

Procedural Rights of Children Suspected or Accused in Criminal Proceedings in the EU



**PROCEDURAL RIGHTS OF CHILDREN
SUSPECTED OR ACCUSED IN CRIMINAL
PROCEEDINGS IN THE EU**

HANDBOOK FOR LEGAL PROFESSIONALS



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<http://tdh-europe.org/library>

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Glossary and acronyms

Belgium Report	PRO-JUS project National Report for Belgium
Child	Person under the age of 18 in accordance with the UN Convention on the Rights of the Child
Child-friendly justice	Justice systems which guarantee the respect and the effective implementation of all children's rights at the highest attainable level, and giving due consideration to the child's level of maturity and understanding and the circumstances of the case. It is, in particular, justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, respect for private and family life and to integrity and dignity.
COE – CFG	Council of Europe, 'Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice and their explanatory memorandum', 31 May 2011
EU	European Union
EU/2010/64	EU Directive 2010/64/EU - The Right to Interpretation and Translation in Criminal Proceedings
EU/2012/13	EU Directive 2012/13/EU - The Right to Information in Criminal Proceedings
EU/2013/48	EU Directive 2013/48/EU - The Right of Access to a Lawyer, the Right to have a Third Party informed upon Deprivation of Liberty and the Right to Communicate with Third Persons and with Consular Authorities

France Report	PRO-JUS project National Report for France
Guardian ad litem/Guardian	Person appointed by the court to explore and advise what solutions would be in the best interests of a child in a court case.
Hungary Report	PRO-JUS project National Report for Hungary
Juvenile Justice	Person under 18 years of age coming under special legislation/institutional system for dealing with persons under the age of 18 who are charged with criminal offences.
Lawyer/counsel	EU Directive 2013/48 refers to the right of access to a lawyer. This means 'a person who is qualified in accordance with national law and authorised to give legal advice and to provide legal assistance to suspects'. Some countries may use the term 'Counsel' in their national legislation.
Netherlands Report	PRO-JUS project National Report for the Netherlands
NGO	Non-governmental organisation
Parent	Person(s) with parental responsibility, according to national law. In case the parent(s) is/are absent or no longer holding parental responsibility, this can be a guardian or an appointed legal representative
PRO-JUS	Procedural Rights of Juveniles Suspected or Accused in the European Union project
Spain Report	PRO-JUS project National Report for Spain
Suspects/accused	EU Directives provides rights to suspects and accused persons and the handbook refers to these terms together or alternately. The terms may be used differently in the national law of different countries.

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1. INTRODUCTION

1.1. BACKGROUND

The 'Procedural Rights of Juveniles Suspected or Accused in the European Union' (PRO-JUS) project was set up to help ensure that foreign children who are suspected or accused of crimes in European Union countries have access to a fair trial. A child suspected of a criminal offence needs to understand the criminal process if he/she is to exercise the right to a fair trial in accordance with Article 6 of the European Convention on Human Rights. Foreign children are particularly vulnerable as they may not be able to speak the language or to understand the criminal justice system of the country in which they find themselves accused or suspected.

The European Union has passed several Directives which contain minimum rules regarding the protection of the procedural rights of persons suspected of a criminal offence. The following Directives apply to both adults and children and are intended to help harmonise standards across criminal justice systems in European Union countries in relation to interpretation, information, and access to legal and other support:

- Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings;
- Directive 2012/13/EU on the right to information in criminal proceedings;
- Directive 2013/48/EU on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty.

In addition, the Council of Europe 'Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice and their explanatory memorandum' (COE – CFG) produced in 31 May 2011 give guidance on child-friendly justice applicable to all children in all types of proceedings, and which encompass foreign child suspects involved in criminal processes. It is also worth noting that Directive 2013/14/EU expressly makes reference to the COE Child-friendly Justice Guidelines. It is also important to recall that other international and regional standards underpin the procedural rights of foreign children faced with criminal proceedings including the UN Convention on the Rights of the Child (1989) and Comments of the UN Committee on the Rights of the Child, United

Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”) (1985), Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings etc.

The PRO-JUS project aims to uphold the rights of foreign child suspects by increasing the knowledge and capacity of professionals in the criminal justice system in order to improve the implementation of the three procedural EU Directives, the Council of Europe Child-friendly Justice Guidelines and other relevant legislation in EU Member States. This handbook draws on learning from earlier research by the PRO-JUS project on the implementation of the three EU directives in five Member States – Belgium, France, Hungary, the Netherlands, and Spain – and the resulting five National Reports and overview Regional Comparative Report.

The PRO-JUS project was initiated against a background of growing concerns about the difficulty of ensuring the rights of children caught up in criminal proceedings. The vulnerability of children may be exacerbated by social characteristics, such as nationality, membership of a marginalised minority group or other personal circumstances such as trauma or medical illness. The administrative process itself may aggravate matters. Foreign children are particularly vulnerable given the absence of families and support networks, their lack of familiarity with the authorities and administrative structures and their potential inability to communicate in or understand the language of the criminal proceedings in which they are involved.

In order to have a proper defence, a suspect must be able to sufficiently understand his/her lawyer, have a functional understanding of the proceedings and have adequate support in the preparation of a defence. A language barrier can thus be a major obstacle. If lawyers and other criminal justice professionals do not have the specialised skills needed to deal with children, particularly where there are cultural differences, this can be a further hindrance.

The extent to which foreign children are suspected of criminal offences in EU Member States is difficult to establish. There is a lack of reliable data on the numbers and characteristics of foreign child suspects in individual countries - there is either no national data or unreliable and partial data which makes it difficult to obtain an accurate picture. Whatever the numbers, this real problem on the ground has likely been compounded by the migration crisis in Europe in recent years. Most EU countries have relatively well-

developed and distinct juvenile justice systems which are premised on the recognition that adjustments need to be made for children on the basis of the diminished level of maturity and culpability for criminal acts. However, most countries are not yet equipped to respond to the needs of foreign child suspects in a way that ensures the effective implementation of their rights to the highest attainable level.

