



MODULE 09: CHILD-FRIENDLY SYSTEM

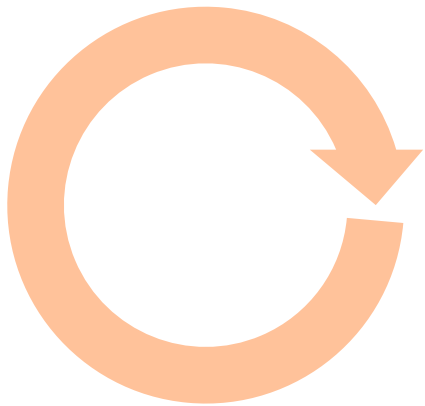
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SUPPORTED BY THE RIGHTS, EQUALITY
AND CITIZENSHIP (REC) PROGRAMME
OF THE EUROPEAN UNION



SEVEN STAGES IN ASSESSMENT, ANALYSIS AND PLANNING INTERVENTIONS

cf. Bentovim, Cox, Bingley Miller, Pizzey & Tapp (2014)



- ▶ Stage 1: initial recognition and referring
- ▶ Stage 2: gathering information
- ▶ Stage 3: organising the information available
- ▶ Stage 4: analysing patterns of harm and protection
- ▶ Stage 5: predicting the likely outlook for the child
- ▶ Stage 6: developing a plan of intervention
- ▶ Stage 7: identifying outcomes and measures for intervention

At any stage of the assessment it might be necessary to initiate justice proceedings (police intervention, court proceedings etc.).

WHY DO WE TALK ABOUT CHILD-FRIENDLY JUSTICE SYSTEM ?

Court/justice proceedings

- ▶ may allow for helpful interventions but may also lead to secondary victimization/trauma
- ▶ follow legal principles not easily accessible to children and their families

Child friendly justice system aims at

- ▶ avoiding additional harm and secondary victimization of neglected or emotionally abused children in justice proceedings
- ▶ children as rights holders

WHAT IS CHILD-FRIENDLY JUSTICE FOR YOU?

What associations come into your mind
when you think about „**child-friendly justice**“



WHAT IS CHILD-FRIENDLY JUSTICE FOR YOU?

VIDEO

SETTING THE CONCEPT OF CHILDREN'S RIGHTS

- ▶ Children are rights holders
- ▶ Parents, care givers, professionals have obligation to protect children from harm
- ▶ States have obligations to protect and promote children's rights
- ▶ Professionals working with children and for children have obligation to respect and promote children's rights
- ▶ States must have special mechanisms in place for children to recognize their rights

CHILD'S RIGHTS AND CHILD PROTECTION

- ▶ The rights-based approach
- ▶ 'A paradigm shift towards respecting and promoting the human dignity'
- ▶ The children's capacity to contribute to the realization of their rights

VULNERABILITY AND POSITION AS RIGHTS HOLDERS

- ▶ In cases of neglect or emotional abuse children are particularly vulnerable and need protection.
- ▶ tensions between
 - ▶ vulnerability and need of protection of children
 - ▶ seeing children as independent right holders and respect their autonomy

SETTING THE CONCEPT OF THE CHILD-FRIENDLY JUSTICE

Universal: International Bill of Rights, CRC

Regional:

- ▶ Charter of Fundamental Rights of European Union
- ▶ Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice (2010)
- ▶ EU Guidelines for the Promotion and Protection of the Rights of the Child (2007)

National: Set of national laws

SETTING THE CONCEPT OF THE CHILD-FRIENDLY JUSTICE

The Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice

- ▶ were adopted in 2010 after an elaborate process of
- ▶ consultation of experts and consultation of children
- ▶ build on existing international, European and national standards,
- ▶ draw especially on the Convention of the Rights of the Child
- ▶ seek to lay down principles of child friendly justice and
- ▶ be a practical guide to the implementation and advancement of standards

FUNDAMENTAL PRINCIPLES OF THE GUIDELINES

Fundamental principles are:

- ▶ Protection from discrimination
- ▶ Best interests of the child
- ▶ Participation
- ▶ Dignity
- ▶ Rule of Law

NON-DISCRIMINATION

The right to non-discrimination

- ▶ Child-friendly justice applies to all children
- ▶ Children have a right to protection from both direct or indirect discrimination.
- ▶ Non-discrimination is of particular importance for children with disabilities or of different national or ethnic backgrounds, or children in vulnerable situations
- ▶ It is possible to be a victim of discrimination on multiple grounds.

NON-DISCRIMINATION



Please share with each other examples of discrimination situations that children might face during judicial proceedings and child protection proceedings

BEST INTEREST OF THE CHILD

What is best interest?

