concern the protection of the best interests of a child,²⁴ however it does not delineate the parameters of the principle.

The **Civil Procedure Act (ZPP)** only makes reference to minors in relation to their procedural capacity status.²⁵ Codification of the principle of the “child’s best interest” does not appear in this act.

Protection of the victim’s interests also pronounced in the **Domestic Violence Prevention Act (ZPND)**, namely as a duty of individuals to act.²⁶ The act further states that “[i]f a child is the victim of violence, then the child's benefits and rights take precedence over the benefits and rights of any other participants of the proceedings”.

¹⁹ Article 7, DZ

²⁰ dr. Jasna Murgel, mag. Tadeja Oštir, Zoran Stankić Rupnik and dr. Suzana Pecin, *Recommendations to ensure the best interests of the child in civil court proceedings in Slovenia* (2024), Joint EU-Council of Europe Project “Ensuring the Best interests of the child in Civil Court Proceedings in Slovenia” 23SI08

²¹ Article 8, DZ

²² e.g. Article 141, 142, 154, 170 DZ

²³ Article 6(1)(2), ZNP

²⁴ Part 2: SPECIAL PROCEEDINGS, Section 7

²⁵ Article 77, ZPP

²⁶ Article 5, ZPND

The obligation to first and foremost protect the child's best interest is thus pronounced.²⁷

Administrative law

The Administrative Disputes Act (ZUS-1) does not contain any specific provision addressing the position of children in an administrative dispute. However, in administrative disputes, general principles such as the principle of non-discrimination apply. Furthermore, the European Convention on the Rights of the Child and the United Nations Convention on the Rights of the Child are both directly applicable in administrative litigation which enables the principle of child's best interest to be invoked in administrative proceedings. In rendering a decision, the Court may also refer to the case-law of the European Court of Human Rights (ECtHR) which pays due regard to the principle in its judgements.²⁸

Like the ZPP, the **General Administrative Procedure Act (ZUP)** makes no direct reference to minors or the principle of safeguarding the child's best interests.²⁹

In the context of migration, child-friendly justice is only to a limited extent recognized in the **Foreigners Act (ZTuj-2)**. Similar as in other legal texts in Slovenia, no provision makes reference to "child-friendly justice", although the term "minor's best interests" does appear in two provisions of the act.³⁰ In general, children, and particularly unaccompanied minors, are subject to special protection standards under the Slovenian migration and asylum law.

The principle of the best interest of the child is recognized in the **International Protection Act (ZMZ-1)**. According to the act, safeguarding the best interests of the child is the primary concern of the authorities, ensuring them a standard of living that is adequate to their psychological, mental, spiritual, ethical and social development.³¹ The assessment criteria for determining a child's best interests in the context of international protection is laid down in law.³² According to the provision, child's best interests shall depend on the following factors: the possibility of family reunification, the minor's well-being and social development (taking into account in particular the environment from which the minor comes), safety and security considerations

²⁷ Article 16 and 22d ZPND

²⁸ <https://www.uradni-list.si/novice/pogled/kaksen-je-polozaj-otroka-v-upravnem-sporu>

²⁹ Article 46(3), ZUP: "A minor who has not obtained full capacity to contract shall have procedural capacity within the limits in which their capacity to contract has been recognised."

³⁰ Article 47a(6), ZTuj-2, In the case of doubt that the reunification of an unaccompanied minor with a family member is in the minor's best interests, the competent authority shall seek the opinion of the competent social work centre. If the procedure establishes that the reunification of an unaccompanied minor with a family member is not in the minor's best interests, the family member shall not be issued with a permanent residence permit." Similarly in 74b(6), ZTuj-2;

³¹ Article 15(1), ZMZ-1

³² Article 15(2), ZMZ-1

(especially when there is a risk of the minor being a victim of trafficking in human beings) and the minor's views, in accordance with their age and maturity.

Other acts, apart from the Family Code to some extent, do not seem to define factors determining the child's best interests in such detail as ZMZ-1.

Other legal and policy documents on children

Two policy documents concern the position of children and lay down new strategies and priorities in the field in Slovenia: Programme for children 2020 - 2025 and Resolution on the National Programme for Youth 2024-2032 which is currently in the drafting phase.

The **Programme for children 2020 - 2025** was designed in 2020 by the government in collaboration with members of the academia and non-governmental organizations, succeeding and building upon the Programme for Children and Youth 2006-2016. The current programme focuses on children, ie. minors below the age of 14, and reiterates the importance of establishing child-friendly justice systems in Slovenia.³³ In preparing the programme, the drafters have drawn from the Convention on the Rights of the Child.

Additionally, the **Resolution on the National Youth Programme 2024-2032**, succeeding and building upon the 2013 - 2022 resolution, focuses on youth, ie. minors between the ages of 15 and 18. The legal basis for the preparation of the resolution is the Public Interest in Youth Sector Act (ZJIMS). The concept of child-friendly justice or the principle of ensuring the best interest of the child are not mentioned *per se* in the resolution.

Good practice

The Children's House ("Hiša za otroke") is one of the key examples of good practice where the principle of child-friendly justice is being upheld holistically in law and in practice in Slovenia.

Additionally, the good practice is that the government is placing more importance on the topic in recent years than previously. In addition to some recent legislative changes, the Ministry of Justice undertook another project on ensuring the best interests of the child in justice processes in Slovenia, with the support of the Council of Europe and the European Commission (DG REFORM). The project aims to improve the protection of children's rights in civil court proceedings in Slovenia, particularly family proceedings, via legal and policy review as well as training offered to professionals

³³ <https://www.gov.si/assets/ministrstva/MDDSZ/druzina/Programi-v-podporo-druzini/Program-za-otroke-2020-2025.pdf> 6.4. Do otrok prijazni postopki

working in the field of justice with children.³⁴ Currently, the research phase of the project has been carried out. Projects in the field may be viewed as a commitment of the government to make *inter alia* legislative changes in the area.

Points to address

While some acts may to some extent outline the parameters defining the principle of the child's best interest (e.g. ZMZ-1), some do not and only reference it. It may be valuable to define the parameters of the principle in other fields of law too, such as in criminal law or family law, for example, in order to inform the practitioners of how to apply it bring the practices closer to one another. The UN's Committee on the Rights of the Child encouraged the state in that regard "to develop procedures and criteria to provide guidance for determining the best interests of the child in every area related to children".³⁵ The CRC encouraged the state to disseminate the guidelines among the public, including Social Work Centres, courts of law, administrative authorities and legislative bodies.

Additionally, although the principle might become more clearly delineated in law in future, practitioners might still have issues understanding how to apply it in practice. As put forward by some of the external national experts "[t]he best interests of the child are determined at various levels, including outside the judiciary, which inevitably means that they are interpreted differently". Although they stress that this is not a bad thing in itself, "[i]t becomes problematic when the interpretations of the same matter are contradictory and completely at odds with each other." They propose consultations and training on this topic in order to allow for dialogue and constructive debate that respects the different views on the principle of the best interests of the child.³⁶ Another point of action would thus be to carry out consultations and training on the principle, in multidisciplinary environments with stakeholders from different fields of profession.³⁷ This would contribute to ensuring a better understanding of the principle in practice.

Additionally, another call from the UN's CRC Committee shall be noted, namely to introduce **a comprehensive child law in Slovenia** instead of several laws which would be compliant with all the provisions of the Convention on the Rights of the Child.³⁸ The same recommendation was endorsed by the authors of the report of child participation, stressing the importance of creating a single act focusing on children to

³⁴ <https://www.coe.int/en/web/children/slovenia-civil-court-proceedings>

³⁵ Concluding observations on the combined third and fourth periodic reports of Slovenia, adopted by the Committee at its sixty-third session (2013), Committee on the Rights of the Child, CRC/C/SVN/CO/3-4

³⁶ Vesna Leskošek, PhD (Full professor, Faculty of Social Work, University of Ljubljana), Jasna Podreka, PhD (Professor, Faculty of Arts, University of Ljubljana), Maja Plaz (SOS Helpline for women and children Victims of Violence, Head of the Association), Katja Zabukovec Kerin (Association for Nonviolent Communication – DNK, Head of the Association)

³⁷ Ana Bajt and Katarina Bervar Sternad, *Gap analysis and recommendations for education and training in the field of ensuring the best interests of the child in civil court proceedings in Slovenia* (2024), Joint EU-Council of Europe project "Ensuring the best interests of the child in civil court proceedings in Slovenia" 23SI08

³⁸ Concluding observations on the combined third and fourth periodic reports of Slovenia, adopted by the Committee at its sixty-third session (2013), Committee on the Rights of the Child, CRC/C/SVN/CO/3-4

fulfil the right of children, also children with disabilities and other vulnerabilities, to participate in all matters affecting them.³⁹ The act should guarantee children support that is age and disability-appropriate to realize their right to be heard in practice. In the latest CRC periodic report drawn up by the state, however, the state does not seem to indicate any progress or steps to be taken in that regard.⁴⁰

When it comes to juvenile offenders, for example, a comprehensive and systemic regulation of their position and consideration in one act would be an important step towards ensuring the best interests of minors in criminal proceedings. A single act focusing on juvenile offenders would ensure, among other things, greater legal certainty and a clearer and more transparent consideration of minors. Additionally, such a regime would make it easier for minors themselves to understand the procedure in which they are involved, becoming more familiar with the obligations and rights conferred on them as subjects of the proceedings.⁴¹ According to unofficial information, the act on juvenile offenders is supposed to be in preparation at the ministry.

³⁹ Urban Boljka, Jasmina Rosič et al., *Implementing the Child Participation Assessment Tool in Slovenia (2019)*, Inštitut Republike Slovenije za socialno varstvo, Available at: <https://irsv.si/wp-content/uploads/2023/10/CPAT-REPORT-Slovenia.pdf>

⁴⁰ Combined fifth and sixth periodic reports of the Republic of Slovenia on the basis of the Convention on the Rights of the Child and the Report outlining the actions undertaken to implement the provisions of the Optional Protocols (2021), Committee on the Rights of the Child, CRC/C/SVN/5-6

⁴¹ Deja Kozjek, *Kazenski postopek proti mladoletnikom (2023)*, Pravosodni bilten (PB), št. 1/2023, str. 95-116

Indicator I A #2 // Throughout the proceedings, children receive information and advice in a language that they understand.

Analysis notes

Criminal law

→ Language

The Slovenian criminal law to some extent safeguards the right of children to receive information in a manner accessible to them. However no provision in the Criminal Code (KZ-1), the Criminal Procedure Act (ZKP), or the Domestic Violence Prevention Act (ZNPĐ) explicitly makes reference to provision of information in a *child-sensitive* manner, with the use of *child-friendly* language. ZKP states, for example, that the amount and type of information to be provided to **victims** shall depend on, *inter alia*, the personal characteristics and vulnerability of the injured party as well as their specific needs for protection.⁴² From this provision one may infer that information provided to child victims and the way in which it is conveyed will be adjusted to their needs and particularly to the individual needs of the child involved in proceedings. In practice, language used by different professionals when addressing a child victim in criminal proceedings is not always friendly to them.⁴³ Legal professionals, apart from those working with juvenile offenders to a certain extent, are generally not trained in the use of child-friendly language in practice.

Similarly, **minors in conflict with the law** must be informed of all the rights they are entitled to in an *understandable manner*, orally and in writing.⁴⁴ They confirm that they have understood their rights with a signature.⁴⁵ However, practice shows that information is often not conveyed to them in a child-friendly manner, quickly and incomprehensibly.⁴⁶ Juvenile offenders would often claim that they have understood the information about their rights but most of the times they had not – they are either ashamed of not having understood something or believe that their reply ought to be affirmative.⁴⁷ A corrective to the poor implementation of the law in practice is the child's defence counsel who is the second one to inform them, and explain to them, the

⁴² Article 65(a)(2), ZKP

⁴³ Observations by PIC.

⁴⁴ Article 452c(2), ZKP

⁴⁵ Article 452c(2), ZKP

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https://www.sodnapraksa.si/?q=odlo%C4%8Dbe%20&_submit=i%C5%A1%C4%8Di&order=code&direction=desc&rowsPerPage=20&page=4726&id=51923

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https://www.sodnapraksa.si/?q=odlo%C4%8Dbe%20&_submit=i%C5%A1%C4%8Di&order=code&direction=desc&rowsPerPage=20&page=4726&id=51923

meaning of their rights in a child-friendly way.⁴⁸ The issues arises if the defence counsel themselves is not well-versed in child-friendly communication. ZKP has recently been amended in a way that training for defence counsels representing children, *inter alia* on the use of child-friendly language, is now mandatory.

When it comes to **people deprived of liberty**, the ZKP states that they must be immediately informed of the reasons for their deprivation in their mother tongue or in a language that they understand.⁴⁹ The latter is understood as another language that they understand (the person's secondary language) and not a guarantee to provide information in a way that will also be comprehended by the person, not only communicated to them.

→ Information regarding proceedings

When it comes to the type of information conveyed, **a person deprived of liberty** must be informed immediately that they are not obliged to make any statements, that they are entitled to the immediate legal assistance of a defence counsel of their own choosing and that the competent authority is obliged to inform their kin of the deprivation of liberty (upon a request made by the deprived person).⁵⁰ Furthermore, a **suspect who is arrested** must also be informed of their right to use their own language and receive writings in a language they understand throughout proceedings, as well as of their right to have a defence counsel appointed by the police upon the request of the suspect and at the expense of the state, provided this is in the interests of justice.⁵¹ A suspect must be informed of their rights in writing as well as in their mother tongue or in a language that they understand. The latter is understood as providing information in their secondary language, not in a way that will be comprehend by the deprived person. A list of information to be provided to **victims of crime** is also delineated in the criminal legislation.⁵²

While the normative framework is rather specific in what type of information should be provided to persons in criminal proceedings about the process, the practice does not always implement effectively the legal norms. While people are given information, they do not necessarily comprehend them – due to the use of legal terminology, formatting environment where the information is delivered and other circumstances.⁵³ An example

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https://www.sodnapraksa.si/?q=odlo%C4%8Dbe%20&_submit=i%C5%A1%C4%8Di&order=code&direction=desc&rowsPerPage=20&page=4726&id=51923

⁴⁹ Article 4(1), ZKP

⁵⁰ Article 4(1), ZKP

⁵¹ Article 4(1), ZKP

⁵² Article 65a(1), ZKP

⁵³ Observations by PIC.

of ineffective communication of essential information is the official leaflet on the rights of victims of crime which is incomprehensible to adult victims not to mention children.⁵⁴

RECOMMENDATION #2: *Adapt the official leaflet on the rights of victims of crime to child-friendly language.*

→ Translation and interpretation

Criminal legislation generally ensures the interpretation and translation of at least essential procedural documents. For example, if an investigative or other judicial act or the main hearing is not carried out in the language of the persons /.../ the interpretation of their statements or the statements of others shall be provided, as well as the translation of documents and other written evidence essential for the exercise of their rights.⁵⁵

Essential documents for the suspects and accused persons are

- indictments,
- summonses,
- all decisions on the deprivation of liberty,
- judgments,
- court decisions on the exclusion of evidence,
- court decisions on the rejection of motions for evidence,
- decisions on the disqualification of judges.

Essential documents for the injured party at their request are

- summonses,
- decisions dismissing criminal complaints,
- decisions dismissing or rejecting requests for investigation,
- decisions discontinuing the proceedings,
- decisions rejecting indictments,
- judgments,
- instructions on the right to assume or continue prosecution

Parties, witnesses, suspects, and other participants in criminal proceedings shall be informed of the right to translation and interpretation⁵⁶ and should not bear the service costs – the costs shall be charged to the budget of the state.⁵⁷

⁵⁴ <https://www.gov.si/assets/ministrstva/MP/obrazci-odskodnine-zrtvam/Publikacije-pravice-zrtev-KD/Pravice-zrtev-v-kazenskem-postopku-ang.pdf>

⁵⁵ Article 8(2), ZKP

⁵⁶ Article 8(7), ZKP

⁵⁷ Article 8(9), ZKP

Legal provisions regarding translation and interpretation do not make reference to children. The criminal justice system in general does not foresee a trained interpreter for children on a systemic level.

→ Training

When it comes to **the training of legal professionals in the use of child-friendly language**, amendments to ZKP in recent years have to some extent enhanced the importance of training legal professionals on matters concerning children. The amendments, however, only oblige the training of legal professionals working with juvenile offenders, not those working with minor victims and witnesses.⁵⁸ The Slovenian Bar Association shall maintain and publish a list of attorneys qualified to represent minors in conflict with law,⁵⁹ but not those qualified to represent victims. The program and the manner of conducting the training is determined by the Ministry of Justice and carried out by the relevant institution in respective fields of profession. The requirement to acquire child-friendly communication skills is encompassed in the training, under the topic “techniques for interviewing or questioning minors”.⁶⁰

RECOMMENDATION #3: Publish a list of attorneys qualified to represent minor victims of crime and provide a programme for their qualification.

No other provision in the general Slovenian criminal legislation requires from legal professionals to acquire skills in child-friendly language.

For children interviewed in the Children’s House (Barnahus Project), training programs are developed and carried out for professionals assisting in the interviews therein. The Children’s House is in charge of developing and implementing multidisciplinary and interagency training programs for the purpose of ensuring the uniformity and development of professional methods and procedures for the comprehensive treatment of children.⁶¹ The task of the institution is also to assess the knowledge of their staff. Professionals working in the Children’s House are hence highly skilled in the use of child-friendly language and communication techniques. However, they would benefit from acquiring more knowledge and skills on communicating with certain vulnerable groups of children, such as children with intellectual and psychosocial disabilities.⁶²

⁵⁸ Article 452(b)(3)

⁵⁹ Article 452b(3), ZKP

⁶⁰ Article 4, Rules on the programme and method of conducting basic and periodic training for judges, public prosecutors, police officers, defence counsels and mediators involved in proceedings against minors; Odvetniška akademija, *Uspostavljanje odvetnikov zagovornikov – november 2024* (2024), Odvetniška zbornica Slovenije, Available at: <https://www.odv-zb.si/2024/10/19/usposabljanje-odvetnikov-zagovornikov-november-2024/>

⁶¹ Article 7(2), ZZOKPOHO

⁶² Ana Bajt and Katarina Bervar Sternad, Slovenia: National Briefing Paper (2024), LINK- Linking Information for Adaptive and Accessible Child-Friendly Courts, Available at: https://pic.si/wp-content/uploads/PIC_LINK_NBP_EN.pdf

Civil law

→ Language

The rules on the use of language in civil proceedings only concern translation and interpretation, with no explicit obligation to adjust the language to the needs of children or other vulnerable groups.⁶³ The law makes no general reference to children and their specific needs.

