



**Individual assessment – a gateway  
to a child centered justice**  
**Key concepts and  
frequently asked  
questions**



Working together  
for children in criminal  
proceedings

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## Acknowledgments

The Q&A **Individual assessment – a gateway to a child centered justice: Key concepts and frequently asked questions** has been developed as part of the FOCUS project and is a component of a set of **FOCUS tools and resources**. This Q&A document provides a list of answers to the most frequently asked questions for what concerns individual assessment processes used to assess the circumstances and the needs of children involved in criminal proceedings – both as victims and as suspects and/or accused of a crime. This document addresses professionals working with children in the justice system and provides them with brief explanations of key concepts.

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## About the FOCUS project

FOCUS<sup>1</sup>, a European Union co-funded project (2020 – 2022), centred on promoting and supporting the implementation of EU legal obligations to carry out **individual assessments of the needs and circumstances of children involved in criminal proceedings, whether as victims, suspects or accused**. These obligations are set out in three EU Directives concerning combating sexual abuse and exploitation of children<sup>2</sup>, victims' rights<sup>3</sup> and procedural safeguards<sup>4</sup> respectively, as transposed into, and sometimes complemented by, national law.

The **ultimate objective** of the project is to support child-centred justice, and ensure that children in contact with the law, as victims and as offenders, receive individualised care, and have access to personalised support and responses, including through restorative justice processes. FOCUS partners see the implementation of **robust and multidisciplinary individual assessment process as a gateway into child centred justice**. Focus sought in particular to:

1. Make systematic individual assessment practices of more common application with children involved in criminal proceedings.
2. Build the knowledge, capacities and skills of youth justice professionals, about standards, tools, procedures and process in the use of multidisciplinary individual assessment with children in criminal proceedings.
3. Build the knowledge and capacities of children about their rights in the criminal justice system and empower children to be agents of change and advocates for child-centred justice.

The project facilitated learning through international mutual exchange of practices between the five target countries: Bulgaria, Greece, Serbia, Romania and The Netherlands. FOCUS partners identified gaps between theory and practice on the implementation of individual assessment practices, gaps which were addressed by providing professionals with new, practical tools and resources to apply and systematize individual assessment process and practice in their countries.

The main FOCUS tools and resources developed are:

1. The FOCUS Standards: provide guiding principles for undertaking individual assessments for children involved in criminal proceedings, including respect for the Charter of Fundamental Rights and the UN Convention on the Rights of the Child (tool)
2. The FOCUS Standards self-reflection tool: accompanies the FOCUS Standards and supports stakeholders and professionals in reflecting on how the Standards are fulfilled or can be better fulfilled in their practice or in their national systems (tool).
3. The FOCUS Mapping Tool: helps stakeholders review the state of development of individual assessment processes (tool)
4. The FOCUS reference table for progress helps stakeholders identify actions to achieve improvements (tool)

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<sup>1</sup> <https://tdh-europe.org/our-work/focus-on-my-needs-working-together-for-children-in-criminal-proceedings-/7144>

<sup>2</sup> EU Directive 2011/93 on combating the sexual abuse and sexual exploitation of children and child pornography.

<sup>3</sup> EU Directive 2012/29 establishing minimum standards on the rights, support and protection of victims of crime.

<sup>4</sup> EU Directive 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings.



5. The FOCUS pilot planning tool: helps stakeholders plan pilot activities to improve individual assessment processes (tool)
6. The FOCUS research summary on individual assessment with children in Europe (resources)
7. International human rights standards applicable on individual assessment practices (resources)
8. Q&A Individual assessment – a gateway to a child centered justice: key concepts and frequently asked questions (resources).
9. The Focus capacity building resources: the Focus Training Handbook, Focus on-line platform and the Focus e-learning module.



## Introduction

This Q&A document provides a list of answers to the most frequently asked questions for what concerns individual assessment processes used to assess the circumstances and the needs of children involved in criminal proceedings – both as victims and as suspects and/or accused of a crime.

This document addresses professionals working with children in the justice system and provides them with brief explanations of key concepts. The objective is to guide them either to directly conduct individual assessments with children or to promote individual assessments. Ultimately, this tool aims to support professionals to advocate for a change in ensuring that individual assessments are conducted in the most appropriate way, and in doing so they act as gateways to a fair access to justice for all children.