- ▶ **Art. 3 CRC:** "1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."
- ▶ Decisions by adults should take into account how they affect children:
 - ▶ in child protection/custody cases: decision should be based on **best interests of the child**, including personal communication.
 - ▶ social workers should always think first about what is best for the child (e.g. in case of out-of-home placement a social worker must assess what form of placement is best for the child)

DIFFICULTIES WITH THE BEST INTERESTS OF THE CHILD

The best interest bears challenges

- ▶ assess of the best interest needs mapping of the child's situation, based also on communication with the child
- ▶ every child's situation should be assessed individually, taking into account everything that matters
- ▶ necessity to consult with specialists working with the child
- ▶ awareness of possible conflicts of interest with parents or caregivers
- ▶ importance of communication with parents and caregivers what is the best interest of the child

DIFFICULTIES WITH THE BEST INTERESTS OF THE CHILD

Please share with each other examples of conflicts of interests with the best interests of the child that you have faced in your work



PARTICIPATION

What is participation?

- ▶ Information and advice
- ▶ Hearing the child's views
- ▶ Ensuring consideration

CHALLENGES TO PARTICIPATION

Participation bears challenges

- ▶ Stress and pressure
- ▶ Conflict of loyalties
- ▶ Repeated hearings in mult-idisciplinary contexts
- ▶ child experiences lack of influence
- ▶ Interpretation and adequate consideration of children's statements

CHALLENGES TO PARTICIPATION

Please share with each other examples of bad practice of participation



CHILD-FRIENDLY JUSTICE IS...

According to the Council of Europe Child-Friendly Justice Guidelines, child-friendly justice is:

- ▶ Accessible
- ▶ Age appropriate
- ▶ Speedy
- ▶ Diligent
- ▶ Adapted to and focused on the needs of the child
- ▶ Respecting the right to due process
- ▶ Respecting the right to participate in and to understand the proceedings
- ▶ Respecting the right to private and family life
- ▶ Respecting the right to integrity and dignity

CHILD-FRIENDLY JUSTICE IS...

The Guidelines apply to all justice settings:

- ▶ Before, during and after justice proceedings
- ▶ Criminal justice (i.e. witnesses, victims, accused/defendants)
- ▶ Civil justice (i.e. family proceedings, civil court proceedings and care systems)
- ▶ Administrative justice (i.e. in administrative proceedings, e.g. child protection)

WHO WILL BENEFIT FROM CHILD-FRIENDLY JUSTICE?

The Child

- ▶ child's rights are respected
- ▶ no victimization
- ▶ increased empowerment
- ▶ allowing for more positive long term outcomes

Specialist (prosecutor, lawyer, judge, social worker, police etc.)

- ▶ more accurate and evidence-based findings for the proceedings
- ▶ more accurate decision-making
- ▶ more accurate and quicker proceedings
- ▶ trustful and better cooperation between specialists in the field

WHO WILL BENEFIT FROM CHILD-FRIENDLY JUSTICE?

System

- ▶ more information = better intervention
- ▶ better quality and practice
- ▶ better cooperation between different fields = additional help in decision-making



CHILD-FRIENDLY JUSTICE BEFORE PROCEEDINGS

Before proceedings

- ▶ minimum age of criminal responsibility
- ▶ alternatives to judicial proceedings
- ▶ children are informed about the issues in a suitable way and consulted about the cases and matters that affect them
- ▶ children are provided with legal counsel to help them understand proceedings if they are in conflict with the law
- ▶ system has different support mechanisms
- ▶ questioning and interviewing are conducted in a child-friendly way (age-appropriate materials, materials for children with disabilities etc.)

CHILD-FRIENDLY JUSTICE DURING PROCEEDINGS

During proceedings

- ▶ children have access to legal counsel and representation during legal proceedings
- ▶ children have a right to be heard and express views throughout the proceedings
 - ▶ appropriate communication techniques
 - ▶ child-friendly environment
- ▶ proceedings are effective and undue delay is avoided
- ▶ evidence-taking process is child-friendly

CHILD-FRIENDLY JUSTICE AFTER PROCEEDINGS

After the proceedings

- ▶ information should be given to the child on outcomes and further procedures
- ▶ supporting system should be in place (counselling, rehabilitation etc.) and situation monitored
- ▶ judicial decisions should be enforced and monitored
- ▶ international standards and best practices should be applied

CHALLENGES IN MULTI-DISCIPLINARITY

Challenges in multi-disciplinary cooperation

- ▶ vastly differing qualifications, knowledge and experience
- ▶ basic knowledge of child protection is different
- ▶ access of professionals involved to family members varies
- ▶ differing perspectives

EXERCISE

EXERCISE:

The rights of the child in the national context

CONCLUSION

COLOPHON

- ▶ The training material at hand was developed as part of the project **Multi-disciplinary Assessment and Participation in Child Protection Proceedings: training program with modules and toolbox, international network (MAPChiPP)**.
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