→ Translation and interpretation

Parties involved have the right to use their own language when participating in civil proceedings. Interpretation of everything heard or written throughout the proceedings shall be provided in the language of the parties on their motion or if the court finds that they do not understand Slovenian.⁶⁴ They shall be actively informed of their right to translation and interpretation according to the law.⁶⁵

The act does not foresee an interpreter who would be trained to communicate with the child in a child-friendly language.

→ Training

The law contains no provisions on the training of officials.

Administrative law

→ Information regarding proceedings

Rules on the way in which information about the course of proceedings is conveyed to the party and received are mandated in *inter alia* Chapter V of ZUP; however, none of the provisions make reference to accommodations available to children.

→ Translation and interpretation

Translation is available in administrative proceedings but no specific provision concerns children.⁶⁶ Interpretation is also made available. According to law, “[p]arties and other participants in the procedure who do not speak the language in which the procedure is conducted or who are unable to use it because of disability shall have the

⁶³ Chapter 6, ZPP

⁶⁴ Article 102, ZPP

⁶⁵ Article 102, ZPP

⁶⁶ Article 178(c)(d), ZUP

right to follow the course of the procedure through an interpreter.”⁶⁷ The provision also obliges the relevant authority to inform persons in proceedings of such possibility. Although the need to adjust proceedings is recognized in case of disability, the need to adjust proceedings in case of children involved is not made explicit in ZUP. The act in general makes no reference to children.

→ Training

ZUP does not include any provision regarding the training of legal professionals in matters concerning children (e.g., the use of child-friendly language). Article 322 of ZUP states that permanent training for officials conducting administrative procedures and deciding administrative cases shall be organized by the ministry responsible for administration, with no mention of child-specific training in general administrative proceedings.

Administrative law (asylum procedure)

→ Information regarding proceedings

Asylum seekers’ right to information is safeguarded in Article 5 of the ZMZ-1. According to the article, asylum seekers who intend to apply for international protection shall be informed of the following prior to having their application processed:

- of the procedures under this Act,
- the rights and obligations of applicants,
- possible consequences of not complying with their obligations and not cooperating with the competent authority,
- the time limits for the exercise of legal remedies,
- information on refugee counsellors
- information on non-governmental organisations working in the field

Upon request, applicants for international protection shall be provided with all information concerning the procedure free of charge.⁶⁸

In practice, asylum seekers are shown a video providing information on the asylum procedure in Slovenia. The video is intended for adults and contains information on procedural steps, rights and obligations of asylum seekers, information about the Dublin procedure, refugee counsellors and judicial review.⁶⁹ Although the IPA requires that individuals are also informed about NGOs working in the field of asylum and

⁶⁷ Article 62(7) of ZUP

⁶⁸ Article 5(3), ZMZ-1

⁶⁹ Urša Regvar, Lana Krznarič, *AIDA Country Report - 2023 Update Slovenia (2024)*, Asylum Information Database (AIDA), Available at: <https://asylumineurope.org/reports/country/slovenia/>

migration,⁷⁰ the video does not include such information and the information is not provided to individuals by the Ministry in any other manner. The video also does not contain information on the reasons for granting asylum in Slovenia. In 2021, a similar video was produced for the case of unaccompanied minors. Similar to the informative video for adults, it contains information on the asylum procedure but no information on the reasons for granting asylum in Slovenia or the NGOs working in the field.

Unaccompanied minors are shown the video in the presence of an interpreter and their statutory representative who can assist them in understanding the video.

No informative video has been produced by the official authorities on the position of different vulnerable groups of juvenile asylum seekers, such as child victims of human trafficking which would inform them about their particular position.⁷¹ No informative video has been produced for the case of minors in asylum proceedings in general either, that is for minors arriving to the country with parents or other relatives and legal guardians. In such cases, the official authorities expect the child's parents or relatives to explain to them what will happen.⁷²

RECOMMENDATION #4: *Produce informative videos for children in asylum proceedings (accompanied and unaccompanied children).*

RECOMMENDATION #5: *Produce informative videos for targeted groups of children (i.e. child victims of human trafficking).*

RECOMMENDATION #6: *Upgrade the current video for unaccompanied minors to also include information on NGOs working in the field and on grounds for granting asylum in Slovenia.*

→ Language

Although the informative video for unaccompanied minors was produced, it is not suitable for children both content- as well as language-wise. For example, the video provides them with information on the role of a statutory representative but does not do so in a way understandable to them.⁷³ According to the Slovenian asylum law, unaccompanied minors have to be informed about their rights and obligations before they lodge an application, and this must be done in a manner that is adjusted to their age and development.⁷⁴ The video presentation is the same for all unaccompanied

⁷⁰ Article 5(1) IPA

⁷¹ Urša Regvar, Lana Krznarič, *AIDA Country Report - 2023 Update Slovenia* (2024), Asylum Information Database (AIDA), Available at: <https://asylumineurope.org/reports/country/slovenia/>

⁷² Observations by the PIC.

⁷³ Urša Regvar, Lana Krznarič, *AIDA Country Report - 2023 Update Slovenia* (2024), Asylum Information Database (AIDA), Available at: <https://asylumineurope.org/reports/country/slovenia/>

⁷⁴ Article 16(5), ZMZ-1

minors no matter the age, which is particularly problematic for younger children.⁷⁵ The use of language in this case is thus not suitable.

→ Translation and interpretation

According to ZMZ, Asylum seekers shall be provided with information in a language that they understand.⁷⁶ The right to translation is safeguarded as one of the fundamental procedural guarantees of the asylum procedure.⁷⁷ Additionally, a translation of the essential parts of the written decision in a language that the person understands is also a procedural guarantee available to asylum seekers by law.⁷⁸

Translation services in procedures before the competent authority are paid for by the ministry and are thus free of charge for the user.

The right to interpretation is safeguarded as one of the fundamental procedural guarantees of the asylum procedure in Slovenia.⁷⁹ According to the law, the person receives interpretation services in a language they understand, which is not necessarily their mother tongue but their secondary language.⁸⁰ In practice, interpreters are not always available for interpretation and are not systemically trained to communicate with children (adjusting their communication to the child's needs and level of development).⁸¹ Proper interpretation is generally one of the main systemic shortcomings of the Slovenian asylum system.

For example, the issue of ineffective and unavailable interpretation is most pressing in preliminary procedures carried out by the police.⁸² In the preliminary procedure, the police take the applicant's statements that are admissible in the asylum procedure later on. However, those are often inconsistent with the ones made later on in the process, sometimes also due to the improper handling of the preliminary procedure by the police. The police often carry out the procedure without an interpreter and do not consider asylum seekers individually, oftentimes as a group.⁸³ Hence, individual asylum seekers do not have the opportunity to make individual statements at this stage. Additionally, asylum seekers often claimed that the statements they made

⁷⁵ Urša Regvar, Lana Krznarič, *AIDA Country Report - 2023 Update Slovenia (2024)*, Asylum Information Database (AIDA), Available at: <https://asylumineurope.org/reports/country/slovenia/>

⁷⁶ Article 5(2), ZMZ-1

⁷⁷ Article 4, ZMZ-1

⁷⁸ Article 4, ZMZ-1

⁷⁹ Article 4, ZMZ-1

⁸⁰ Article 6(1), ZMZ-1

⁸¹ Observations by the PIC.

⁸² Urša Regvar, Lana Krznarič, *AIDA Country Report - 2023 Update Slovenia (2024)*, Asylum Information Database (AIDA), Available at: <https://asylumineurope.org/reports/country/slovenia/>

⁸³ Ombudsman, Poročilo Varuha človekovih pravic RS o izvajanju nalog državnega preventivnega mehanizma po Opcijskem protokolu h Konvenciji OZN proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju za leto 2019, available at: <https://bit.ly/3c9H26y>, Ombudsman, Končno poročilo o obravnavi policijskih postopkov s tujci na območju Policijske postaje Ilirska Bistrica, 19 July 2019, available in Slovenian at: <https://bit.ly/3r3nG7j>.

during the preliminary procedure were not read back to them, denying them the opportunity to verify their content.⁸⁴

RECOMMENDATION #7: *Train the interpreters working with children on child-friendly communication techniques.*

RECOMMENDATION #8: *Ensure that police officers consider asylum seekers on an individual basis, registering their statements individually and in the presence of an interpreter.*

There is a general lack of interpretation services available in the reception centres and accommodation centres, such as the accommodation centre for minors, the Student Dormitory in Postojna.

RECOMMENDATION #9: *Ensure that the interpretation services available meet the needs on ground.*

It may also be worth noting that unaccompanied minors and their statutory representatives may only make use of interpretation services if they are talking about the topics pertaining to the fields of work vested upon the statutory representative by law. The provision of interpretation services is also limited when, for example, the statutory representative and the minor would like to speak ad hoc over a phone but in interpretation is often unavailable in such cases.⁸⁵

Oftentimes, it is also expected from statutory representatives to (unofficially) interpret information to unaccompanied minors.⁸⁶ The same is often expected from the child's parents if the child is accompanied.

Interpretation services in procedures before the competent authority are paid for by the ministry and are thus free of charge for the user.

→ Training

Police officers are oftentimes not adequately trained or trained at all to provide information to minor asylum seekers in a language that they can understand – not only formally but also the content.⁸⁷

⁸⁴ Observation by the PIC.

⁸⁵ Observations by the PIC.

⁸⁶ Observations by the PIC.

⁸⁷ Observations by the PIC.

Good practice

An example of good practice in the field of child-friendly language is the recent amendment to the Criminal procedures act which enables decision makers (mostly judges but also state prosecutors) to enclose to their decisions an explanation of the decision in a simplified language. The proposal is not limited to the easy-to-read format of the explanation but any kind of simplification. As this is a legal novelty in the Slovenian context, the Ministry did not aim to introduce an obligation but rather a possibility to decision-makers. The consensus was to frame the provision more widely in order to encourage decision-makers to actually make use of it. The simplified version of the decision would not be legally binding.

The provision now reads as follows:

“Where the rights of vulnerable parties or other vulnerable participants in the criminal procedure are decided under this Act, the decision may, at the discretion of the decision-maker, be accompanied by an easy-to-read or simplified explanation that is not legally binding, with an added disclaimer that such an explanation is not legally binding.”⁸⁸

Another good example in the field are the recent endeavours of the Supreme Court of Slovenia to provide information to children coming to the court as witnesses. The Supreme Court created an informative video animation which uses child-friendly language to present information to child witnesses.⁸⁹ In addition, the Supreme Court produced publications tailored to children of different age groups, 5 to 8 years and 9 to 13 years old.⁹⁰ The publications aim to prepare children for delivering their testimony, introducing them to their role in proceedings and the importance of their presence. Publications are made with the use of child-friendly language. They were first published in 2010 and updated in November 2020. However, there is still room for improvement when it comes to providing information to children by means of publications and informative videos.

Another example of good practice when it comes to children, including those with intellectual or psychosocial disabilities, is the adaptation of the Slovenian Constitution to a child-friendly and easy-to-read format.⁹¹ The Constitution has been presented in a comic book⁹² and in an easy-to-read format.⁹³

⁸⁸ Article 143d, ZKP

⁸⁹ <https://nasodiscu.si/animacije#otrok-na-sodiscu>

⁹⁰ <https://www.sodisce.si/znanje/publikacije/>

⁹¹ <https://nasodiscu.si/ustava-republike-slovenije>

⁹² <https://www.us-rs.si/ustava-v-stripu/>

⁹³ <https://www.zveza-sozitie.si/lahko-berljiva-ustava.html>

Points to address

RECOMMENDATION #10: *Begin discussions on making child-friendly and simplified versions of the decisions available in all proceedings concerning children (e.g., in administrative procedures). Adopt legislative provisions in that regard.*

RECOMMENDATION #11: *Introduce mandatory training for all professionals working with children on communication skills and the use of child-friendly language in oral and in writing (social workers, interpreters, police, prosecutors, judges, etc.).*

RECOMMENDATION #12: *Organize training on communication with vulnerable groups of children such as children with intellectual and psychosocial disabilities or children with migrant background.*

RECOMMENDATION #13: *Adapt all the relevant publications and videos concerning people in judicial and administrative proceedings to children and their needs.*

Indicator I A #3 // Protection of private and family life: Laws protecting the identity of children and foreseeing rules of confidentiality are enacted and implemented.

Analysis notes

Criminal law

→ VIDEOCONFERENCE

All interviews taking place in the **Children's House** take place via audiovisual means. According to ZZOKPOHO, the space for interviewing children shall consist of two separate rooms connected via AV systems.⁹⁴ In one there is a child and an expert interviewing the child (using techniques for forensic interviewing) and in the other there is the judge conducting the proceedings and other participants such as the prosecutor, the defendant, the defense counsel, the child's legal representative, the child's counsel, an employee of the social work center ... The child will not see or meet other participants but will be informed of the fact that they follow the conversation via AV means. By the law, the child is allowed to be accompanied by a person of trust during the interview. The hearing transmitted via AV means is recorded and the recording may be used as evidence in court.⁹⁵

Children involved in criminal proceedings may also be heard by means of videoconference outside the Children's House. ZKP permits the use of AV means, namely "the use of modern technical devices for the transmission of image and sound (videoconference)" for witnesses or accused, including for adults, under certain circumstances.⁹⁶ The decision to make use of the AV system is not up to the party in the proceedings but up to the conditions laid down in law and at the discretion of the judge.⁹⁷ In the case of children, the hearing often takes place via AV means – in some cases it is mandatory and in some cases permitted, if found necessary. For example, if the victim is under 15 years old and was subject to crimes against sexual integrity, crimes against marriage, family and youth, the crimes of enslavement or the criminal offense of trafficking in human beings, the hearing shall always take place in a child-friendly room, unless this is not necessary for justifiable reasons substantiated by the court).⁹⁸ The hearing in a child-friendly room are carried out in the presence of a child's support person, investigative judge and sometimes another person (pedagogue, psychologist ...). Sometimes the court expert is also present in order to establish whether the child understood the meaning of their right of not having to testify against

⁹⁴ Article 23, ZZOKPOHO

⁹⁵ <https://www.hisa-za-otroke.si/za-starse-in-skrbnike/>

⁹⁶ Article 244.a(1), ZKP

⁹⁷ Article 244a(2) onward, ZKP

⁹⁸ Article 240(6), ZKP, in conjunction with Article 65(3) ZKP

their close relatives (*pravna dobrotá*).⁹⁹ Similarly to the procedure in the Children's House, the defendant, their defense counsel, the prosecutor, the child's counsel etc. are present in another room, following the hearing via videoconference.¹⁰⁰ The hearings of children below 15 are recorded and the recording used as evidence in the main hearing.

Children above the age of 15 may also be heard via AV means but not necessarily. They may also be heard at the main trial, in the presence of a defendant, but only if that would not obstruct their ability to give a credible testimony.

The use of video-conferencing and telephone conferencing is also enabled by the **Witness Protection Act (ZZPrič)**, defining the use of AV transmission as one of the protection measures available to witnesses.¹⁰¹

→ PROVIDING EVIDENCE IN CAMERA

The panel may, *ex officio* or upon a motion of the parties, at any time but always after hearing the parties, from the opening of the session until the conclusion of the main hearing, exclude the public from all or part of the trial, if this is necessary for the protection of *inter alia* the interests of a minor.¹⁰² In cases of **trials against minors**, the public shall always be excluded.¹⁰³ The panel may allow persons involved in the care and education of minors, the suppression of juvenile delinquency and scientific experts to be present during the trial.¹⁰⁴ During the main hearing, the panel may order all or certain persons to leave the courtroom, except the state prosecutor, defense counsel and the representative of a social welfare authority.¹⁰⁵ In cases of **hearing a witness under the age of 18**, the panel may order that the public be excluded from the hearing.¹⁰⁶ By providing evidence in camera in the ways listed, the release of personal information and data of both minor victims, witnesses and minors is protected.

→ PROTECTION OF THE IDENTITY, PRIVACY AND PERSONAL INFORMATION AND DATA

⁹⁹ https://www.youtube.com/watch?v=106RKullQrl&list=PLkQClo6BK9fVE9IIA_We1vnOT2kOecRWm&index=2

¹⁰⁰ https://www.youtube.com/watch?v=106RKullQrl&list=PLkQClo6BK9fVE9IIA_We1vnOT2kOecRWm&index=2

¹⁰¹ Article 19, Article 26, ZZPrič

¹⁰² Article 295 ZKP

¹⁰³ Article 480 ZKP

¹⁰⁴ Article 480(2) ZKP

¹⁰⁵ Article 480(3) ZKP

¹⁰⁶ Article 331, ZKP

Rules on disclosure of personal data or identity of a witness are regulated in ZKP. The court may make use of several protection measures to protect the witness or their close relatives including:¹⁰⁷

- removal of all or particular data from the criminal case file¹⁰⁸;
- the marking of all or some of the data as data not available to the public due to the interests of the proceedings;
- issuing an order to the accused person, their defence counsel, the injured party or their legal representatives and counsels to keep particular facts or data secret;
- the assignment of a pseudonym to the witness;
- hearing the witness by means of technical equipment (a protective screen, sound-altering device, transmission of sound from separate premises and other similar technical protective means).

Furthermore, when it comes to **minors in conflict with law**, decisions rendered by the court may not be published without the permission of the court and only a part of the proceedings or the decision which the court has allowed to be published may be published.¹⁰⁹ Even in this scenario, the minor's name and other information from which their identity of the minor could be inferred shall not be published. In this way their right to privacy is addressed.

Under Slovenian law, a criminal offence is committed when journalists publish a news article that allows the identification of a **child victim**. In such cases, the authors of the article are subject to police investigation on suspicion of committing violation of the secrecy of proceedings. Namely, “[w]hoever publishes the personal data of a minor who is party to judicial, administrative, or any other proceedings, or publishes other information that could be relevant to establishing the minor’s identity, shall be punished by a fine or imprisonment for up to three years.”¹¹⁰ The same criminal offense can be committed by the child’s parents if they publish information about their child while the child is part of formal proceedings.¹¹¹ The exception is when the police on the basis of a report of a missing child publishes the child's photograph and other personal data in order to find them more quickly. This can be done with or without the consent of the child's parents, if the police find that public attention would be in the child’s best interest. Generally, the guidelines for reporting on children prepared by the Slovenian Ethics Commission of Journalists (“Častno novinarsko razsodišče”) follow the

¹⁰⁷ Article 240a, ZKP

¹⁰⁸ Article 240a(3), ZKP; First name and surname, occupation, place of residence, place of birth, the day, month and year of birth, EMŠO number and his or her relationship to the accused person and the injured party

¹⁰⁹ Article 460, ZKP

¹¹⁰ Article 287(2), KZ

¹¹¹ Janez Krek in Neža Miklič, *Zaščita otroka pred izvenšolskim nasiljem: Priročnik za vzgojitelje, učitelje in druge strokovnjake* (2023), Univerza v Ljubljani, Pedagoška fakulteta

Convention on the Rights of the Child (CRC).¹¹² The protection of minor victim's rights is in this way strengthened.