## Key concepts and frequently asked questions

### 1. What does individual assessment of the circumstances and the needs of children involved in criminal proceedings mean?

Individual assessment with children involved in criminal proceedings refers to robust, multidisciplinary, participatory processes and instruments. These assessments give the professionals who work with children involved in criminal proceedings all the information they need to provide the most appropriate response to the child. They also give the decision makers the support they need to enable them to serve the best interests of the child in a given case.

Individual assessment allows professionals to provide every child with the appropriate and individualised support they are entitled to. When a child is involved in criminal proceedings as a victim or as a suspect or accused, the relevant legal and child protection professionals should investigate the various aspects of the child's life, identifying their strengths and vulnerabilities. Individual assessments are processes and instruments that serve this purpose.

### 2. Why is it important to provide individual assessments to children?

First of all, States have a legal obligation to undertake an individual assessment when a child is involved in a criminal proceeding as a victim and as a suspect or accused. UN Conventions and EU law set out general obligations to carry out individual assessments. National law and practice must therefore ensure their proper implementation in different models of national criminal and child protection proceedings.

Just as importantly, properly conducted individual assessment processes create a gateway through which children can receive fair, child-sensitive, and child-appropriate proceedings: they ensure that every child can access the rights and procedural safeguards they are entitled to. Individual assessments function as a foundation to achieving child-centred justice, and enable professionals to focus on the child's needs and strengths. Individual assessments also act as a crucial safeguard against discrimination and help guarantee that all children benefit from the support services that are available to them.

Thanks to robust, multidisciplinary individual assessments, children involved in criminal proceedings can access individualised care and receive individualised responses, tailored as much as possible to their needs and best interests.





### 3. What is the scope of individual assessments with children?

Individual assessments should take into account the child's personality and maturity, the child's economic, social and family background, and any specific vulnerabilities, as well as the child's strengths and needs.

**For child suspects and/or accused** in a criminal proceeding, EU Directive 2016/800<sup>5</sup> provides the following:

- ◆ The extent and detail of the assessment may vary depending on the circumstances of the case, the measures that can be taken if the child is found guilty of the alleged criminal offence, and whether the child has been the subject of an individual assessment in the recent past
- ◆ The individual assessment in these cases is in fact also conducted to assess the appropriateness and effectiveness of any precautionary measures with respect to the child, and to inform any decision or course of action in the criminal proceedings, including during sentencing
- ◆ Member States shall ensure that: the specific needs of children concerning protection, education, training and social integration are taken into account.

**For child victims** in a criminal proceeding, EU Directive 2012/29/EU<sup>6,7</sup> and EU Directive 2011/36<sup>8</sup> refer to the following:

The special circumstances of each individual child victim should be taken into account, including the child's views, needs and concerns. The individual assessment aims in particular to determine the extent to which they are at risk of secondary and repeated victimisation, of intimidation and retaliation, and to which they require special protection measures. The individual assessment process should take into account:

- ◆ The personal characteristics of the victim, such as his or her age, gender, gender identity or expression, ethnicity, race, religion, sexual orientation, health, disability, residence status, communication difficulties, relationship to or dependence on the offender, and the child's previous experience of crime
- ◆ The type or nature and the circumstances of the crime, such as whether it is a hate crime, a bias crime or a crime committed with a discriminatory motive, sexual violence, violence in a close relationship, whether the offender was in a position of control, whether the victim's residence is in a high crime or gang-dominated area, or whether the victim's country of origin is not the Member State where the crime was committed.

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<sup>5</sup> EU Directive 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, art. 7 under sub. 3 and sub. 4.

<sup>6</sup> EU Directive 2012/29 establishing minimum standards on the rights, support and protection of victims of crime, art. 22 (1, 4), par. 55.

<sup>7</sup> EU Directive 2011/93 on combating the sexual abuse and sexual exploitation of children and child pornography, art. 19(3).

<sup>8</sup> EU Directive 2011/36 on preventing and combating trafficking in human beings and protecting its victims, art.12 (3,4), 13, 14.



## 4. Where and when – during a criminal proceeding – do individual assessments of the circumstances and needs of children take place?

The individual assessment shall take place in child-friendly premises at the earliest possible moment. However, the assessment may need to be updated, as the assessment itself contributes to actions throughout the criminal proceedings and beyond. Ideally, the assessment should be conducted in or around the time the child has first contact with law enforcement or social service professionals as a result of the offence. As the law provides, it should be possible to present an indictment in the absence of an individual assessment, provided that this is in the child's best interests.