In the field of criminal law, the **Domestic Violence Prevention Act** also protects the victim's identity, including the protection of personal data of children.¹¹³ The act additionally includes the option to prohibit certain perpetrators of violence to publish victim's personal information, documents from court or administrative files and personal records referring to the victim, including children.¹¹⁴ In this way, victims and witnesses are additionally protected.

→ TRAINING

KZ and ZKP do not foresee training on confidentiality and data protection for professionals working for and with children.

Civil law

→ VIDEOCONFERENCE

In the context of civil proceedings, the **Civil Procedure Act (ZPP)** foresees the use of video conferencing.¹¹⁵ The use of video conferencing is conditioned upon the consent given by both parties. The provision does not make a distinction between adults and children.

The **Non-Contentious Civil Procedure Act (ZNP)** does not make reference to video conferencing.

→ PROVIDING EVIDENCE IN CAMERA

In civil proceedings following ZPP, the main hearing is held in an open court.¹¹⁶ The law does not explicitly include provisions excluding public from the hearing due to children being heard.

Court hearings in family cases are always closed to the public.¹¹⁷

¹¹² Janez Krek in Neža Miklič, *Zaščita otroka pred izvenšolskim nasiljem: Priročnik za vzgojitelje, učitelje in druge strokovnjake* (2023), Univerza v Ljubljani, Pedagoška fakulteta

¹¹³ Article 9, ZPND

¹¹⁴ Article 19(1), ZPND

¹¹⁵ Article 114a, ZPP

¹¹⁶ Article 293, ZPP

¹¹⁷ Article 43, ZNP

Proceedings conducted pursuant to the Domestic Violence Prevention Act shall be closed to the public.¹¹⁸

→ TRAINING

ZPND do not foresee training on confidentiality and data protection for professionals working for and with children.

Administrative law

→ VIDEOCONFERENCING

The use of video conferencing is available within the meaning of the General Administrative Procedure Act (ZUP).¹¹⁹ Attendance in video conferencing is not mandatory as all those who do not wish or cannot join the hearing via video conference may appear at the hearing in person (the place and room is indicated in the summons).¹²⁰

Administrative law (asylum procedure)

→ VIDEOCONFERENCING

A personal interview may also be conducted via videoconferencing in exceptional cases, provided that the secure transmission of data is guaranteed.¹²¹

→ PROVIDING EVIDENCE IN CAMERA

In asylum proceedings, the public is always excluded from personal interviews. The exclusion of the public shall not apply to statutory representatives of children and other authorised representatives. With the consent of the interviewed person, a representative of the United Nations High Commissioner for Refugees, other public officials, researchers and students may also be present if their presence is relevant to the scientific work and the institution.¹²²

→ TRAINING

¹¹⁸ Article 22a(6), ZPND

¹¹⁹ Article 102 and Article 154, ZUP

¹²⁰ Article 102(2), ZUP

¹²¹ Article 37(8), ZMZ-1

¹²² Article 37(4), ZMZ-1

ZMZ-1 foresees training on confidentiality and data protection for refugee counsellors. They are obliged to undergo basic vetting prior to the appointment, “in accordance with the act governing the protection of classified information and have been granted a personnel security clearance to access information classified CONFIDENTIAL.”¹²³ In comparison to other acts, the obligation to undertake training is more clearly prescribed in this case.

Points to address

When it comes to protecting identity, privacy and personal data of children in asylum proceedings, one provision concerning the relief of a refugee counsellor of their duties has been called into question. According to the provision of ZMZ-1, a refugee counsellor may be relieved of their duties if it is established “that they are aware of the applicant's true identity, are in possession of the applicant's identification documents, are aware of the applicant's actual age if the applicant claims to be a minor, or are aware of the facts on whose basis the applicant is not entitled to refugee status or subsidiary protection, but fail to inform the competent authority thereof.”¹²⁴ Relieving a refugee counsellor of their duties under this provision may influence the attorney-client privilege or trust established between the refugee counsellor and their client, a child, in the context of this research.

As explained in the latest AIDA Report,¹²⁵ activities of refugee counsellors are identical to the activities of attorneys according to the decision of the Administrative Court.¹²⁶ As refugee counsellors carry out the same activities as attorneys, they share the same rights and obligations in relation to their clients,¹²⁷ including the obligation to respect attorney-client privilege under which the communication between the attorney and client is protected as confidential.¹²⁸ Breach of this obligation is considered a severe violation of the attorney's duties according to the Constitutional Court.¹²⁹ In addition, the duty to protect attorney-client privilege is not the privilege of the attorney but his/her obligation, together with the protection of his/her clients' constitutionally protected human rights, mainly the protection of privacy and personal rights, protection of secrecy of letters and other media and protection of personal data. This ensures the

¹²³ Article 9(4), ZMZ-1

¹²⁴ Article 9, ZMZ-1

¹²⁵ Urša Regvar, Lana Krznarič, *AIDA Country Report - 2023 Update Slovenia* (2024), Asylum Information Database (AIDA), Available at: <https://asylumineurope.org/reports/country/slovenia/>

¹²⁶ Administrative Court decision, U 2135/2004, 14. November 2005, available in Slovenian at: <https://bit.ly/3yQq8WZ>; Administrative Court decision, I U 1858/2015, 16. November 2016, available in Slovenian at: <https://bit.ly/39xHcpi>.

¹²⁷ Administrative Court decision, U 2135/2004, 14. November 2005, available in Slovenian at: <https://bit.ly/3yQq8WZ>; Administrative Court decision, I U 1858/2015, 16. November 2016, available in Slovenian at: <https://bit.ly/39xHcpi>.

¹²⁸ Zagovornik načela enakosti, Ocena diskriminatornosti zakona ali drugega predpisa po 38. členu ZVARA, 10 June 2022, available at: <http://bit.ly/3HgWEEP>.

¹²⁹ Constitutional Court decision, Up-2530/06, 14. April 2010, available in Slovenian at: <https://bit.ly/3yKzPFy>; Constitutional Court decision, U I 115/14, 21, January 2016, available in Slovenian at: <https://bit.ly/3Mvi7dj>.

respect of the right to judicial review and the right to appeal.¹³⁰ The position of PIC is that the provision that allows the refugee counsellor to be dismissed from the function is thus in direct violation of the Slovenian Constitution. Refugee counsellors submitted the provisions for review to the Advocate of the Principle of Equality who stated that asylum seekers have the right to an effective legal remedy and judicial review and that the provision of the IPA renders that right void and null. The Advocate noted that confidentiality between the asylum seeker and the refugee counsellor is the basis for exercising the right to an official legal remedy. The Advocate also issued a recommendation to the Ministry of the Interior to change the provisions.¹³¹ In February 2022, opposition parliamentarians submitted the provision to the Constitutional Court for constitutional review however the decision has not yet been taken.¹³²

¹³⁰ Constitutional Court decision, Up-2530/06, 14. April 2010, available in Slovenian at: <https://bit.ly/3yKzPFy>; Constitutional Court decision, U I 115/14, 21, January 2016, available in Slovenian at: <https://bit.ly/3Mvi7dj>.

¹³¹ Zagovornik načela enakosti, Ocena diskriminatornosti zakona ali drugega predpisa po 38. členu ZVARD, 10 June 2022, available in Slovenian at: <http://bit.ly/3HgWEEP>.

¹³² 24.ur: Določbe zakona o tujcih in mednarodni zaščiti v ustavno presojo, 10 February 2022, available in Slovenian at: <https://bit.ly/3Pv1Yq7>.

Indicator I A #4 // Safety and training: All professionals working for and with children in proceedings are appropriately vetted and trained.

Analysis notes

Criminal law

Compulsory training of legal professionals in criminal law is obligatory for those in contact with juvenile offenders. According to ZKP, “judges, public prosecutors, police officers, defense counsels and mediators involved in proceedings against a minor shall acquire additional knowledge in the field /.../.”¹³³ A similar provision does not exist for those in contact with juvenile victims and witnesses.

RECOMMENDATION #14: *Codify a provision on mandatory training of legal professionals in contact with juvenile victims and witnesses.*

In order to enforce the provision concerning the training in juvenile delinquency, the **Rules on the programme and method of conducting basic and periodic training for judges, public prosecutors, police officers, defence counsel and mediators involved in juvenile proceedings** were adopted. The rules were adopted in 2021, with a view of making the basic training available to all the professionals in contact with children. According to the rules, the basic training shall last at minimum 18 pedagogical hours, with each pedagogical hour lasting 45 minutes.

The basic training for all groups of professionals shall cover the following topics:

- specific aspects of working with juvenile offenders and on juvenile delinquency
- understanding the development of minors
- techniques of interviewing or questioning the minor
- the enforcement of sanctions for minors

The basic training shall be supplemented with periodic training, to refresh knowledge, which should last at least 6 pedagogical hours.

For defense counsels, the basic training is carried out by the Slovenian Bar Association, lasting 21 pedagogical hours or 3 work days.¹³⁴ The training is free of charge if the Ministry of Justice provides the funding for it, which is not the case at the moment. The fee for OZS members is 280,00 EUR + VAT and for external participants 420,00 EUR + tax.

¹³³ Article 452b, ZKP

¹³⁴ Odvetniška akademija, *Usposabljanje odvetnikov zagovornikov – november 2024* (2024), Odvetniška zbornica Slovenije, Available at: <https://www.odv-zb.si/2024/10/19/usposabljanje-odvetnikov-zagovornikov-november-2024/>

The basic training for judges, public prosecutors and mediators is carried out by the Judicial Training Centre (CIP) in the Children's House. The training lasts 4 work days, one day per each training topic.¹³⁵

→ CHILDREN'S HOUSE

When it comes to the training of staff working in the **Children's House**, the institution is in charge of developing and adopting programmes as well as carrying out the training and assessments of knowledge of professionals who assist in the interviews of children. The institution is also in charge of providing training for counselors providing crisis and psychosocial support to children and their family members.¹³⁶ The members of the Council of the Children's House shall be also properly vetted and trained according to the law – they shall acquire relevant knowledge and experience in working with children, on the psychiatric or psychological treatment of children, education and the rights of children.¹³⁷ Training requirements laid down in law for the staff working in the Children's House may be viewed as a good model to be applied in other institutions and areas of law too.

→ "THE RULE OF A NATURAL JUDGE"

When it comes to qualification of judges, researchers have highlighted before the so-called "rule of a natural judge" according to which cases which are referred to the court are assigned randomly to judges working in the criminal sector. Due to the rule no one can predict which judge will adjudicate upon the case submitted to court. Such arrangement safeguards the right to judicial protection enshrined in the Slovenian Constitution.¹³⁸ This also means that the same judge may in the morning adjudicate criminal cases of economic nature and in the afternoon cases against sexual integrity, such as sexual assault on a person younger than 15, for example.¹³⁹ This means that all judges need to be highly sensitized about topics concerning vulnerable subjects and subject matters when they receive such a matter to adjudicate upon. While it is possible in larger district courts to ensure specialization of some of the judges within the court administration (e.g. the Ljubljana District Court), this is rarely possible, if not impossible, in other courts.

Specialization may also be possible within the prosecution, however only in larger prosecution offices in Slovenia. In order to ensure the necessary education and sensitivity of decision-makers in dealing with cases, training of all judges and

¹³⁵ See here: <https://cip.gov.si/aktivnosti/detajli/?ID=6b28cb79-5e35-ec11-9c73-005056818ee6&Tag=470>

¹³⁶ Article 7(2), ZZOKPOHO

¹³⁷ Article 9(2), ZZOKPOHO

¹³⁸ Article 23(2), the Constitution

¹³⁹ https://www.youtube.com/watch?v=106RKuIIQrl&list=PLkQClo6BK9fVE9IIA_We1vnOT2kOecRWm&index=3

prosecutors dealing with cases involving children should be required, or at least considered, like in cases concerning juvenile delinquency.

Civil law

The Civil Procedure Act (ZPP) and the Non-Contentious Civil Procedure Act (ZNP-1) do not include provisions on competency-based training on child-friendly justice.

In the field of mediation, rules on mediators in court programmes state that if mediation in parent-child disputes is conducted by two mediators, one must have passed a state exam in law, and the other must have expertise in psychology or a similar field.¹⁴⁰ Hence the law foresees that at least one mediator is well-versed in *inter alia* psychology of minors.

It seems that more training activities were held on the topic of children in criminal proceedings than in civil law proceedings.¹⁴¹

Administrative law

The acts in the field of administrative law do not *per se* foresee training on the rights and needs of children, communication, provision of support etc.

Administrative law (asylum procedure)

→ STATUTORY REPRESENTATIVES

The training of candidates for statutory representatives of unaccompanied children in asylum proceedings is defined in Slovenian law. The training lasts 40 hours and includes 16 hours of theoretical work and 24 hours of practical work. The statutory representative must undergo periodic training every three years from the date of registration on the list of statutory representatives maintained by the ministry. The periodic training lasts 8 hours.¹⁴²

¹⁴⁰ Article 2, Rules on mediators in court programmes ("Pravilnik o mediatorjih v programih sodišč")

¹⁴¹ Ana Bajt and Katarina Bervar Sternad, *Gap analysis and recommendations for education and training in the field of ensuring the best interests of the child in civil court proceedings in Slovenia* (2024), Joint EU-Council of Europe project "Ensuring the best interests of the child in civil court proceedings in Slovenia" 23SI08

¹⁴² Article 6, "Decree on the manner in which the statutory representation of unaccompanied minors is to be carried out and the appropriate accommodation, care and treatment of unaccompanied minors is to be ensured" (Uredba o načinu izvajanja zakonitega zastopanja mladoletnikov brez spremstva ter načinu zagotavljanja ustrezne nastanitve, oskrbe in obravnave mladoletnikov brez spremstva)

Regulatory framework obliges candidates to cover the following topics in their training and periodic training: family law, social work, psychology, the protection of human rights and fundamental freedoms and asylum law.¹⁴³

Training in family law shall cover

- guardianship,
- foster care and
- the protection of the rights of the child.

Training in social work shall cover

- national legislation on social welfare,
- social work skills,
- taking into account the principle of the best interests of the child,
- intercultural, racial and religious characteristics,
- development of intercultural competences in child advocacy (self-awareness of one's own value system, coping with stereotypes, adaptability),
- principles of good practice in working with minors,
- communication skills and basic standards of their work.

Training in psychology shall cover

- developmental psychology (growing up in relation to identity construction and loss, influences of the environment, basic needs of children, motivation, being emotional),
- characteristics of minors,
- working with the child (establishing a trusting relationship, ways of communicating with the child, post-traumatic syndrome, exposure of children to risks and dangers).

Training in the protection of human rights and fundamental freedoms and asylum law covers

- general information on the protection of human rights and fundamental freedoms,
- international protection as a human right,
- European Union legislation on international protection,
- the legal framework of international protection in the Republic of Slovenia,
- general principles of the law governing general administrative procedure
- trafficking in human beings: risk factors, strategies for prevention and coping mechanisms.

¹⁴³ Article 7, "Decree on the manner in which the statutory representation of unaccompanied minors is to be carried out and the appropriate accommodation, care and treatment of unaccompanied minors is to be ensured" (Uredba o načinu izvajanja zakonitega zastopanja mladoletnikov brez spremstva ter načinu zagotavljanja ustrezne nastanitve, oskrbe in obravnave mladoletnikov brez spremstva)

Hence, the legislative framework is rather exact in defining training topics. In practice, however, not all statutory representatives are well-versed and educated in representing children in asylum proceedings – they often lack knowledge in communicating with them and meeting their individual needs.¹⁴⁴ While the framework is solid and well-thought through in law, there is plenty of room for improvement in practice.

It shall be noted additionally that upon completing the training programme, statutory representatives are oftentimes left to themselves to work with the minor. They lack support at the beginning of their work in the field which is not provided to them by the official authorities. Statutory representatives come from a range of backgrounds to representing the child and enter the training and work system with different predispositions. The practice oftentimes depends on the personality of the statutory representative.¹⁴⁵

→ OFFICIALS OF THE MIGRATION DIRECTORATE (Determining authority)

In 2023 officials of the Migration directorate attended training on vulnerability and work with unaccompanied minors (the EUAA training) and one official attended the training on working with unaccompanied minors.¹⁴⁶ There is no special division for processing asylum applications of vulnerable groups in Slovenia, for example applications by unaccompanied minors. Hence all decision makers should be trained and sensitised on topics such as vulnerability and the particular position of unaccompanied minors.

RECOMMENDATION #15: *Ensure that decision-makers in asylum procedures are regularly trained and sensitised on vulnerability of unaccompanied minors. Ensure that such training is a prerequisite for decision-makers to decide on cases concerning unaccompanied minors.*

Good practice

An example of good practice is the recent development of a pilot digital training tool developed by the Ministry of Justice, Ministry for Digital Transformation, Children's House and the Faculty of Computer Science and Informatics of the University of Ljubljana.¹⁴⁷ The tool will be used to train professionals working with children in stressful situations, in different spheres of life: justice sector, social work, the police, education, medical institutions etc. The training tool is currently used as a pilot project

¹⁴⁴ Observations by the PIC. Urša Regvar, Lana Krznarič, *AIDA Country Report - 2023 Update Slovenia (2024)*, Asylum Information Database (AIDA), Available at: <https://asylumineurope.org/reports/country/slovenia/>

¹⁴⁵ Observations by the PIC. Urša Regvar, Lana Krznarič, *AIDA Country Report - 2023 Update Slovenia (2024)*, Asylum Information Database (AIDA), Available at: <https://asylumineurope.org/reports/country/slovenia/>

¹⁴⁶ Information provided by the Migration directorate, March 2024. Urša Regvar, Lana Krznarič, *AIDA Country Report - 2023 Update Slovenia (2024)*, Asylum Information Database (AIDA), Available at: <https://asylumineurope.org/reports/country/slovenia/>

¹⁴⁷ See here: <https://www.youtube.com/watch?v=Vy9g2BXy4MA>

in the Children's House to train professionals conducting forensic interviews with children in criminal proceedings.¹⁴⁸ The tool consists of an interface between the trainer who takes on the role of the child and the trainee, who trains to be the child's interviewer. The pilot version of the tool technically allows for three roles: trainer, participant and observer. The tool establishes a communication between two adults, the trainer and the participant, whereas the trainer controls an avatar of a child and the participant takes up the role of an interviewer. The trainer answers questions posed by the participant carrying out the forensic interview via the avatar of a child. In the training, different scenarios reflecting real-life situations of interviewing children are involved. A third person, the observer, can also participate in the communication, passively observing the training of the two adults via a computer in a separate room. The observer can provide written comments about the communication.¹⁴⁹ The development of such a tool represents a qualitative shift in the way training is provided to all stakeholders working with children in stressful situations. The project is expected to be finalized in 2026.¹⁵⁰

Points to address

Legal professionals have varying degrees of training in working with children. With a few exceptions, training programmes on child-friendly justice are generally not offered or made obligatory.

According to the recent study conducted by PIC in the field of ensuring the best interests of the child in civil court proceedings, training concerning children have been organized in the past¹⁵¹ but they were not delivered systemically, equally across regions and in an interdisciplinary manner.¹⁵² Consultation, round tables and other types of educational activities were commonly organized as one-time events with no recording of the discussion available to those unable to attend. Changes in those aspects would be beneficial for the system.

¹⁴⁸ Ministrstvo za pravosodje, *18. november - Evropski dan za zaščito otrok pred spolnim izkoriščanjem in spolno zlorabo* (2024), Available at: <https://www.gov.si/novice/2024-11-18-18-november-evropski-dan-za-zascito-otrok-pred-spolnim-izkoriscanjem-in-spolno-zlorabo/>

¹⁴⁹ Ministrstvo za pravosodje, *18. november - Evropski dan za zaščito otrok pred spolnim izkoriščanjem in spolno zlorabo* (2024), Available at: <https://www.gov.si/novice/2024-11-18-18-november-evropski-dan-za-zascito-otrok-pred-spolnim-izkoriscanjem-in-spolno-zlorabo/>

¹⁵⁰ Ministrstvo za pravosodje, *18. november - Evropski dan za zaščito otrok pred spolnim izkoriščanjem in spolno zlorabo* (2024), Available at: <https://www.gov.si/novice/2024-11-18-18-november-evropski-dan-za-zascito-otrok-pred-spolnim-izkoriscanjem-in-spolno-zlorabo/>

¹⁵¹ In the field of civil law, training has already been provided in the past on topics related to the best interests of the child and to the concept of joint custody. To a lesser extent, training activities have covered children's rights in civil court proceedings. In the past, training on family dynamics has often been set in the context of domestic violence, while family dynamics without elements of violence have been dealt with to a limited extent. Training activities on child and adolescent development have been carried out in the past, but oftentimes only in the context of criminal proceedings.

¹⁵² Ana Bajt, Katarina Bervar Sternad, ANALIZA VRZELI IN PRIPOROČILA ZA IZOBRAŽEVANJE IN USPOSABLJANJE NA PODROČJU ZAGOTAVLJANJA NAJVEČJE KORISTI OTROK V CIVILNIH SODNIH POSTOPKIH V SLOVENIJI (2024) Skupni projekt EU in Sveta Evrope "Zagotavljanje največje koristi otrok v civilnih sodnih postopkih v Sloveniji" 23SI08

RECOMMENDATION #16: *Consult the report on ensuring the best interests of the child in civil court proceedings in Slovenia and draw from recommendations therein when it comes to children in family proceedings.*

According to the collected data, training in family law should cover *inter alia* the following topics:

- **On the principle of the best interests of the child.** As put forward recently by the national experts “[t]he best interests of the child are determined at various levels, including outside the judiciary, which inevitably means that they are interpreted differently, which is not a bad thing in itself. It becomes problematic when the interpretations of the same matter are contradictory and completely at odds with each other. Therefore, consultations and training on this topic should be organised to allow for dialogue and constructive debate that respects the different views on the best interests of the child.”¹⁵³
- **On the relationship between the principle and the rights of the parents.** As pointed out by an external national expert, “it is difficult for the courts to balance the rights of the parents against the best interests of the child.” It would therefore be important to include these considerations in further training.”¹⁵⁴
- **On the principle of joint custody.** It is important to clearly delineate when joint custody over a child is beneficial for the child and when it is not.
- **On child participation.** Study programmes for professionals working with children, such as social work, increasingly include children's rights and children's participation as important topics. However, the topics are usually touched upon within other subjects and do not comprise a stand-alone subject. Furthermore, more attention should be paid not only to acquiring theoretical but also practical knowledge. The curriculum should also put more emphasis on vulnerable children. Additionally, training should not only be provided to students, on-the-job training providing additional skills, competences and insights on these topics to already employed professionals should also be provided.

RECOMMENDATION #17: *Conduct empirical research with relevant stakeholders to create a more thorough listing of which topics are to be covered in training activities of different legal professionals.*

Another point of action to be addressed with regards to training is the provision of sufficient funding for staff to attend training. In previous consultations it has been pointed out that individual social work centres do not have enough budget to cover the

¹⁵³ Vesna Leskošek, PhD (Full professor, Faculty of Social Work, University of Ljubljana), Jasna Podreka, PhD (Professor, Faculty of Arts, University of Ljubljana), Maja Plaz (SOS Helpline for women and children Victims of Violence, Head of the Association), Katja Zabukovec Kerin (Association for Nonviolent Communication – DNK, Head of the Association)

¹⁵⁴ Vesna Leskošek, PhD (Full professor, Faculty of Social Work, University of Ljubljana), Jasna Podreka, PhD (Professor, Faculty of Arts, University of Ljubljana), Maja Plaz (SOS Helpline for women and children Victims of Violence, Head of the Association), Katja Zabukovec Kerin (Association for Nonviolent Communication – DNK, Head of the Association)

cost of training for their staff – they are only able to cover one training event per social worker per year.¹⁵⁵

RECOMMENDATION #18: *Conduct analysis on financial needs of CSDs to cover training sessions for their staff. Raise the bar of how many training sessions per year each social worker can attend.*

In view of training activities, it may be useful to design protocols or guidelines on how to work with children in different legal context for different groups of professionals. According to the government, Slovenia participated in the Steering Committee on the Rights of the Child (CDENF) which prepared guidelines for the protection of rights of the child in migration (CAHENF – VAC) and guidelines for the protection of children against violence (CAHENF – SAFEGUARDS).¹⁵⁶ It would be valuable to draw from those in preparation of the national guidelines.

RECOMMENDATION #19: *Examine the need to develop protocols or guidelines for working with children in different work settings (e.g. the police, social work centres).*

¹⁵⁵ Q&A Session after the presentation of the report by PIC at the Roundtable event by CoE.
<https://www.coe.int/en/web/children/-/ensuring-the-best-interests-of-the-child-in-civil-court-proceedings-in-slovenia-discussing-key-findings-from-legal-and-training-gap-analyses>

¹⁵⁶ Combined fifth and sixth periodic reports of the Republic of Slovenia on the basis of the Convention on the Rights of the Child and the Report outlining the actions undertaken to implement the provisions of the Optional Protocols (2021), Committee on the Rights of the Child, CRC/C/SVN/5-6

Indicator I A #5 // National law provides alternatives to judicial, administrative, and other legal proceedings, such as diversion and alternative dispute resolution.

Analysis notes

Slovenian criminal law provides alternatives to judicial proceedings, namely a settlement procedure (“poravnava”) or a deferred criminal prosecution (“odloženi pregon”). They are both available to minors and even encouraged in proceedings against them.

Settlement (“poravnava”) is an out-of-court procedure in which the defendant and the injured party seek joint solutions to overcome the consequences of the crime and their mutual conflicts with the help of an independent mediator (“poravnalec”). The state prosecutor may refer a criminal complaint or a motion of indictment to a settlement procedure if the criminal offence is punishable by a fine or a sentence of imprisonment of up to three years, and, in the case of minors, if the criminal offence is punishable by a sentence of imprisonment of up to five years.¹⁵⁷ The most common cases to be settled are neighbor and family disputes, cases of physical assaults on the person, minor and serious bodily injuries, threats to safety, verbal and physical confrontations with minor consequences, minor offenses against property and certain offenses against human rights and freedoms.¹⁵⁸

A deferred criminal prosecution (“odloženi pregon”) is a procedure that is initiated if the information gathered indicates that a person has committed a crime but the public prosecutor considers that prosecution is not necessary if the suspect, on their instructions, will reduce or eliminate the harmful consequences of the act. In this case, the public prosecutor, with the consent of the injured party, shall offer the suspect the opportunity to carry out certain tasks. If the suspect complies, the prosecutor closes the criminal case without going to court.¹⁵⁹ The deferred criminal prosecution procedure is laid down in Article 162 ZKP. Similarly to settlement, a deferred criminal prosecution procedure may be used if the criminal offense is punishable by a fine or a sentence of imprisonment of up to three years, and, in the case of minors, if the criminal offense is punishable by a sentence of imprisonment of up to five years.

A public prosecutor may also find that the proceedings against the minor would not be **expedient** (“smotern”) and decides not to request the institution of criminal proceedings against them. This may be the reason for criminal offenses punishable by up to three years of imprisonment or a fine. The prosecutor decides on the expediency by looking into the nature of the criminal offense and the circumstances in which it was

¹⁵⁷ Article 161a, ZKP

¹⁵⁸ <https://www.dt-rs.si/predkazenski-postopek>

¹⁵⁹ <https://www.dt-rs.si/predkazenski-postopek>

committed, as well as in view of the past life of the minor and their personal traits.¹⁶⁰ In doing so, the prosecutor may consult the minor's parents, guardians, other persons and institutions. If found expedient, the state prosecutor may decide to refer the criminal complaint to a settlement procedure or to defer criminal prosecution.¹⁶¹

The prosecutor may also act without opening criminal proceedings if the enforcement of **another punishment or a corrective measure is already in progress**. The state prosecutor may decide not to request the institution of criminal proceedings for another criminal offense committed by the minor if, in view of the relative gravity of that offense and of the punishment or the corrective measure being enforced, the proceedings and the imposition of another criminal sanction would be pointless.¹⁶² Alternative sanctions are not possible for sexual offenses under Slovenian criminal law.

The state prosecutor shall also dismiss a criminal complaint if there is **disproportionality** between the significance of the criminal offense and the consequences to be caused by criminal prosecution.¹⁶³ The risks may be insignificant due to the nature or gravity of the offence, as the harmful consequences are insignificant or did not occur, due to other circumstances in which the criminal offence was committed and the low degree of the perpetrator's culpability, or due to the perpetrator's personal circumstances, such as that of being a minor.

Mediation is one of the options of the alternative dispute resolution system. In Slovenia, mediation can take place before, during or after the court proceedings and includes help with personal and property issues. Mediation during court proceedings is carried out by mediators in the framework of programmes adopted by the courts, while mediation before and after court proceedings is carried out by mediators at social work centres and by external mediation providers who are included in the list of mediators of the Ministry of Labour, Family, Social Affairs and Equal Opportunities.¹⁶⁴

¹⁶⁰ Article 466(1), ZKP

¹⁶¹ Article 466(2), ZKP

¹⁶² Article 466(3), ZKP

¹⁶³ Article 161, ZKP

¹⁶⁴ <https://www.gov.si/teme/mediacija-v-druzinskih-sporih/>

Indicator I B #6 // Domestic law foresees specific provisions for children in conflict with the law.

Indicator I B #6a // National law establishes standards on child justice system including a Minimum Age of Criminal Responsibility (MACR) for all cases, which meets European and international standards.

Analysis notes

There are no courts specialized in juvenile justice in Slovenia. Proceedings against minors are primarily carried out before the district courts.

Court proceedings against juvenile offenders consist of three phases:

- preparatory proceedings
- the main hearing
- review of the enforcement of the sentence (if the court imposes one)

In the preparatory proceedings, the judge establishes the facts relating to the offense, assesses the maturity of the juvenile offender, their personality, needs, family and life circumstances etc. The preparatory proceeding is governed in Articles 468 to 478 ZKP.

Article 451 of ZKP lays down general rules on proceedings against persons who committed an offense as minors and who were under the age of 21 at the time the criminal proceedings were instituted or when they were tried for the offence. If the person was 21 years old already, other provisions of ZKP apply.

The minimum age of criminal responsibility in Slovenia is 14 years of age. A minor becomes criminally responsible as of the day of their fourteenth birthday plus one day. If it is established during the proceedings that the minor, at the time of committing a criminal offense, had not yet attained the age of criminal responsibility, the criminal proceedings shall be discontinued and a social welfare authority shall be informed about their behaviour.¹⁶⁵

The Slovenian legal framework allows that minors who commit an offense between the minimum age of criminal responsibility and the age of legal majority, that is the age of 18, benefit from a child-friendly justice system without exception.

Important amendments were made to the Criminal Procedure Act in 2021 that codified additional rights of minors in conflict with law. For example, Article 452a ZKP now states that if the age of the minor cannot be ascertained, it shall be presumed, in case of doubt, that the minor has not yet attained that age.¹⁶⁶ Additionally, judges, public

¹⁶⁵ Article 452, ZKP

¹⁶⁶ Article 452a, ZKP

prosecutors, police officers, defense counsels and mediators involved in proceedings against a minor shall acquire additional knowledge in the field of juvenile delinquency. The Bar Association of Slovenia shall maintain and publish a list of lawyers professionally qualified to represent minors, who underwent the basic training.¹⁶⁷ Minors also enjoy the right to be accompanied by a person of trust throughout proceedings.¹⁶⁸ The interrogation of a juvenile suspect shall generally, after prior notification, be recorded by an audio-visual recording device¹⁶⁹ and may be carried out with the assistance of an educator or other professional person.¹⁷⁰ Regarding expediency of the proceedings, Article 461 ZKP states that “[t]he bodies participating in proceedings against a minor and other bodies and institutions whose advice, reports or opinions have been requested, shall be bound to proceed with a special expedition to bring the proceedings to completion as soon as possible.”

Recently, the state’s legal framework has been amended in a way that makes it even more aligned with child-friendly justice principles.¹⁷¹ For example, during their detention, minors shall be provided with care for their health, physical and mental development and respect for freedom of religion or belief.¹⁷² Amendments also ensure that minors are informed in writing of different rights they are to enjoy during detention¹⁷³ as well as that the written notice shall be easy to read or simplified and shall be drafted in the minor's mother tongue or in a language which the minor understands. If written information in the appropriate language is not available, the minor deprived of liberty shall first be informed of their rights orally in a language that they understand, and then, without undue delay, be provided with written information.¹⁷⁴

It may also be said that the justice system is adjusted to particular needs of a minor by virtue of Article 469 which demands that it is necessary to conduct individual assessment of a minor in the preparatory proceedings. In addition to the facts relating to the offence, it is necessary in particular to establish their age, the circumstances necessary for assessing their mental development, special vulnerability, special needs in the areas of upbringing, education and treatment, and to identify and examine all other circumstances relating to their personality and the conditions in which they live (individual assessment of the minor).¹⁷⁵ The court shall inform the minor of their right

¹⁶⁷ Article 452b(4), ZKP

¹⁶⁸ Article 452c(1), ZKP

¹⁶⁹ Article 452.č(1), ZKP

¹⁷⁰ Article 452.č(2), ZKP

¹⁷¹ On 27 June 2024, with Article 36, ZKP-P

¹⁷² Article 452.d(7), ZKP

¹⁷³ Article 452.d(8), ZKP

¹⁷⁴ Article 452.d(0), ZKP

¹⁷⁵ Article 469(1), ZKP

to an individual assessment¹⁷⁶, with the individual assessment being updated throughout the course of criminal proceedings.¹⁷⁷

It may be concluded on the basis of the recent amendments in the field that the Slovenian justice system is progressively specializing towards ensuring child-friendly justice proceedings for minors in conflict with law.

Good practice

The Minimum age of criminal responsibility in Slovenia is set at the age of 14 and fulfils the European and International standards in that regard.

Points to address

Slovenia has not yet adopted a law focusing on juvenile offenders although it has attempted to do so several times. The last such attempt was the drafted in 2019 but did not pass the legislative process.¹⁷⁸

Indicator I B #6b // National law, policy or rules include guidance for law enforcement authorities on the use of force and means of constraint against children to avoid illegal or disproportionate use of force.

Analysis notes

In the following we comment upon two prompts put forward by the Child-friendly Justice Assessment Tool regarding the indicator.

CFJ Assessment tool: "Police should respect the personal rights and dignity of all children and have regard to their vulnerability, that is, take account of their age and maturity and any special needs, including those resulting from a physical or mental disability or communication difficulties."

The need to respect personal rights and dignity of all children and have regard to their vulnerability, also by the police, is mandated in Article 18a ZKP stating that "[t]he police /.../ must treat the injured parties, suspects, accused persons and convicts with

¹⁷⁶ Article 469(1), ZKP

¹⁷⁷ Article 469(5), ZKP

¹⁷⁸ Jasmina Arnež, Mojca M. Plesničar. Razkorak med teorijo in prakso: Empirični vpogled v obravnavo mladoletnih storilcev kaznivih dejanj v Sloveniji (2024), Revija za kriminalistiko in kriminologijo, Ljubljana, 59–71

particular care and act with due consideration where necessary because of their vulnerability such as age, health condition, disability, or other similar circumstances.” Although minors are not particularly mentioned in this umbrella provision, the provision pays due regard to age and thus minors.

The need to be particularly considerate of vulnerable groups is also specified in Article 13 of the Police Tasks And Powers Act (ZNPPol), stating that victims and persons who need additional attention, assistance and care, such as children, minors, the elderly, persons with disabilities, pregnant women and victims of domestic abuse should be treated with particular care. Furthermore, Article 18 of ZNPPol specifies the performance of police tasks in respect of children and minors. The article states that “[d]uring procedures in connection with children and minors, police officers shall consider their age, the level of their physical and mental development, their sensitivity and other potential characteristics that can be observed.”

CFJ Assessment tool: There should be clear rules on avoiding force, coercion, or violence in the implementation of decisions, for example, visitation arrangements, to avoid further traumatising.