A system should also be in place to allow an individual assessment to be updated by professionals engaged with the child. A system should also be in place to allow periodic monitoring to check whether there have been changes in the child's circumstances and situation. For both child victims and child suspects/accused in a criminal proceeding, if the elements that form the basis of the individual assessment change significantly, the assessment should in fact be updated.

## 5. Who takes part in the individual assessment of the circumstances and needs of children?

Every child involved in a criminal proceeding – as victim or as a suspect/accused – should benefit from a participatory process of individual needs assessment carried out by qualified personnel, following, as far as possible, a multidisciplinary approach. Where appropriate, the holder of parental responsibility or another appropriate adult should be present during the individual assessment to provide the child with the necessary support.

The authorities designated in each jurisdiction are responsible for conducting a proper, robust individual assessment, while guaranteeing the cooperation of all the agencies and professionals that work in the best interests of the children. Professionals from different areas of expertise should be involved in the individual assessment. Their involvement helps guarantee a thorough assessment of the child's characteristics and circumstances, including any communication or cognitive difficulties that could hamper the child's understanding and his/her meaningful participation.

The types of professionals involved in or concerned with individual assessments may include but are not limited to: police officers, lawyers, social workers, prosecutors, judges, forensic interviewers, probation workers, healthcare professionals (including doctors and psychologists), persons working in pre-trial detention centres, persons working in institutions to which children are sent, and those involved in providing services to children.



## 6. What are the quality standards for individual assessment with children developed in the framework of the FOCUS project?

The FOCUS quality standards consist of a list of 10 main guiding principles for undertaking individual assessments of the circumstances and the needs of children involved in criminal proceedings that are in line with EU law.

They represent the foundational building blocks for the development and implementation of child-centred national individual assessment processes and practices. They are general standards based on human rights, which national individual assessment processes should fulfil, regardless of the differences in models and approaches in different countries. The standards were devised to work in the context of various national models, to be flexible, and to assist in practical progress, rather than providing abstract guidance. The standards shall serve to support authorities and practitioners in developing processes for undertaking individual assessments, for conducting them in line with children's rights, and for using them to ensure that the rights and needs of children are fulfilled.

The 10 quality standards developed in the FOCUS project are:

1. Holistic and comprehensive
2. Inclusive
3. Participatory
4. Child-centred and child-sensitive process
5. Continuous and timely
6. Multidisciplinary and collaborative
7. Quality
8. Properly resourced/sustainable
9. Impact-oriented
10. Progress-oriented

## 7. How can these quality standards be used by practitioners?

The quality standards can be used on an ongoing basis. They allow for incremental progress and serve as a framework for the further exchange of national processes. They can be used with an accompanying Self-Assessment Tool, also developed within the FOCUS project, which provides professionals the ability to see to what extent their own practice and role can contribute to fulfilling the standards.

In particular, the quality standards produced by the FOCUS project can be used in a variety of ways, including:



- ◆ Raising awareness about individual assessment obligations
- ◆ Supporting professionals in assessing how developed the individual assessment processes and instruments in their country are and what improvements might be needed (see also the Tool on identifying the state of development of individual assessment processes and the Reference Table on Promoting Progress)
- ◆ Supporting professionals to work together to build individual assessment processes
- ◆ Supporting professionals in developing or using individual assessment tools
- ◆ Supporting professionals in working collaboratively
- ◆ Supporting individuals in playing a more effective role in conducting, contributing to or using individual assessments
- ◆ Training professionals on using individual assessment tools
- ◆ Supporting the monitoring of individual assessment processes
- ◆ Supporting stakeholders in knowledge and information sharing between countries
- ◆ Providing a useful framework for exchange on noteworthy national practice. If periodically revised, they can be used to further accumulate good practices.

## 8. What is “a holistic and comprehensive” individual assessment?

All children involved in criminal justice proceedings will benefit from an individual assessment of all of their circumstances for the purposes of taking the necessary measures to meet all of their needs during both criminal justice and child protection and welfare proceedings arising from the crime.

The rights and needs of the child will be assessed from the outset. The assessment also serves to ensure that children can access their rights to child-sensitive justice proceedings and any necessary social, protection and educational measures.