In provisions on the use of the instruments of restraint (“uporaba prisilnih sredstev”), the law states that police officers may not use the instruments against *inter alia* children, “unless they must be produced or detained and police officers are unable to control their resistance or assault in any other manner, or if they threaten their own life or the life of other people and property or if due to other circumstances, their life or health is directly threatened.”¹⁷⁹ Furthermore, police officers may use an electric stun gun against *inter alia* children only if the conditions for the use of a firearm are met.¹⁸⁰

¹⁷⁹ Article 76, ZNPPol

¹⁸⁰ Article 86a (2), ZNPPol; Police officers may use firearms only if otherwise unable to prevent an unlawful assault directed concurrently against themselves or any other person that endangers lives, or

to prevent a person who in circumstances indicating elements of the commission of a criminal offence has in his possession a firearm ready for use, explosives or other dangerous objects or substances for endangering the life of one or more persons. An assault on police officers or any other person shall also be deemed to be a situation in which a person reaches for a weapon or any other dangerous object or substance, pulls them out or tries to do so or holds them in a position indicating the possibility of an imminent assault. Article 96, ZNPPol

Indicator I B #6c // National law and the state's legal system recognise and regulate all forms of deprivation of liberty of children

Analysis notes

In Slovenian criminal law, deprivation of liberty is any restriction of liberty that involves forced detention.¹⁸¹ In the following sections we comment upon the prompts put forward by the Child-friendly Justice Assessment Tool regarding the indicator.

CFJ Assessment tool: To ensure the required procedural rights and safeguards concerning deprivation of liberty of children are in place, national law should mandate that:

→ **specific non-custodial measures** and other alternatives to arrest, detention, imprisonment or any other form of institutional placement exist and are used preferentially to deprivation of liberty;

According to Article 471 ZKP, the juvenile judge may order that the minor be placed in a transit home during preparatory proceedings, a diagnostic centre, under the supervision of a social welfare authority or be placed in another family. Although the law provides the possibility to be placed in a diagnostic centre, such placement is currently not possible in practice as diagnostic centres do not exist in Slovenia.¹⁸²

→ **pre-trial detention** is permitted only under certain circumstances which are consistent with the standards established under the UNCRC and the ECHR, EU legislation; and

The juvenile judge may exceptionally order detention for a minor¹⁸³ if the person is in hiding, if their identity cannot be established, if other circumstances exist indicating the risk of their flight, if reasonable fear exists that they may destroy the traces of a crime or if specific circumstances indicate that they will impede the course of criminal proceedings by influencing witnesses, accomplices or concealers.¹⁸⁴ The minor may also be detained if the gravity of the offence, or the manner or circumstances in which the criminal offence was committed and the person's personal characteristics, their former life, the environment and conditions in which they live or some other special

¹⁸¹ Article 4(1), ZKP

¹⁸² Deja Kozjek, "Kazenski postopek proti mladoletnikom" (2023), Pravosodni bilten (PB), št. 1/2023, str. 95-116

¹⁸³ Article 472, ZKP

¹⁸⁴ Article 201(1), ZKP

circumstances indicate the risk that they might repeat the criminal offence, complete an attempted criminal offence or commit a criminal threat.¹⁸⁵

Where the juvenile judge disagrees with the public prosecutor's proposal to order detention, they shall request the higher court juvenile panel to issue a decision. An appeal against the decision by the higher court may subsequently be lodged and decided upon by the juvenile panel at the supreme court.

→ **deprivation of liberty of children is the exception, rather than the general rule;**

When it comes to deprivation of liberty by the police, Article 57 of ZNPPol defines production ("privedba") as temporarily restricted free movement of a person by a police officer in police premises, official premises of another body or another particular place. Article 59 further defines specific requirements regarding production of children or minors, yet only to the extent that the child's parents or the local social work center shall be informed of the production and the requirement to enable parents and the local social work center to freely speak to the child.

→ children have the right to **challenge the legality of the deprivation of liberty** (initial and continued) and/or have their placement reviewed periodically, in accordance with rules and procedures under international and national law (see art. 37 (d) CRC, art. 25 CRC and art. 5 ECHR).

Just like adults, a minor detainee may appeal against the ruling ordering their detention within twenty-four hours of the service of the ruling. The appeal must be decided by a higher court within forty-eight hours.¹⁸⁶

In criminal proceedings, a juvenile has no right to object to a motion for punishment by which the prosecutor proposes the imposition of a sentence of juvenile imprisonment or a fine, and to a motion for the imposition of a corrective measure (all institutional and non-institutional corrective measures). Children do have the right to challenge the legality of the deprivation of liberty.

As such, member states should ensure where the child is deprived of liberty their national law provides (non-exhaustive):

→ **that children are detained separately from adults, except in exceptional situations where it is shown to be in the best interests of the child;**

Minors must be detained separately from adults. However a minor shall be detained together with an adult where, in the light of the minor's personality and other

¹⁸⁵ Article 201(1), ZKP

¹⁸⁶ Article 207, ZKP

circumstances of a particular case, it is in the minor's best interests to do so, or where, in exceptional circumstances, it is not possible to ensure separate accommodation for the minor, provided that the minor is detained together with the adult in a manner consistent with the minor's best interests. The decision in the latter two exceptional circumstances is in the hands of a police officer.¹⁸⁷

→ ***that boys are detained separately from girls, except where it is shown to be in the best interests of the child;***

According to the Criminal Procedure Act, persons of the opposite sex may in general not be accommodated in the same room.¹⁸⁸

→ ***for continued and meaningful contact with family and friends for any child deprived of their liberty;***

The competent authority must allow the minor to contact their parents or guardians when they are detained.¹⁸⁹

The director of the institute may allow a juvenile who behaves well and who makes an effort at work and school to visit parents and other immediate relatives, as well as other persons if so specified in their personal plan.¹⁹⁰

→ ***for safe and appropriate conditions to meet the needs of children;***

The minor shall be provided with care for their health, physical and mental development and respect for freedom of religion or belief under certain conditions.¹⁹¹ Means of meeting the needs of children during deprivation of liberty are further specified in the Enforcement of Criminal Sanctions Act (ZIKS-1).¹⁹² The normative framework is generally appropriate and aligned with child-friendly justice in that regard.

→ ***for an independent national prevention mechanism in accordance with the rules set up by the OPCAT (Optional Protocol under the UN Convention against torture); and***

¹⁸⁷ Article 452d(5), ZKP

¹⁸⁸ Article 212, ZKP

¹⁸⁹ Article 452d(5), ZKP

¹⁹⁰ Article 116, ZIKS-1

¹⁹¹ Article 452d(7), ZKP; The minor shall be provided with care for their health, physical and mental development and respect for freedom of religion or belief under certain conditions. Taking into account the duration of the detention, in accordance with the limits necessary to ensure security and the maintenance of order and in accordance with the limits resulting from the reasons for the detention.

¹⁹² Section 2 Juvenile detention, ZIKS-1

An independent national prevention mechanism operates in Slovenia under the auspice of the Slovenian Human Rights Ombudsperson.¹⁹³

→ for an **effective complaint mechanism** and children are informed of its existence and can access it.

Children in detention can file complaints to the Slovenian Human Rights Ombudspeson.

¹⁹³ Varuh človekovih pravic, *Državni preventivni mehanizem (DPM)*, Available at: https://www.varuh-rs.si/o-varuhu/organizacijske-enote-in-svet-varuha/drzavni-preventivni-mehanizem/levi-meni/sporocila-za-javnost/?tx_news_pi1%5BoverwriteDemand%5D%5Bcategories%5D=111&cHash=8761ea362674db2df4442ee3ed76d824

CFJ_Indicator II #1 // Existence and use of specialised law enforcement units, specially trained officers and safeguards

Analysis notes

→ THE POLICE

In terms of police organization, there is a section focused on juvenile crime operating under the “General Crime Division” of the Criminal Police Directorate.¹⁹⁴

According to the handbook on children subject to violence, investigative interviews with children (“preiskovalni intervju”) will in practice be carried out by a criminalist specialising in juvenile crime.¹⁹⁵

→ THE PROSECUTION SERVICE

When it comes to prosecution, only some District State Prosecutor's Offices (DSPO) have a section that focuses on minors. For example:

- the DSPO in Ljubljana has a “Juvenile, Family and Sexual Crimes Section”,
- the DSPO in Maribor has a “Juvenile, Family and Sexual Crimes Section”
- the DSPO in Celje has a “Minors and Family Violence Section”,
- the DSPO Krško has a “Juvenile, Family and Sexual Crimes Section”
- the DSPO Novo Mesto has a “Family Crime Section”

The following DSPOs do not seem to have a section focused on children: the DSPO Koper, the DSPO Kranj, the DSPO Murska Sobota, DSPO Nova Gorica, DSPO Ptuj and the DSPO in Slovenj Gradec. In some of those, cases concerning children are considered under the General Criminal Section of the prosecution office.

¹⁹⁴ <https://www.policija.si/eng/about-the-police/organization/general-police-directorate/criminal-police-directorate>

¹⁹⁵ Janez Krek in Neža Miklič, Zaščita otroka pred izvenšolskim nasiljem: Priročnik za vzgojitelje, učitelje in druge strokovnjake (2023), Univerza v Ljubljani, Pedagoška fakulteta

CFJ_Indicator II #2 // Existence and use of specialised children's courts and specially trained judges and court officials.

Analysis notes

In Slovenia, there are no specialized courts focusing solely on proceedings involving children. Each district court has a different organizational structure, and while some have a separate section on juvenile delinquency or for cases pertaining to family law, some do not.

For example, seven out of eleven district courts have family sections in their internal organizational structure (Ljubljana, Maribor, Krško, Murska Sobota, Ptuj, Novo mesto and Nova Gorica) while the District Court of Kranj and Celje have family sections under the civil law section¹⁹⁶ and the courts in Slovenj Gradec and Koper do not seem to have specialized family sections.¹⁹⁷

In the field of family law, members of the judiciary are trained to different extent on child-friendly justice and techniques used when considering children. There is no mandatory training in that regard for family law positions in Slovenia.

Similarly, criminal law judges and court staff across Slovenia are differently vetted and trained in child-friendly justice and techniques. However, specialization in the composition of the court is apparent when it comes to cases involving juvenile delinquency. For those cases, it is required that district courts, higher courts and the Supreme Court have juvenile panels adjudicating cases.¹⁹⁸ At district courts, a juvenile panel shall be composed of a juvenile judge and two lay judges,¹⁹⁹ while in courts of second instance and in the Supreme Court, juvenile panels shall be composed of three judges.²⁰⁰ Lay judges shall be elected from among teachers, educators and other persons who have experience in the education of minors.²⁰¹ The first instance courts for all offences committed by juveniles, regardless of the sentence imposed, are always district courts ("okrožno sodišče"), not local courts ("okrajno sodišče"). Appeals against decisions and judgments of the juvenile panel and decisions of juvenile judges are heard by a three-member panel of the high court (e.g. if the juvenile judge does not agree with carrying out the preliminary procedure).²⁰²

¹⁹⁶ https://www.sodisce.si/okrokr/osnovne_informacije_o_sodiscu/organizacijske_enote/,
https://www.sodisce.si/okroce/osnovne_informacije_o_sodiscu/organizacijske_enote/

¹⁹⁷ https://www.sodisce.si/okrosg/osnovne_informacije_o_sodiscu/organizacijske_enote/
https://www.sodisce.si/okrokp/osnovne_informacije_o_sodiscu/organizacijske_enote/

¹⁹⁸ Article 462(1), ZKP

¹⁹⁹ Article 462(2), ZKP

²⁰⁰ Article 462(3), ZKP

²⁰¹ Article 462(4), ZKP

²⁰² Article 462(5), ZKP

Specialization within the staff is also apparent in Article 452b of ZKP by the meaning of which compulsory training of *inter alia* judges is most closely delineated. According to the article, “judges, public prosecutors, police officers, defense counsels and mediators involved in proceedings against a minor shall acquire additional knowledge in the field of juvenile delinquency.” In order to enforce the provision, the Rules on the program and method of conducting basic and regular training for judges, public prosecutors, police officers, defence counsel and mediators (“poravnalci”) involved in juvenile proceedings were adopted in 2021.²⁰³ However, a similar provision does not seem to exist for the case of victims.

There is no specialized court for children dealing with cases of immigration and asylum or matters related to disability of a child (child mental health, children’s special educational needs).

Feedback is generally not sought and obtained from the children.

²⁰³ Pravilnik o programu in načinu izvedbe osnovnega in rednega usposabljanja za sodnike, državne tožilce, policiste, zagovornike in poravnalce, Available at: <https://pisrs.si/pregledPredpisa?id=PRAV14196>

CFJ_Indicator II #3 // Child participation mechanisms and spaces enabling children to exercise their right to access justice are in place.

CFJ_Indicator II #3a // Children enjoy their rights to access to justice and to information

Analysis notes

Access to information is further elaborated upon in the indicator Indicator I A #2. In this section the analysis focuses on the right to access to justice more broadly, by means of participation as enshrined in policy documents.

The **Programme for Children 2020 - 2025** was designed in 2020 by the government in collaboration with members of the academia and non-governmental organizations. The program succeeded and built upon the Programme for Children and Youth 2006-2016, focusing on children, i.e. minors below the age of 14. One of the goals laid down in the programme is to “ensure, at a systemic level, the participation of children in procedures affecting their situation and quality of life.”²⁰⁴ The document reiterates the importance of establishing child-friendly justice systems in Slovenia.²⁰⁵ In preparing the programme, the drafters have drawn on a key document in the field of children's rights, the Convention on the Rights of the Child.

On the other hand, the **Resolution on the National Youth Programme 2024-2032**, succeeding and building upon the 2013 - 2022 resolution focuses on youth, i.e. minors between 15 and 18 years old. The legal basis for the preparation of the resolution is the Public Interest in Youth Sector Act (ZJIMS). The resolution includes a section on Political participation and social engagement of youth, including the following two goals: (1) Increased awareness among young people of existing opportunities to participate in political and legislative processes and (2) Establishment of dialogue between young people and public institutions in the field of legislation and administrative processes.

Good practice

In 2019, Slovenia participated in the second round of the implementation of the children's participation tool of the Council of Europe, drawing up a report on the state

²⁰⁴ <https://www.gov.si/assets/ministrstva/MDDSZ/druzina/Programi-v-podporo-druzini/Program-za-otroke-2020-2025.pdf>

²⁰⁵ <https://www.gov.si/assets/ministrstva/MDDSZ/druzina/Programi-v-podporo-druzini/Program-za-otroke-2020-2025.pdf> 6.4. Do otrok prijazni postopki

of child participation in Slovenia which also derived information from interviewing children.²⁰⁶ More information on child participation can be accessed there.

Participation is further elaborated upon in the indicator “CFJ_Indicator III A #3”.

²⁰⁶ Urban Boljka, Jasmina Rosič et al., Implementing the Child Participation Assessment Tool in Slovenia (2019), Inštitut Republike Slovenije za socialno varstvo, Available at: <https://irssv.si/wp-content/uploads/2023/10/CPAT-REPORT-Slovenia.pdf>

CFJ_Indicator II #3b // Children are heard in a child-friendly environment.

Analysis notes

According to research from 2021, child-friendly rooms are available in all district courts in Slovenia.²⁰⁷ They are available for children in contact with law in various procedures, not only in court proceedings but also in other decision-making processes, such as proceedings at CSDs and by police.

In cases where a minor does participate as a witness or the injured party in the main hearing at the court, they shall be removed from the courtroom as soon as his or her presence is no longer required.²⁰⁸

Good practice

An example of good practice is the Children's House set up in 2021 in Ljubljana which is designed to create a child-friendly environment in which children may be heard.

Points to address

Although children may be informed that they will be heard in a child-friendly environment, it is difficult for them to picture the space and people with whom they will be in contact. It would be helpful for children to receive more information about how the hearing will look in advance and where it will take place. In preparing child-friendly materials it may be useful to look into the good practice abroad, such as the videos explaining to minors how to get to the court as presented by their peers.²⁰⁹

RECOMMENDATION #20: *Introduce to the child the child-friendly environment in which they will be heard prior to the meeting. Create premise-specific videos that will inform the child of the environment and their rights therein.*

²⁰⁷ Dajana Janjatovič, *Preprečevanje sekundarne viktimizacije otrok, žrtev nasilja v družini* (2021), Doktorska disertacija. PF - Pravna fakulteta. Available at: <https://repozitorij.uni-lj.si/IzpisGradiva.php?lang=slv&id=125029>

²⁰⁸ Article 331, ZKP

²⁰⁹ Op gesprek bij de rechter ("Interviewed in court"): <https://www.youtube.com/watch?v=Yr9eFVhE0Sc>

CFJ_Indicator II #4 // An independent children's rights institution is in place and protected by law.

Analysis notes

Currently, there is no autonomous, independent, and specialized children's rights institution in place in Slovenia – there is no institution such as the Children's Ombudsperson. There is only the "Children's Advocacy" unit, which focuses on providing children the opportunity to be heard in proceedings, which is an internal organizational unit of the Human Rights Ombudsman. The unit coordinates the work of children's advocates who work with individual children and provide them with psychosocial support and access to information. The unit is generally not involved with broader advocacy actions and systemic changes in the field of child protection.

The Department for Child-Friendly Criminal Justice is one of the core public bodies committed to the protection of children, ensuring a child-friendly justice system and the principle of the child's best interest in court proceedings in Slovenia. Although the name of the department suggests that its work focuses on the protection of children in the criminal justice context only, the department also focuses on the position of children in civil court proceedings and other proceedings. The department is not an independent children's rights institution as it operates under the auspice of the Ministry of Justice.

The interests of youth are also heard by the **Council of the Government of the Republic of Slovenia for Youth**, which is an advisory body that offers assistance in making decisions on matters in the area of youth and the youth sector.²¹⁰ The Council undertakes advocacy work; however, it is not an independent institution.

Good practice

A draft amendment to the law that would regulate the position of the ombudsperson for children has been under preparation within the Ministry of Justice since June 2023. According to the proposal, the post of "ombudsperson for children" would be introduced with the amendment, which would exclusively perform tasks related to the human rights and fundamental freedoms of children. The ombudsperson for children would conduct proceedings and investigations relating to violations of children's rights and freedoms, as well as carry out tasks related to children's advocacy and the tasks of educating and raising awareness among children and the general and professional public on children's rights. The work of the ombudsman for children would be supported by a special children's rights unit, the staff of which would be trained to work with children. The proposed solution would thus establish a permanent specialization in the field of

²¹⁰ Article 8, ZJIMS

children within the Ombudsperson's institution.²¹¹ The post and the unit would be independent from the government and any specific political agenda in their work.

It is yet to be observed how and if the new post and the unit will be implemented.

²¹¹ <https://e-uprava.gov.si/si/drzava-in-druzba/e-demokracija/predlogi-predpisov/predlog-predpisa.html?id=15730>

CFJ_Indicator II #5 // Child-friendly complaints procedures are in place together with child-friendly remedies.

Analysis notes

→ The Ombudsperson

The Human Rights Ombudsperson accepts complaints and reports directly from children. The child can report the case that concerns school, medical institutions, or other institutions to the Ombudsperson. In order to encourage children to do so, the Ombudsperson's Office issued pamphlets informing children of that possibility and adapted a sub-page on its website to include information about it. According to the information from the page, communication with the child can be adopted to their age and level of understanding.²¹² A child can contact the Ombudsperson via e-mail, by telephone, letter or visit them in person. There is no publicly available information on how many complaints are issued to the Ombudsperson by minors.

→ The Advocate of the Principle of Equality

In cases of discrimination, children can also consult the Advocate of the Principle of Equality. The advocate conducts infringement proceedings concerning discrimination, in which he issues a legally binding declaratory decision on the existence of discrimination. The parties to the proceedings may initiate an administrative dispute against the decision before the Administrative Court. The Protection against Discrimination Act (ZVarD) stipulates that inspections are performed by the Advocate and inspection authorities responsible for individual areas. While the Advocate does not carry out inspections in the practice (due to lack of legislative clarity), it proposes to the competent inspection authority to initiate minor offence proceedings. Fines are prescribed for infringing the prohibition of discrimination. The discriminated person, including children, have the right to file a special action requesting the cessation of discrimination, the payment of compensation for discrimination or the publication of the judgement in the media.²¹³

→ Social work centres

In proceedings before a social work centre, a child who has reached the age of 15 and who has expressed an opinion in the proceedings has the right to appeal against the decision served to the child by the social work centre.²¹⁴

²¹² <https://www.varuh-rs.si/za-otroke/levi-meni/isces-pomoc/kako-do-varuha/>

²¹³ Combined fifth and sixth periodic reports of the Republic of Slovenia on the basis of the Convention on the Rights of the Child and the Report outlining the actions undertaken to implement the provisions of the Optional Protocols (2021), Committee on the Rights of the Child, CRC/C/SVN/5-6

²¹⁴ Article 274, DZ

Good practice

An example of good practice is a child-friendly leaflet²¹⁵ created by the Ombudsperson's Office to inform children of the possibility to file a complaint at the office if they notice or believe that human rights have been infringed upon.

Points to address

As recommended in the report on child participation, in spite of children being informed about the existence of the Ombudsperson, the Office should consider rebranding their communications, using social media and other communication channels that are more familiar to children, in order for them to feel invited to file a complaint. Children often perceive the Ombudsperson as an abstract and distant concept.²¹⁶

When setting up a system and an environment to file a complaint, special attention should be paid to vulnerable groups of children, such as children in institutional care, children in foster care, children with migrant backgrounds, and children with disabilities, as they are often overlooked as individuals entitled to file a complaint.²¹⁷

RECOMMENDATION #21: *In order to improve the system of filing a complaint for children in educational settings:*²¹⁸

- *gather and present all the information about the children's right to file a complaint in a child-friendly manner (leaflets, posters, web site, media, social media, etc.)*
- *make the material accessible in places where children spend their time (schools, health centres, leisure activities etc.)*
- *ensure that the essential parts of the institution's communication tools and outputs are in a child-friendly version*
- *on top of formalising procedures create an environment and offer opportunities where children feel safe and comfortable to issue a complaint*

²¹⁵ See here: <https://www.varuh-rs.si/sporocila-za-javnost/novica/ce-vidis-krivice-uporabi-pravice-1/>

²¹⁶ Urban Boljka, Jasmina Rosič et al., *Implementing the Child Participation Assessment Tool in Slovenia* (2019), Inštitut Republike Slovenije za socialno varstvo, Available at: <https://irssv.si/wp-content/uploads/2023/10/CPAT-REPORT-Slovenia.pdf>

²¹⁷ Urban Boljka, Jasmina Rosič et al., *Implementing the Child Participation Assessment Tool in Slovenia* (2019), Inštitut Republike Slovenije za socialno varstvo, Available at: <https://irssv.si/wp-content/uploads/2023/10/CPAT-REPORT-Slovenia.pdf>

²¹⁸ ²¹⁸ Urban Boljka, Jasmina Rosič et al., *Implementing the Child Participation Assessment Tool in Slovenia* (2019), Inštitut Republike Slovenije za socialno varstvo, Available at: <https://irssv.si/wp-content/uploads/2023/10/CPAT-REPORT-Slovenia.pdf>

CFJ_Indicator III A #1 // Children enjoy their right to legal assistance and legal aid.

Analysis notes

In Slovenia, children have a right to legal support, legal assistance, legal aid, and legal representation in all proceedings in which they are involved or to which they are a party.

A special representative, i.e. a “collision guardian” may be appointed to a child in cases where there is a conflict of interest between the child and their parent or legal representative. The collision guardian may be appointed by a social work centre or court.²¹⁹

Criminal law (victims)

In proceedings of certain criminal offenses, an injured party who is a minor must have counsel to safeguard their rights throughout the entire course of proceedings, also during the pre-trial hearings. The minor must have counsel in criminal proceedings against the following crimes:

- crimes against sexual integrity,
- crimes against marriage, family and youth,
- crimes of enslavement
- criminal offence of trafficking in human beings.²²⁰

Minors who do not have a counsel in those cases shall be assigned one by the court *ex officio* from among the attorneys.

If the victim's counsel has been appointed *ex officio* by the court, the state will pay the fee and the necessary expenses of the counsel in advance. If the court passes a judgment convicting the defendant, the convicted person will bear the costs of the victim's counsel.

The list of representatives of minor victims is kept only for certain district courts, e.g. the district court of Ljubljana.²²¹

²¹⁹ Article 269, DZ

²²⁰ Article 65, ZKP

²²¹ <https://www.odv-zb.si/odvetniska-zbornica/zbori/obmocni-zbori/>

Criminal law (defendants)

A minor may have a defence counsel from the beginning of the preparatory procedure.²²² A minor *must have* defense counsel from the beginning of the preparatory procedure if they are being tried for a criminal offence punishable by more than three years of imprisonment.²²³ For other criminal offences subject to less severe punishment, minors must have a defence counsel if so determined by the juvenile judge.²²⁴

In case of deprivation of liberty, the minor has the right to a defence counsel of their own choosing from the time of deprivation. If they do not choose their own defence counsel, or if their legal representative or relatives do not choose one for them, one shall be appointed for them *ex officio* by the competent authority at the expense of the State.²²⁵

Civil law

In family proceedings, children are commonly not a direct party. Their rights are safeguarded by the collision guardian if one is appointed to the child by the court or CSD. The collision guardian may be appointed if the adequate protection of the child's best interests and the full exercise of the child's right to be heard is questionable.²²⁶ A collision guardian is a type of special-case guardian under the Family code who helps to protect the rights and interests of a child in a concrete case. A collision guardian is always appointed in paternity disputes. A collision guardian cannot be appointed for a child who already has legal capacity, i.e. has reached the age of 15.²²⁷

Administrative law (immigration and asylum)

Not all (unaccompanied) minors have access to professional legal assistance and support at the inception of the asylum procedure. A statutory representative is appointed to them, helping them in matters concerning the asylum procedure; however, they are not necessarily vetted lawyers or persons with a legal background.

In the first instance procedures, i.e. the procedures carried out by the Ministry of the Interior, specifically the International Protection Procedures division of the Migration

²²² Article 454(1), ZKP

²²³ Article 454(2), ZKP

²²⁴ Article 454(2), ZKP

²²⁵ Article 452.d(2), ZKP

²²⁶ VSL Sklep IV Cp 651/2022

[https://www.sodnapraksa.si/?q=408.%20%C4%8Dlen%20zpp&database\[SOVS\]=SOVS&database\[IESP\]=IESP&database\[VDS S\]=VDSS&database\[UPRS\]=UPRS&submit=i%C5%A1%C4%8Di&order=code&direction=asc&rowsPerPage=20&page=25&id=2015081111457908](https://www.sodnapraksa.si/?q=408.%20%C4%8Dlen%20zpp&database[SOVS]=SOVS&database[IESP]=IESP&database[VDS S]=VDSS&database[UPRS]=UPRS&submit=i%C5%A1%C4%8Di&order=code&direction=asc&rowsPerPage=20&page=25&id=2015081111457908)

²²⁷ <https://nasodiscu.si/druzinski-postopki/skrbnistvo-za-otroke>

Directorate, asylum seekers are commonly represented by PIC – Legal Centre for the Protection of Human Rights and the Environment, as the law does not foresee free legal representation for applicants in the first instance procedure.

In the proceedings before the court, i.e. administrative disputes against the Ministry of the Interior for its decisions taken in the first instance, asylum seekers are represented by the so-called refugee counsellors. Refugee counsellors shall provide support and legal assistance in the procedures before the Administrative Court and the Supreme Court.²²⁸ As the fees and the reimbursement of expenses of the refugee counsellors are provided by the ministry²²⁹, the legal service offered by the refugee counsellors is free of charge for the asylum seeker.

Refugee counsellors representing children undergo a mandatory training on subjects pertaining to asylum and migration; however, the training does not concern the position of children in those proceedings or how to work with them *per se*.

In 2020, PIC - Legal Centre for the Protection of Human Rights and the Environment began with a project providing information and legal advice to foreigners in the field of international protection (to asylum seekers, foreigners, and beneficiaries of international protection). The project continues on a smaller scale under the auspices of the UNHCR, where the PIC provides the provision legal advice at its own discretion, mainly focusing on vulnerable people with special needs. The project includes provision of legal advice and assistance to unaccompanied minors. In accordance with ZTuj, NGOs provide free legal advice to unaccompanied minors illegally present on Slovenian territory during the process of the return (currently contracted to PIC and the International Organisation for Migration).²³⁰

Points to address

In practice, representatives of minor parties to proceedings may be passive in their contact with the minor, inadequately representing their best interests in proceedings. The researchers have been notified about a case where a counselor, appointed *ex officio* by the court to a minor victim, has established no real contact with the victim and has not ensured that measures for victim protection have been implemented throughout proceedings. The victim was summoned to testify again after a long period of time, and although the child and their parent said that this would further traumatize the child, their attorney has made no effort to appeal to the court not to interview the child again.²³¹

²²⁸ Article 9(1), ZMZ-1

²²⁹ Article 11(1), ZMZ-1

²³⁰ Combined fifth and sixth periodic reports of the Republic of Slovenia on the basis of the Convention on the Rights of the Child and the Report outlining the actions undertaken to implement the provisions of the Optional Protocols (2021), Committee on the Rights of the Child, CRC/C/SVN/5-6

²³¹ Observations by PIC.

CFJ_Indicator III A #2 // Children are considered through an integrated multidisciplinary approach.

Analysis notes

Civil law

In the field of social work, a multidisciplinary approach is governed by the **Rules on the cooperation of authorities and the functioning of social work centres, multidisciplinary teams, and regional services in dealing with domestic violence**. The rules focus on cases of domestic violence, defining tasks of the multidisciplinary team, composition of the team, and its working methods.²³² The tasks are aimed at ensuring long-term safety of the victim.²³³ The rules have specific provisions for situations involving children. They stress that child's safety must be the primary consideration.²³⁴

The Family Code does not refer to the multidisciplinary approach per se but does include cooperation between social work centres and other institutions (holders of public authority, public service providers, state and judicial authorities, local community authorities, and humanitarian and other non-governmental organisations) as a principle in performing tasks laid down in the code.²³⁵

²³² Article 7 to Article 12 Rules on the cooperation of authorities and the functioning of social work centres, multidisciplinary teams and regional services in dealing with domestic violence

²³³ Article 7 to Article 12 Rules on the cooperation of authorities and the functioning of social work centres, multidisciplinary teams and regional services in dealing with domestic violence

²³⁴ Article 10(3) Rules on the cooperation of authorities and the functioning of social work centres, multidisciplinary teams and regional services in dealing with domestic violence

²³⁵ Article 16, DZ

CFJ_Indicator III A #3 // Children enjoy effective and meaningful participation throughout the proceedings.

Analysis notes

Criminal proceedings (juvenile offenders)

The right of juvenile offenders to participate in criminal proceedings is safeguarded in Article 453 ZKP which stipulates that a minor may not be tried in their absence. A juvenile offender is generally present during the main hearing or a session, ensuring their participation in proceedings and decisions concerning them. Only under certain circumstances does a minor not need to be present.

A corrective measure of being placed in an institution or a re-education centre may be imposed on a minor in conflict with law. The minor shall be given the opportunity to express their views on the corrective measure imposed on them to the judge who visits the minor in the institution or centre. The minor may inform the judge of the progress made, express their goals or plans for the future, and explain why they are not following certain agreements and why they are (possibly) breaking the ground rules of the institution or centre. By visiting the minor, the judge has the opportunity to hear the minor's opinion and to take an active part in determining the success of the corrective measure in practice. The opinion of the minor may lead to the modification of the measure or its suspension.²³⁶

Civil law (family law)

Minors who are capable of understanding the meaning of the procedure and the consequences of the decision shall be informed of the initiation of proceedings that affect them and their right to be heard in those proceedings.²³⁷ They shall be informed of the right in an appropriate manner.²³⁸ The social work centre shall conduct an interview with the child, taking into consideration their age and other relevant circumstances.²³⁹ Adhering to those legal provisions²³⁹ in practice would ensure actual meaningful participation of children in family proceedings.

Effective participation may be strengthened by allowing the child to be accompanied by a person of trust at the interview (participation of the person must be deemed as in the interests of the child by the social work centre).²⁴⁰

²³⁶ Deja Kozjek, *Kazenski postopek proti mladoletnikom* (2023), *Pravosodni bilten* (PB), št. 1/2023, str. 95-116

²³⁷ Article 274, DZ

²³⁸ Article 274, DZ

²³⁹ Article 274, DZ

²⁴⁰ Article 274, DZ

In family proceedings, children may be appointed a children's advocate, a professional who provides professional assistance to a child, enabling them to express their opinion in all procedures and cases the child is involved in and to communicate the child's opinion to the competent authorities and institutions that decide on their rights and best interests.²⁴¹ Although the children's advocate may also be appointed in other cases, it is most often appointed in family law proceedings (deciding on care and upbringing of children, on contact, removal of the child from the family, placement in institutional care, placement in a foster family).²⁴² Anyone who considers that a child is not able to exercise their right to express their views may request the appointment of a children's advocate. If the Ombudsman considers that the petition is well-founded, they first seek the consent of both parents or legal representatives to appoint one from the list. The consent of the parents or legal representatives shall not be required if a child above 15 years old consents to the appointment. If the child is younger and the consent of the parents or legal representatives is not obtained or is subsequently withdrawn, the guardian shall send a proposal for the appointment of a children's advocate to the competent CSD or court. If the CSD or the court deems that a children's advocate is necessary in the proceedings, they shall appoint one from the list.²⁴³

In order to ensure that a child be heard, and if there is a conflict of interest between a child and their parent or legal representative, a special representative, namely a "collision guardian" (*kolizijski skrbnik*) may be appointed to a child too.²⁴⁴ The collision guardian may be appointed by a social work centre or a court if the adequate protection of the child's best interests and the full exercise of the child's right to be heard is questionable.²⁴⁵ A collision guardian is a type of special-case guardian under the Family code.

Administrative law (asylum procedure)

In asylum proceedings, the assessment of a child's best interests shall take into account, *inter alia*, the minor's views, in accordance with their age and maturity.²⁴⁶

Furthermore, an unaccompanied minor shall participate in asylum proceedings in a manner that is appropriate and adapted to their age and level of mental development.²⁴⁷

²⁴¹ Article 25a, ZVarCP

²⁴² <https://www.varuh-rs.si/nc/o-varuhu/organizacijske-enote-in-svet-varuha/zagovornistvo-otrok/levi-meni/kdaj-in-kako-do-zagovornika/?categories=127>

²⁴³ <https://www.varuh-rs.si/nc/o-varuhu/organizacijske-enote-in-svet-varuha/zagovornistvo-otrok/levi-meni/kdaj-in-kako-do-zagovornika/?categories=127>

²⁴⁴ Article 269, DZ

²⁴⁵ VSL Sklep IV Cp 651/2022
[https://www.sodnapraksa.si/?q=408.%20%C4%8Dlen%20zpp&database\[SOVS\]=SOVS&database\[IESP\]=IESP&database\[VDS S\]=VDSS&database\[UPRS\]=UPRS&submit=i%C5%A1%C4%8Di&order=code&direction=asc&rowsPerPage=20&page=25&id=2015081111457908](https://www.sodnapraksa.si/?q=408.%20%C4%8Dlen%20zpp&database[SOVS]=SOVS&database[IESP]=IESP&database[VDS S]=VDSS&database[UPRS]=UPRS&submit=i%C5%A1%C4%8Di&order=code&direction=asc&rowsPerPage=20&page=25&id=2015081111457908)

²⁴⁶ Article 15, ZMZ-1

²⁴⁷ Article 16, ZMZ-1

Good practice

For a more in-depth analysis of children's participation see the report *Implementing the Child Participation Assessment Tool in Slovenia (2019)*, drafted on the basis of another Council of Europe Assessment Tool with the support of the Slovenian Ministry of Labour, Family, Social Affairs and Equal Opportunities (MDDSZ).²⁴⁸

Points to address

As noted in the report on child participation, while children's right to participate in decision-making processes is most evident in education, child protection, and family legislation, it is especially inadequate when it comes to children with disabilities.²⁴⁹

RECOMMENDATION #22: *Strengthen legislation and practice on enabling children, particularly those with disabilities, to participate in all proceedings that concern them.*

In the field of administrative law, it has been further recommended to regulate children's participation with special law determining the rights of children in procedures before the social work centres, particularly in situations where the Family Code does not apply. This would be particularly important as neither the General Administrative Procedure Act nor the Social Assistance Act include provisions on child participation.²⁵⁰

RECOMMENDATION #23: *Review legislation and ensure that children enjoy the right to participate in all proceedings that involve them – judicial and administrative ones.*

²⁴⁸ Urban Boljka, Jasmina Rosič et al., *Implementing the Child Participation Assessment Tool in Slovenia (2019)*, Inštitut Republike Slovenije za socialno varstvo, Available at: <https://irssv.si/wp-content/uploads/2023/10/CPAT-REPORT-Slovenia.pdf>

²⁴⁹ Urban Boljka, Jasmina Rosič et al., *Implementing the Child Participation Assessment Tool in Slovenia (2019)*, Inštitut Republike Slovenije za socialno varstvo, Available at: <https://irssv.si/wp-content/uploads/2023/10/CPAT-REPORT-Slovenia.pdf>

²⁵⁰ Urban Boljka, Jasmina Rosič et al., *Implementing the Child Participation Assessment Tool in Slovenia (2019)*, Inštitut Republike Slovenije za socialno varstvo, Available at: <https://irssv.si/wp-content/uploads/2023/10/CPAT-REPORT-Slovenia.pdf>

CFJ_Indicator III A #4 // Measures are taken to ensure that undue delay is avoided in proceedings involving children.