Consequently, the assessment should:

- ◆ Take into account the overall circumstances of the child
- ◆ Be geared towards all of the relevant responsibilities of the State to the child in relation to the issue prompting the proceedings (criminal justice/child protection)
- ◆ Seek to ensure that all necessary measures to address the needs and rights of the child can be properly evaluated (a holistic and comprehensive approach).

In particular, it should take into account the child's personality and maturity, the child's economic, social and family background, and any specific vulnerabilities.





## 9. What is an inclusive individual assessment?

The process of undertaking and using individual assessments needs to be adapted as needed, so that they can take into account the needs of all children, regardless of their age, nationality, personal circumstances or characteristics.

Children in criminal proceedings may be the subject of discrimination, depending on their individual characteristics or social circumstances. No child should be excluded from an individual assessment process on the basis of their personal characteristics or social circumstances. Indeed, the individual assessment is a tool to ensure that the proceedings properly address the specific circumstances of children. Such assessments may also help identify particular difficulties or vulnerabilities children may have.

Equally, individual assessments must be adapted as necessary to take into account the specific needs of children. In some cases, the individual assessment process may require additional expertise or sources of information. As an example, a child with special needs may require the involvement of special support during an assessment, or a migrant child may need the assistance of an interpreter or cultural mediator.

## 10. What is a participatory individual assessment?

Providing children with information, support and assistance helps empower them to access their rights. This can be achieved by engaging them, listening to them, taking account of their views, and gaining their consent. The individual assessment process should serve as a central means to ensure that the child can participate in the criminal proceedings as a whole, while accessing the procedural safeguards that should be in place for them.

In order to ensure the child has an opportunity to participate in the individual assessment, the child should receive information and advice regarding the process. This includes legal assistance for the child, particularly to the extent that the assessment covers any circumstances that might be pertinent to the adjudication of the child's criminal responsibility. This includes the support of an independent guardian in cases where there is a conflict of interest with the parents, or when no parent is present.

The child's consent to participate in the individual assessment should be sought, and the child should have a right not to participate in the individual assessment if he/she wishes.

Individual assessments of the child's circumstances do not undermine their right to a defence, including the right to remain silent. Legal advisors should be involved in the process as a safeguard. Data protection safeguards should be in place to preserve the child's privacy. The child's views should be expressly solicited on key elements of the assessment. The findings of the assessment should be shared with the child in a way that is appropriate to their age and understanding.



## 11. What is a “child-centered and child-sensitive” process of individual assessment?

The individual assessment should take place in a manner that is centred around the needs of the child (e.g. on child-appropriate premises where possible). The assessment should be child friendly and use language that is understandable to children, while avoiding jargon and providing means appropriate to the child’s characteristics and vulnerabilities. In all matters concerning the child, their best interests should be the primary consideration.

Here are a few practical elements that can help make an individual assessment more child-centred:

- ◆ Make sure the room where the individual assessment takes place is child friendly (avoid intimidating environments)
- ◆ Make sure the timing of the individual assessment takes into accounts the child’s circumstances (length of the interview, providing breaks, etc.)
- ◆ Involve professionals trained in child development, child rights, child communication. Avoid using hostile techniques
- ◆ Provide appropriate support to the child by involving parents, guardians, and family members where appropriate
- ◆ Keep the best interests of the child as a primary consideration: e.g., take measures to take care of their emotional well being

## 12. What is “continuous and timely”?

The individual assessment shall take place at the earliest possible moment but may need to be updated. The assessment itself contributes to actions throughout the criminal proceedings and beyond. The individual assessment should ideally be carried out at an early stage so that it can inform which procedures should be in place and which child protection measures are required. The assessment will need to be updated should the circumstances of the child change. This is important in the sense that events in the lives of children can change rapidly and thus, need to be considered. This requires monitoring any changes in the circumstances of the child through the appropriate means.

Individual assessments should be available for use in a timely manner for the purposes in which they are intended. They should be used on an ongoing basis to address the different steps of the proceedings. All decisions and pertinent measures applied should take into account the individual assessments conducted.



## 13. What is “multidisciplinary and collaborative”?

A multidisciplinary approach ensures that various knowledge and skills contribute to a thorough individual assessment of the child’s circumstances and needs. It allows the different dimensions of the child’s circumstances to be considered properly. A multidisciplinary approach facilitates the identification of any difficulties or vulnerabilities the child may face. For example, a medical professional should be able to determine whether a child has a cognitive or personality disorder sometimes arising out of traumatic brain injuries. This has a huge impact on the child’s interaction with the criminal justice system, as these children may need neuro-rehabilitation. Identifying this during the individual assessment process will likely prove to be a significant step in the proceeding for both the child and the justice system.

The process should also ensure that the output of the individual assessment contributes to all of the different processes in which the child is involved and is relevant to the work of the various professionals who have responsibilities in relation to the child’s situation during the proceedings or arising out of the proceedings. Enabling these professionals to work in a collaborative way allows both for a holistic approach and an efficient approach. It also ensures that the child does not have to undergo repetitive assessment processes, which risks exacerbating any trauma or other vulnerabilities.

## 14. What is “quality” and how can it be guaranteed?

In order to best understand children and their needs, properly qualified and specially-trained staff need to be involved at all levels. This includes professionals with qualifications linked to child development and child psychology. It also means having been trained on the rights of children and communication with children. Ideally, training should be multidisciplinary and it should also be undertaken regularly. Additionally, the system should be arranged in a way that ensures the regular deployment of these qualified trained personnel. From a practical point of view, this would require the following:

- ◆ Special qualifications or experience for professionals undertaking the assessments
- ◆ Involvement of a wide range of professionals
- ◆ Training for police, social workforce, lawyers, judges, and mediators
- ◆ Sufficient scope of training (child rights, child development, etc.)
- ◆ Regular training with high-quality training standards
- ◆ Deployment of a team of professionals specialised in children’s issue
- ◆ Regular professional supervision or inter-vision is in place



## 15. What is “properly resourced/sustainable”?

The individual assessment should be a process with properly allocated resources, and a focus on capacity building and inter-agency cooperation. The individual assessment process can be an adaptable step, with a scope of assessment commensurate with the child’s particular circumstances and thus, with different ranges of resource investment and on a case-by-case level. More broadly, the system for undertaking individual assessments should be underpinned by a process in which resources have been properly allocated. Resources include the professionals involved, support services, tools, checklists, training, *ad hoc* experts, digital technology for case management (who can enter the digital environment and for what purpose), and stable funding.

## 16. What is “impact-oriented”?

An individual assessment is undertaken as a concrete measure to produce concrete outcomes to fulfil the rights and needs of children. The individual assessment is not merely a “tick the box” exercise. It should feed into the kind of decision making that addresses the needs and rights of children in terms of the measures that should be put in place for them during the criminal proceedings (e.g., preparation for forensic interviews and measures to address risk of intimidation). It should contribute to decisions about which services are available to children, from a social, educational or health perspective, and on a range of different measures (educational, social, protection, health and others). The individual assessment can reach this objective – both in criminal justice and child protection/child welfare processes through the involvement of:

- ◆ Various agencies
- ◆ Various professionals
- ◆ Specialised professionals

## 17. What is “progress-oriented”?

The regular review of experience during the individual assessment process will lead to systemic improvements in responding to the needs of children in criminal justice proceedings. To be able to work with the most accurate and well-developed tools, individual assessments need to be reviewed, monitored and adapted to the most up-to-date standards. This requires a thorough system of action and other research, monitoring and data collection. A thorough system focuses on outreach and the need to work towards improving public awareness on the issue of individual assessments.

The following contributes to a solid system-building process:

- ◆ The individual assessment process is regularly reviewed and monitored at the policy and practice level
- ◆ Progress in the system is benchmarked
- ◆ Relevant data points are collected and reviewed





- ◆ Exchange of experiences between the involved agencies is ensured
- ◆ A system of outreach to actors for whom the individual assessment is of interest is in place
- ◆ Public awareness is promoted
- ◆ Learning from international good practice is encouraged

## 18. What role can restorative justice play in individual assessments of children?

*"Restorative justice is an approach of addressing harm or the risk of harm through engaging all those affected in coming to a common understanding and agreement on how the harm or wrongdoing can be repaired and justice achieved."*

– European Forum for Restorative Justice

The right to an individual assessment can serve as a practical starting point for children to participate in restorative justice processes, informing children about restorative justice, and involving them from the earliest stage possible, when appropriate. Individual assessments can also lead to restorative responses at later stages of the criminal proceedings, both for child victims and child suspects/accused.



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