Analysis notes

Civil law

One of the major issues in proceedings involving children is the slow pace at which proceedings are carried out. Undue delay has not yet been promptly addressed by the government, even after some notable ECtHR judgements concerning civil proceedings, namely family proceedings.

In the 2022 case of **Q and R v. Slovenia**, the Court found violation of Article 6, para 1 (Right to a fair trial) of the ECHR due to the length of the foster care permission proceedings.²⁵¹ According to the Court, “bearing in mind that a special diligence was required in view of the importance of the subject-matter of the proceedings, the Court concludes that the present case, even assuming that it was of a certain complexity, has not been heard within a reasonable time.”²⁵²

Procedures carried out on the basis of the Domestic Violence Prevention Act shall be considered as urgent and treated with priority.²⁵³

Criminal law

In the 2015 case of **Y. v. Slovenia**, the ECHR rendered another important decision regarding procedural rights of minor victims involved in criminal proceedings and undue delay therein.²⁵⁴ In the case, the applicant alleged that the criminal proceedings taking place in Slovenia, which concerned the alleged sexual assaults against her, had been unreasonably delayed, lacked impartiality, and exposed her to several traumatic experiences violating her personal integrity. Although the accused was acquitted of all charges of sexual abuse against the applicant, the applicant filed a case with the ECtHR. In the case, the Court ruled, *inter alia*, that the State had not ensured a prompt investigation and prosecution of the applicant’s complaint of sexual abuse (the criminal complaint was lodged in 2002 and the judgement by the first instance court was delivered in 2009), violating Article 3 of the ECHR. As put forward by the Court, “the Court notes with concern that the proceedings were marked by a number of longer periods of complete inactivity.” As summarized by the Court,

²⁵¹ CASE OF Q AND R v. SLOVENIA, <https://hudoc.echr.coe.int/eng#%7B%22sort%22:%5B%22kupdate%20Descending%22%2C%22itemid%22:%5B%22001-215476%22%5D%7D>

²⁵² CASE OF Q AND R v. SLOVENIA, para 82 <https://hudoc.echr.coe.int/eng#%7B%22sort%22:%5B%22kupdate%20Descending%22%2C%22itemid%22:%5B%22001-215476%22%5D%7D>

²⁵³ Article 22a(4), ZPND

²⁵⁴ CASE OF Y. v. SLOVENIA, <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-154728%22%5D%7D>

“Firstly, the police did not submit an incident report of the applicant’s complaint to the competent state prosecutor’s office until a full year after their investigation had been concluded, and only on being urged by the prosecutor to do so [...]. The State prosecutor then promptly requested that a judicial investigation be initiated against X [...]; however, the investigating judge took twenty-one months to decide on the request [...]. Once the investigation was concluded, the trial hearing was scheduled eight months after the indictment against X had been confirmed [...], in contravention of the domestic procedural rules [...]. However, owing to several adjournments the first hearing was actually held almost a year and a half after X had been indicted. In sum, more than seven years elapsed from the time the applicant lodged her complaint until the first-instance judgment was rendered.” It was in the Court’s opinion that “[w]hile it is not possible to speculate whether these delays, for which no justification has been put forward by the Government, prejudiced the outcome of the proceedings in any way, [...] they cannot be reconciled with the procedural requirement of promptness.”

Undue delays have been noted in both civil (family) as well as criminal proceedings.

According to the recent study, one of the reasons for the lengthy proceedings (in family cases) is certainly **the lack of expert witnesses in the field of clinical psychology** - particularly experts who have the professional competences to deal with younger children.²⁵⁵ In the past year, the Ministry of Justice has been working intensively on this issue and the effectiveness of their work will only become apparent in the coming years.²⁵⁶

Administrative law

In administrative law, the general obligation to conduct proceedings efficiently (“economy of procedure”) is set out in ZUP. However, no mention is given to the prioritization of cases involving children or concerning them. According to the provision, “[p]rocedures shall be conducted rapidly, with the minimum possible costs and with the shortest possible delay for the parties and other participants to the procedure, yet in such a manner that everything necessary is provided in order to enable the correct determination of the facts of the case, protection of the rights and legal benefits of the party, and the issuing of a lawful and correct decision.”²⁵⁷

²⁵⁵ dr. Jasna Murgel, mag. Tadeja Oštir, Zoran Stankić Rupnik and dr. Suzana Pecin, “RECOMMENDATIONS TO ENSURE THE BEST INTERESTS OF THE CHILD IN CIVIL COURT PROCEEDINGS IN SLOVENIA” (2024), Joint EU-Council of Europe project, Available at: <https://rm.coe.int/legal-analysis-slo-eng-unofficialtranslation/1680b20c9a>

²⁵⁶ dr. Jasna Murgel, mag. Tadeja Oštir, Zoran Stankić Rupnik and dr. Suzana Pecin, “RECOMMENDATIONS TO ENSURE THE BEST INTERESTS OF THE CHILD IN CIVIL COURT PROCEEDINGS IN SLOVENIA” (2024), Joint EU-Council of Europe project, Available at: <https://rm.coe.int/legal-analysis-slo-eng-unofficialtranslation/1680b20c9a>

²⁵⁷ Article 14, ZUP

Administrative law - asylum procedures

An application lodged by an unaccompanied minor can only be processed in **the accelerated procedure** if it is rejected as manifestly unfounded on grounds of “safe country of origin” or “if there are good reasons to believe that the applicant poses a threat to public order, public safety or national security of the Republic of Slovenia or has been removed from the country due to good reasons of endangering public order, public safety or national security.”²⁵⁸ Hence, the accelerated procedure, with which “undue delay” could be avoided, can only result in negative asylum decisions and thus return decisions. Asylum procedures are in practice not accelerated in order to satisfy the interests and the need for a quick consideration of the application of a minor.

Preferential examination of applications is possible by virtue of Article 48 of ZMZ-1 (priority given to certain claims) when it is likely that the application is well-founded, such as for vulnerable persons with special needs, and when the applicant is required to stay in the area or part of the area of the Asylum Centre or their movement has been restricted to the Centre for Foreigners. However, in line with the amended ZMZ-1, this will only take place if their application is substantiated. In practice, prioritized examination is not often used, and individuals usually have to wait from 6 months to 2 years for a first-instance decision, including minors.²⁵⁹ The first-instance decision is carried out by the Ministry of the Interior, under the International Protection Procedures division of the Migration directorate.

According to the law, first instance regular procedures are to be concluded within six months²⁶⁰, however, as mentioned earlier, the deadline is often not respected. The deadline is similarly not respected by the Administrative Court and the Supreme Court, which have 30 days for adjudicating on the appeals.²⁶¹ The procedure before the Administrative Court can take up to 2 years, while the procedure before the Supreme Court can take several months, making the lengthiness of the procedure one of the most significant shortcomings of the Slovenian asylum system.²⁶²

Although specific time limits are to some extent set out by law (e.g., preferential examination of applications by means of considering (unaccompanied) children under the category of “vulnerable persons with special needs”), they are not used in practice. The state has not taken effective measures to avoid undue delay in this regard.

²⁵⁸ Article 49(2), ZMZ; Urša Regvar, Lana Krznarič, *AIDA Country Report - 2023 Update Slovenia* (2024), Asylum Information Database (AIDA), Available at: <https://asylumineurope.org/reports/country/slovenia/>

²⁵⁹ Observation by the PIC,

²⁶⁰ Article 47(1), ZMZ-1

²⁶¹ Urša Regvar, Lana Krznarič, *AIDA Country Report - 2023 Update Slovenia* (2024), Asylum Information Database (AIDA), Available at: <https://asylumineurope.org/reports/country/slovenia/>

²⁶² Observation by the PIC.

CFJ_Indicator III B #1 // Before proceedings: the rights of all children are safeguarded as of the first contact with the justice system.

Analysis notes

Criminal proceedings (victims)

Children can access support offered by CSD at any time, free of charge, even prior to submitting a criminal complaint against abuse.

Criminal proceedings (juvenile defendants)

CFJ Assessment tool: inform children in a manner and in language that is appropriate to their age and level of understanding of the reason for which they have been taken into custody or are in contact with the law enforcement authorities;

Minors are provided with information on their rights and on the reasons for which they have been taken into custody or are in contact with the law enforcement authorities; however, information is conveyed to them very quickly, often in an incomprehensible manner.²⁶³ Commonly, they would say that they have understood all the rights, although most of the time they have not; their answer would be affirmative because they believe this is what they have to answer or because they are ashamed to say that they have not understood something.²⁶⁴ In these situations, it is the role of defence counsels, who are versed in communicating with children, to explain to them information in language that is appropriate to their age and level of understanding.²⁶⁵ The Slovenian Bar Association shall maintain and publish a list of attorneys qualified to represent minors, as they undertook the basic training on juvenile delinquency.²⁶⁶ The requirement to acquire communication skills (e.g., the use of child-friendly language) seems to be encompassed in the training.²⁶⁷

²⁶³

https://www.sodnapraksa.si/?q=odlo%C4%8Dbe%20&_submit=i%C5%A1%C4%8Di&order=code&direction=desc&rowsPerPage=20&page=4726&id=51923

²⁶⁴

https://www.sodnapraksa.si/?q=odlo%C4%8Dbe%20&_submit=i%C5%A1%C4%8Di&order=code&direction=desc&rowsPerPage=20&page=4726&id=51923

²⁶⁵

https://www.sodnapraksa.si/?q=odlo%C4%8Dbe%20&_submit=i%C5%A1%C4%8Di&order=code&direction=desc&rowsPerPage=20&page=4726&id=51923

²⁶⁶ Article 452b(3), ZKP

²⁶⁷ Article 4, Rules on the programme and method of conducting basic and periodic training for judges, public prosecutors, police officers, defence counsels and mediators involved in proceedings against minors; Odvetniška akademija, *Usposabljanje odvetnikov zagovornikov – november 2024* (2024), Odvetniška zbornica Slovenije, Available at: <https://www.odv-zb.si/2024/10/19/usposabljanje-odvetnikov-zagovornikov-november-2024/>

→ *CFJ Assessment tool: save in exceptional circumstances, inform children's parent(s) or legal guardian(s) of their presence in the police station and request the parent(s) or legal guardian(s) presence at the police station;*

The competent authority must inform the minor's parents or guardian as soon as possible of the deprivation of liberty.²⁶⁸ At the same time, parents shall be informed of consideration of their child by the police or the detention only if that is in the best interest of the child. According to **ZNPPol**, police officers shall, while exercising police powers in respect of a child, "notify the parents or guardian when so required by the best interests of the child, and shall do so always when instruments of restraint have been used against the child in question. While exercising police powers over a minor, police officers shall acquaint them with the parents' and guardian's right to be informed; when instruments of restraint have been used or detention ordered against a minor, they shall always inform the parents or guardian accordingly. /.../ Where informing the parents or guardian would be contrary to the best interests of a child or minor, police officers shall not inform the parents or guardian but shall notify the competent social work centre accordingly."²⁶⁹

→ *CFJ Assessment tool: provide children with an opportunity to contact their parent(s), legal guardian(s) or a person whom they trust;*

The competent authority must allow the minor to contact their parents or guardians when they are detained.²⁷⁰

→ *CFJ Assessment tool: provide children with access to a lawyer, and if necessary, legal aid and ensure that any statements made by the child are made in the presence of their legal representation, parent, legal guardian, or other person they trust;*

From the time of deprivation of liberty, the minor has the right to a lawyer of their own choosing. If they do not choose their own defence counsel, or if their legal representative or relatives do not choose one for them, they shall be appointed one *ex officio* by the competent authority at the expense of the State.²⁷¹

Administrative law - asylum proceedings

As a rule, law enforcement authorities, namely the police, are normally the ones intercepting minors entering the international protection system. They are obliged to

²⁶⁸ Article 452d(5), ZKP

²⁶⁹ Article 18, ZNPPol

²⁷⁰ Article 452d(5), ZKP

²⁷¹ Article 452d(5), ZKP

recognize minors as minors and as unaccompanied if they are unaccompanied, informing the relevant social work centres about their presence in Slovenia.

→ PRELIMINARY PROCEDURE

In practice, during the preliminary procedure, the police often did not recognize minors as minors or as unaccompanied.²⁷² If a child stated during the police procedure that they are of age, they were processed as an adult. The Police in Novo Mesto, for example, observed that unaccompanied children often claim to be of age in order to not be separated from the group they are travelling with.²⁷³ In practice, children as young as 14 would be processed as adults by the Police and were only identified as unaccompanied minors in the Asylum Home or its branch. In addition, children were often not processed as unaccompanied but as traveling with an adult family member such as a cousin or an uncle. This meant that before lodging the asylum application, children were often accommodated in the Asylum Home, which is inappropriate for accommodating children (see: Reception conditions) instead of its branches Logatec or Student Dormitory Postojna that are a little bit more suitable for children.²⁷⁴

In 2023, due to a large increase in arrivals, identification of unaccompanied minors in mixed migration flows posed a serious systemic issue.²⁷⁵ According to the official statistics, only 46 unaccompanied minors lodged the application for international protection in 2023.²⁷⁶ Statistics on the number of unaccompanied children who expressed the intention to apply for international protection in Slovenia is not gathered. The statistics should be gathered by police officers in the preliminary procedure. The only statistics available is the number of unaccompanied minors who lodged an application for international protection.²⁷⁷

RECOMMENDATION #24: *Collect statistics on the number of unaccompanied minors who expressed intention to apply for asylum in Slovenia, including their basic data. Ensure that data is collected on systemic level and train the police officers on ground to do so.*

The system only starts to consider children once they lodge an application for asylum. Lack of statistics on the number of unaccompanied children who are processed by the police as part of the preliminary procedure but abscond before lodging the application hinders the possibility to thoroughly assess the scope of the issue, to properly and

²⁷² Observations by PIC, Urša Regvar, Lana Krznarič, *AIDA Country Report - 2023 Update Slovenia* (2024), Asylum Information Database (AIDA), Available at: <https://asylumineurope.org/reports/country/slovenia/>

²⁷³ National Preventive Mechanism, *Priporočila iz obiskov (preglednice)*, available at: <https://bit.ly/3l6Xhs0>.

²⁷⁴ Observations by PIC, Urša Regvar, Lana Krznarič, *AIDA Country Report - 2023 Update Slovenia* (2024), Asylum Information Database (AIDA), Available at: <https://asylumineurope.org/reports/country/slovenia/>

²⁷⁵ Observation by the PIC, Urša Regvar, Lana Krznarič, *AIDA Country Report - 2023 Update Slovenia* (2024), Asylum Information Database (AIDA), Available at: <https://asylumineurope.org/reports/country/slovenia/>

²⁷⁶ Official statistics provided by the Migration directorate, March 2024. Urša Regvar, Lana Krznarič, *AIDA Country Report - 2023 Update Slovenia* (2024), Asylum Information Database (AIDA), Available at: <https://asylumineurope.org/reports/country/slovenia/>

²⁷⁷ Information provided by the Ministry of the Interior and the UOIM, March 2024.

promptly address the needs of children prior to entering the procedure, providing them support and equipping them with information. Unofficial figures suggest that 8,000 unaccompanied children expressed their intention to apply for asylum to the police in Slovenia.

The police provide information to the unaccompanied minor upon intercepting them. However, providing information effectively is an issue due to the lack of interpreters available to interpret information for the child.²⁷⁸ Oftentimes, the police are also not adequately trained or trained at all to provide information to a minor in a child-friendly manner.²⁷⁹

As of now, there are no organizational procedures in place that would standardize the consideration of minor asylum seekers, particularly unaccompanied minors, in view of protecting the best interest of a child. The same registration forms are used across police stations to register some basic information about the asylum seeker (a short statement on the reasons for applying for international protection).

→ ACCOMMODATION OF UNACCOMPANIED MINORS AND REPRESENTATION

The law stipulates that age assessment can only be conducted in cases where there are doubts as to whether the child is underage and not in cases where there is doubt about a child claiming to be of age.²⁸⁰ Therefore, in practice, adults claiming to be minors can be accommodated together with unaccompanied children until the assessment is made. Due to the lengthiness of the procedure, this could happen for up to a couple of months. In addition, children claiming to be of age can be accommodated with adults since age assessment cannot be made in their case.

Unaccompanied minors can be accommodated in the Asylum Home, Logatec or, since April 2024, in the Student Dormitory in Postojna. The Student Dormitory Postojna, where unaccompanied minors can be accommodated, is an institutional care arrangement where a special part of the student dormitory is used for unaccompanied minors. Up to 22 unaccompanied minors can be accommodated at the same time.

Upon receiving information about an unaccompanied minor, the social work centre should appoint a guardian for a special case to the minor who would visit them during police proceedings and talk to them. Commonly, the social work centre does not appoint one in practice, transferring the child directly to the reception centre for minors, the Student Dormitory Postojna. At the inception of the asylum procedure, i.e. at the event of lodging the asylum application, an unaccompanied minor is appointed a statutory representative (“zakoniti zastopnik”), who represents the minor from then

²⁷⁸ Urša Regvar, Lana Krznarič, *AIDA Country Report - 2023 Update Slovenia (2024)*, Asylum Information Database (AIDA), Available at: <https://asylumineurope.org/reports/country/slovenia/>

²⁷⁹ Observations by the PIC.

²⁸⁰ Article 17(2) IPA.

onward.²⁸¹ The representative represents the minor in relation to the asylum procedure, reception, health protection, education and protection of property rights and interests, from the beginning of the application and throughout the entire procedure.²⁸² Hence, the unaccompanied minor thus has no representative during the police proceedings and until they officially lodge the asylum application.

²⁸¹ Observations by the PIC.

²⁸² Article 16(1)(3), ZMZ-1.

CFJ_Indicator III B #2 // During proceedings: all children are protected from secondary victimisation.

Analysis notes

There are some legal provisions and measures in place that mitigate secondary victimization of children in court proceedings in Slovenia.

Criminal proceedings - victims

Direct questioning. Repeated examination of victims and witnesses negatively has a negative impact and contributes to further victimization. Slovenian criminal law includes some measures to avoid victimization of minors, such as the general prohibition of direct questioning of children under the age of 15 and, if necessary, also older minors.²⁸³ In such situations, only the record of the previous questioning of the person is read out at the main hearing. Hence, when it comes hearings, secondary victimization is to some extent mitigated. However, as indirect questioning may still be carried out in front of the investigative judge,²⁸⁴ minors are not fully protected from it and are to some extent still exposed.

Territorial jurisdiction. When it comes to territorial jurisdiction, the jurisdiction may be adjusted to fit better the needs of a minor victim in criminal proceedings and reduce secondary victimization caused by the structure of the judicial system. For example, as a general rule, territorial jurisdiction over proceedings against a minor is vested to the court of the minor's place of permanent residence. However, this rule can be derogated from if, *inter alia*, there are several minors involved as offenders and the victim is also a minor. As follows from the case *VSRS Sklep I Kr 34721/2017*, if a request is made to initiate preparatory proceedings against several minors who reside in different district courts and the victim is a minor, proceedings may also take place in front of one district court so as to minimize the times the victim is interrogated in the course of proceedings.²⁸⁵ Vesting territorial jurisdiction in one court for all minor offenders involved would make the situation easier for the injured party, on who was in the case a minor, 13 years old. The case law provides a practice to avoid repeated victimization reconsidering territorial jurisdiction.

Children's House. Psychosocial support is offered to children during proceedings at the Children's House. Psychosocial support is a more permanent form of psychological, social and practical help for the child, which follows in the aftermath of the interview at the Children's House and is provided by the child's adviser. The adviser helps the child and their family to come to terms with what has happened, to recover

²⁸³ Article 331(5), ZKP

²⁸⁴ Article 331(6), ZKP

²⁸⁵ Such reasoning followed from the decision in *VSRS Sklep I Kr 34721/2017*, for example.

and to move on with their lives with professional support and in a safe environment. The psychosocial support is voluntary and free of charge. It usually takes the form of regular (weekly) counselling or therapy sessions and lasts for six months. The implementation and duration are adapted to the individual needs of the child.²⁸⁶ An adviser is assigned to the child and accompanies the child and their family throughout the procedure at the Children's House, providing them with the help, support and information they need.²⁸⁷

→ The police

Staff from centres for social work (CSD) may attend interviews with the child which are carried out by the police. In that way, the CSD staff does not need to carry out an interview on their own, and secondary victimisation for the child is avoided. If CSD staff is present, the police officer will offer them the opportunity to ask any questions.²⁸⁸

One of the senior police inspectors stated that “[i]f the police officer finds that an investigative interview would be professionally inappropriate (e.g. several people have already spoken to the child and actively influenced the child's statement with their questions), the police officer will make a reasoned professional decision and will not conduct an investigative interview with the child.” Secondary victimization is in this way avoided.

Administrative proceedings - asylum proceedings

In administrative proceedings concerning minor asylum seekers, interviewing is conducted in light of diminishing secondary victimization. Personal interviews with a minor under 15 years old are commonly not conducted, only in exceptional cases.²⁸⁹ The interview is only conducted if additional information has to be obtained with regards to the status of the unaccompanied minor. Legal guardians or statutory representatives are present in personal interviews with all minors.²⁹⁰ This may positively contribute to the mitigation of interviewing effects on the minor, addressing secondary victimization.

One of the issues is also the provision of professional psychological support to, *inter alia*, children during proceedings. National experts in the field have pointed out before

²⁸⁶ Hiše za otroke, Informacije za starše / skrbnike (2023), Available at: https://www.hisa-za-otroke.si/wp-content/uploads/2024/01/HzO_ZLOZENKA_za_starse.pdf

²⁸⁷ Hiše za otroke, Informacije za starše / skrbnike (2023), Available at: https://www.hisa-za-otroke.si/wp-content/uploads/2024/01/HzO_ZLOZENKA_za_starse.pdf

²⁸⁸ Janez Krek in Neža Miklič, *Zaščita otroka pred izvenšolskim nasiljem: Priročnik za vzgojitelje, učitelje in druge strokovnjake* (2023), Univerza v Ljubljani, Pedagoška fakulteta

²⁸⁹ Article 37(3) IPA.

²⁹⁰ Article 37(2) IPA.

the pressing need to evaluate and monitor the provision of psychosocial counselling and psychotherapy in Slovenia, with the view of preventing quasi-scientific approaches to offering psychological support.²⁹¹ Referrals to poor quality and scientifically unsupported programmes can be harmful, including in view of secondary victimization.

Good practice

An example of good practice in this field are the interviews carried out in the Children's House. The protocol for the consideration of the child in the Children's House is designed in a way that secondary victimization is reduced to a great extent.

In the light of reducing secondary victimisation, a handbook for educators, teachers, and other professionals on how to respond appropriately to observed violence against a child has been developed by the police in collaboration with academia. As per the handbook, "[e]very professional who acts in a professionally appropriate manner in cases of violence against children contributes to reducing secondary victimisation of abused children or adolescents."²⁹² The handbook contributes to informing professionals in contact with children, victims of violence, about ways to reduce secondary victimization in their contact.

Points to address

Interviewing minors. It is important to ensure that the number of interviews carried out with a child is reduced and, as a rule, limited to one. Oftentimes, children are still interviewed as victims or witnesses several times in the course of proceedings, which contributed to their repeated victimization by the system. Some judges are still not informed of the consequences repeated interviewing has on the child or are not able to weigh the (minor) victim's rights against the rights of the defence in the light of the best interests of a child. Furthermore, practitioners in different fields (judiciary, police, social work) may not be well-versed in interviewing children or generally communicating with them, which may negatively impact their victimization.

²⁹¹ Vesna Leskošek, PhD (Full professor, Faculty of Social Work, University of Ljubljana), Jasna Podreka, PhD (Professor, Faculty of Arts, University of Ljubljana), Maja Plaz (SOS Helpline for women and children Victims of Violence, Head of the Association), Katja Zabukovec Kerin (Association for Nonviolent Communication – DNK, Head of the Association)

²⁹² Neža Miklič, Janez Krek et al., Zaščita otroka pred izvensolskim nasilje. *Prepoznavanje znakov in preprečevanje nasilja nad otroki. Priročnik za vzgojitelje, učitelje in druge strokovne delavce* (2023), Univerza v Ljubljani, Pedagoška fakulteta, Available at: https://www.policija.si/images/stories/Publikacije/PDF/Zascita_otroka_pred_izvensolskim_nasiljem_Prirocnik.pdf

RECOMMENDATION #25: Reduce the number of hearings or interviewing of children to one. Repeated hearings may be permitted only in cases where new information to be clarified arise.

RECOMMENDATION #26: Inform judges and other decision-makers about secondary and repeated victimization of children and means to reduce it. Inform them of the consequences of repeated interviewing.

RECOMMENDATION #27: Inform practitioners of child-friendly ways of communicating. Ensure ongoing training for professionals who interview children.

RECOMMENDATION #28: Let the child be interviewed by a professional other than the judge (or other decision-maker) who is qualified in working with children and in child-friendly justice. Such an interviewer may also be in charge of introducing the child to the interviewing space as this would positively contribute to reducing stress and victimization of children. Prior to holding the interview, a preparatory meeting shall be held with the interviewer to define the content of the interview (together with the judge, the child's counselor, parents, and other experts and relevant stakeholders in proceedings).

RECOMMENDATION #29: Establish the practice of interviewing children with an interdisciplinary team of experts. Such a change in the rules of evidence would have a positive impact on reducing stress for the child and would allow for a simultaneous assessment of the credibility of the child's statement by experts present at the interview.²⁹³

²⁹³ Katja G. Šugman, *Otrok žrtev - otrok priča v kazenskem postopku* (2000), *Revija za kriminalistiko in kriminologijo*, Ljubljana 51 / 2000 / 3, s. 207-215

CFJ_Indicator III B #3 // After proceedings: laws and measures exist to ensure that the rights of all children are safeguarded after proceedings.

Analysis notes

Criminal law

→ VICTIMS

Just like adult victims, minors have the right to be informed of the release or escape of the suspect or accused person from pretrial detention. The injured party must, however, request such information, as it is not provided to them by default. The injured party shall be informed of this right during the first contact in pre-trial or criminal proceedings.²⁹⁴ Such information may be refused if the suspect or accused person could be threatened as a result.

Points to address

Previous research has shown that a significant mitigating factor for children to recover from the proceedings and the situation is the support provided to their parents. It is important to assist parents, as their support has a positive impact on the child.

RECOMMENDATION #30: *Establish and support the ongoing programs dedicated to parents of children in contact with law that are carried out by CSDs and NGOs. It is necessary to ensure that the programs are financially and staff-supported and that regular training is made available to the staff.*

In practice, official authorities do not often monitor how judicial or administrative decisions have played out in practice (e.g., placing a child in institutional care). In order to learn about the effect of a particular measure imposed on a child, it is important to gather feedback from the child and the practitioners working with them.

RECOMMENDATION #31: *Organize consultations on how a particular judicial or administrative decision played out in practice. Organize feedback sessions with different stakeholders involved on the case in order to learn from practice.*

²⁹⁴ Article 65a(4), ZKP

The (proposed) action plan

In the following, we list all the recommendations made throughout this report – it is now up to state officials to create an actual binding action plan to be carried out within an appropriate timeline. A list of priorities also needs to be made. The action plan shall set out who is doing what, by when, in response to which issues and what are the priorities for action to be carried out. In this way, the report would become meaningful.

- RECOMMENDATION #1:** Support programmes for positive parenthood carried out by social work centres and NGOs. Support them both in terms of finance as well as providing training for the staff. 14

- RECOMMENDATION #2:** Adapt the official leaflet on the rights of victims of crime to child-friendly language..... 21

- RECOMMENDATION #3:** Publish a list of attorneys qualified to represent minor victims of crime and provide a programme for their qualification..... 22

- RECOMMENDATION #4:** Produce informative videos for children in asylum proceedings (accompanied and unaccompanied children). 25

- RECOMMENDATION #5:** Produce informative videos for targeted groups of children (i.e. child victims of human trafficking). 25

- RECOMMENDATION #6:** Upgrade the current video for unaccompanied minors to also include information on NGOs working in the field and on grounds for granting asylum in Slovenia. 25

- RECOMMENDATION #7:** Train the interpreters working with children on child-friendly communication techniques..... 27

- RECOMMENDATION #8:** Ensure that police officers consider asylum seekers on an individual basis, registering their statements individually and in the presence of an interpreter. 27

- RECOMMENDATION #9:** Ensure that the interpretation services available meet the needs on ground. 27

- RECOMMENDATION #10:** Begin discussions on making child-friendly and simplified versions of the decisions available in all proceedings concerning children (e.g., in administrative procedures). Adopt legislative provisions in that regard..... 29

- RECOMMENDATION #11:** Introduce mandatory training for all professionals working with children on communication skills and the use of child-friendly

language in oral and in writing (social workers, interpreters, police, prosecutors, judges, etc.)..... 29

RECOMMENDATION #12: Organize training on communication with vulnerable groups of children such as children with intellectual and psychosocial disabilities or children with migrant background..... 29

RECOMMENDATION #13: Adapt all the relevant publications and videos concerning people in judicial and administrative proceedings to children and their needs. 29

RECOMMENDATION #14: Codify a provision on mandatory training of legal professionals in contact with juvenile victims and witnesses..... 37

RECOMMENDATION #15: Ensure that decision-makers in asylum procedures are regularly trained and sensitised on vulnerability of unaccompanied minors. Ensure that such training is a prerequisite for decision-makers to decide on cases concerning unaccompanied minors. . 41

RECOMMENDATION #16: Consult the report on ensuring the best interests of the child in civil court proceedings in Slovenia and draw from recommendations therein when it comes to children in family proceedings. 43

RECOMMENDATION #17: Conduct empirical research with relevant stakeholders to create a more thorough listing of which topics are to be covered in training activities of different legal professionals..... 43

RECOMMENDATION #18: Conduct analysis on financial needs of CSDs to cover training sessions for their staff. Raise the bar of how many training sessions per year each social worker can attend..... 44

RECOMMENDATION #19: Examine the need to develop protocols or guidelines for working with children in different work settings (e.g. the police, social work centres)..... 44

RECOMMENDATION #20: Introduce to the child the child-friendly environment in which they will be heard prior to the meeting. Create premise-specific videos that will inform the child of the environment and their rights therein. 60

RECOMMENDATION #21: In order to improve the system of filing a complaint for children in educational settings:..... 64

- gather and present all the information about the children’s right to file a complaint in a child-friendly manner (leaflets, posters, web site, media, social media, etc.)..... 64
- make the material accessible in places where children spend their time (schools, health centres, leisure activities etc.) 64
- ensure that the essential parts of the institution’s communication tools and outputs are in a child-friendly version 64
- on top of formalising procedures create an environment and offer opportunities where children feel safe and comfortable to issue a complaint
64

RECOMMENDATION #22: Strengthen legislation and practice on enabling children, particularly those with disabilities, to participate in all proceedings that concern them..... 71

RECOMMENDATION #23: Review legislation and ensure that children enjoy the right to participate in all proceedings that involve them – judicial and administrative ones. 71

RECOMMENDATION #24: Collect statistics on the number of unaccompanied minors who expressed intention to apply for asylum in Slovenia, including their basic data. Ensure that data is collected on systemic level and train the police officers on ground to do so. 77

RECOMMENDATION #25: Reduce the number of hearings or interviewing of children to one. Repeated hearings may be permitted only in cases where new information to be clarified arise. 83

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counselor, parents, and other experts and relevant stakeholders in proceedings)..... 83

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RECOMMENDATION #30: Establish and support the ongoing programs dedicated to parents of children in contact with law that are carried out by CSDs and NGOs. It is necessary to ensure that the programs are financially and staff-supported and that regular training is made available to the staff.84

RECOMMENDATION #31: Organize consultations on how a particular judicial or administrative decision played out in practice. Organize feedback sessions with different stakeholders involved on the case in order to learn from practice..... 84

RECOMMENDATION #32: When commissioning research, ensure that sufficient resources are secured to gather information from the practice too. Ensure that desk research is complemented with empirical research whenever relevant. Consult practitioners and relevant stakeholders to evaluate how and to what extent legal provisions were materialized in practice. Update the present report by carrying out consultations with relevant practitioners in the field. 89

RECOMMENDATION #33: When commissioning research, secure resources to consult children and young people on processes and proceedings that concern them. Update the present report by carrying out consultations with children who had the experience of being in contact with law..... 89

Discussion

In this section we highlight some of the main drawbacks of the national report. As already pointed out in the introduction, data collection method chosen for this report was limited to conducting desk research instead of also undertaking empirical research. This impeded the researchers to present the whole picture of child-friendly justice in Slovenia, verifying information found online with the situation in practice. Although the researchers grasped the subject of the research, touching upon different legal situations in which children are involved, the researchers were able to present the situation on ground only to a limited extent. Due to the limited resources available for the study, the empirical method of data collection had to be abandoned. Envisioned methods for carrying out empirical research, such as interviews, focus groups and questionnaires, would be essential in this case as although the Slovenian justice system may be to a certain extent child-friendly in law, it is to a lesser extent so in practice. Carrying out consultations with practitioners working across different legal sectors and regions in Slovenia would be essential to illustrate more precisely the current issues faced by children in the Slovenian justice system.

RECOMMENDATION #32: *When commissioning research, ensure that sufficient resources are secured to gather information from the practice too. Ensure that desk research is complemented with empirical research whenever relevant. Consult practitioners and relevant stakeholders to evaluate how and to what extent legal provisions were materialized in practice. Update the present report by carrying out consultations with relevant practitioners in the field.*

Another drawback of the research on children was the inability to include children themselves in consultations. One important aspect of carrying out child-friendly justice projects is to guarantee the involvement of children in all matters concerning them. This should be particularly the case for all projects conducted under the Council of Europe's programme "Building a Europe for and with children".

RECOMMENDATION #33: *When commissioning research, secure resources to consult children and young people on processes and proceedings that concern them. Update the present report by carrying out consultations with children who had the experience of being in contact with law.*

The researchers also experienced issues incorporating certain important topics in the report. For example, topics such as deinstitutionalization of children, overcrowding of children in institutions and the general lack of (trained) staff addressing their needs, as well as the lack of clinical psychologists providing expert opinion in criminal and family law cases, have not been commented upon.

Conclusions

This report presented the state of child-friendly justice and administrative procedures in Slovenia. It covered a range of topics pertaining to the position of children such as access to information, representation, legal advice, means of participation, ways of reducing secondary victimization and others. The report covered the position of children in criminal, civil and administrative proceedings. Although the research method was limited to collecting data via desk research, the report presents the basis for informing the reader of the current state of art of child-friendly justice in Slovenia. It highlights issues faced by children and some examples of good practice which improved the situation for them. Overall, the report may conclude that progress is being made while there is still plenty of room for improvement.

The research showed that Slovenia is slowly making progress when it comes to child-friendly justice. In recent years, some notable changes have been made to the Slovenian legal framework while the practice still needs to catch up. Legal advancements have also not been made in all areas of law concerning children. For example, while training of legal professionals is now required for those working with juvenile offenders, a similar obligatory provision does not exist for those working with victims. Furthermore, although obligatory training may exist in certain areas of law (e.g., in asylum proceedings), it is not necessary that all professionals will be equally skilled in practice, particularly because the employees enter the training system with different predispositions. This should be taken in consideration when designing the training. Furthermore, practice shows that the nature of proceedings involving children still heavily depends on decisions of an individual judge or a panel. Such discretion may be most notable in criminal proceedings where it is up to a single judge to decide whether a minor will be interviewed in the Children's House or not. Similarly, it is up to a judge to decide how many times a child will be interviewed and whether a person will be referred to the Victim Support Office to receive support or not. In making a decision a judge may be uninformed or misinformed about the workings of an institution or an institute and the benefits they have for children (e.g., the interviewing of a child in the Children's House). In this regard and due to other reasons listed throughout the report it is highly important that legal professionals are regularly trained on topics pertaining to their work.

In the discussion part of the report, the authors discussed the drawbacks of the research and room for improvement when it comes to data collection. The researchers aspire the report to be complemented with information from legal practice in future, by means of conducting interviews, focus groups and questionnaires, including *inter alia* consultations with children. The process of drafting the report was useful in order to map out the legislative framework, issues faced by children and room for improvement, but will only become meaningful if decision-makers will take action on the basis of it. In this regard we call on decision-makers to take the recommendations seriously, draw

up a solid action plan with a binding timeline, consult relevant stakeholders, including non-governmental organizations, and actually – and most importantly – carry the reform out.