1.2. PURPOSE OF HANDBOOK

The purpose of this handbook is to help criminal justice practitioners ensure that cases involving foreign child suspects are dealt with in accordance with European legislation as enshrined in the three aforementioned EU Directives and the Council of Europe Child-friendly Justice Guidelines. It is in essence aimed at applying the principles and tenets of child-friendly justice to the situation of foreign child suspects. Two important clarifications are necessary:

- (1) This handbook concerns foreign children suspected or accused of criminal offences and not children accused of administrative immigration-related offences;
- (2) Human rights are inalienable and should not be granted on the basis of citizenship. While States have a sovereign right to protect their borders and determine their own laws, including over the admission, stay, or removal of non-nationals present in their country, they are obligated to govern migration flows in a way that upholds the rights of individuals within their territory and under their jurisdiction. The aforementioned EU Directives and COE Guidelines therefore apply to foreign children as much as they do to national children.

The European legislation in question is relatively new but at the same time, the plight of foreign child suspects has become increasingly acute with the migration crises of recent times. As such implementation and good practice on the ground has yet to catch up. This handbook intends to facilitate this process by bringing together the key legal provisions and guidelines which apply to children in such circumstances.

The **handbook is organised in four parts:**

- 1 - Introduction – setting out the background and the reason for the handbook.
- 2 - Fundamental principles – underlying principles of child-friendly justice as they apply to all children involved in judicial or administrative proceedings of different types whether they are involved as accused persons, victims or witnesses.
- 3 - Child-friendly justice for foreign child suspects – this is the substantive part of the

handbook that draws out and applies provisions of European legislation to the situation of foreign child suspects faced with criminal proceedings in a country with which they have few, if any, ties and in which they may not speak the language of the proceedings. The section is divided into 11 parts: interpretation; information; access to lawyer; contact with parents and third parties; contact with consular authorities; right to be heard; juvenile justice and detention; privacy; evidence from children; organisation of proceedings; aftermath. Each section comprises the following:

- Key statements in bold which summarise the main provisions;
- Each statement is supported by text and references to the aforementioned EU legislation (three EU directives, and COE Child-friendly Guidelines). This detail is provided to enable accurate application of these provisions and also to be clear as to their legal status: the three EU directives are 'hard law' and binding legal instruments; and the COE child-friendly Guidelines are classed as 'soft law' and non-binding.
- Each statement may also include additional observations or reference to practical experience, although as stated above, given the newness of this area, there is limited learning from implementation as yet.

4 - Conclusions – final concluding remarks.

It is envisaged that this handbook may be used for a variety of advocacy, awareness-raising and educational purposes and may be useful to the cross-section of professionals involved in criminal justice including lawyers, prosecutors, judges, police, interpreters and NGOs. It can be used for advocacy and the promotion and harmonisation of standards across EU countries, for example, by highlighting the key statements which summarise the main provisions. It can also be used to develop more in-depth training sessions when used in conjunction with the PRO-JUS Regional Comparative Report and National Reports which give more detailed country information on relevant national legislation and practice. In addition, the annexes to the handbook on a variety of related issues [child and adolescent development; interviewing techniques; code of ethics for interpreters; intercultural understanding and education; migration, asylum and refugee issues; criminal justice processes and terminology] can be used to develop tailored training and awareness-raising sessions.

2. FUNDAMENTAL PRINCIPLES

The Council of Europe Child-friendly Justice Guidelines summarise the following fundamental principles of child-friendly justice which build on existing European and international standards on the protection and promotion of children's rights as listed in the preamble to the Guidelines themselves.

Participation: The right of all children to be informed about their rights, to be given appropriate ways to access justice and to be consulted and heard in proceedings involving or affecting them should be respected. This includes giving due weight to the children's views bearing in mind their maturity and any communication difficulties they may have in order to make this participation meaningful.

Best interests of the child: Member states should guarantee the effective implementation of the right of children to have their best interests be a primary consideration in all matters involving or affecting them. In assessing the best interests of the involved or affected children: their views and opinions should be given due weight; all other rights of the child, such as the right to dignity, liberty and equal treatment should be respected at all times; a comprehensive approach should be adopted by all relevant authorities so as to take due account of all interests at stake, including psychological and physical well-being and legal, social and economic interests of the child. Member states should make, where necessary, concerted efforts to establish multidisciplinary approaches with the objective of assessing the best interests of children in procedures involving them. For instance, in the case of foreign children accused or suspected of offences, various administrative departments will have a role including criminal justice, care and guardianship, immigration and asylum.

Dignity: Children should be treated with care, sensitivity, fairness and respect throughout any procedure or case, with special attention for their personal situation, well-being and specific needs, and with full respect for their physical and psychological integrity. This treatment should be given to them, in whichever way they have come into contact with judicial or non-judicial proceedings or other interventions, and regardless of their legal status and capacity in any procedure or case. Children shall not be subjected to torture or inhuman or degrading treatment or punishment.

Protection from discrimination: The rights of children shall be secured without discrimination on any grounds such as sex, race, colour or ethnic background, age, language, religion, political or other opinion, national or social origin, socio-economic background, status of their parent(s), association with a national minority, property, birth, sexual orientation, gender identity or other status. Specific protection and assistance may need to be granted to more vulnerable children, such as migrant children, refugee and asylum seeking children, unaccompanied children, children with disabilities, homeless and street children, Roma children, and children in residential institutions.

Rule of law: The rule of law principle should apply fully to children as it does to adults. Elements of due process such as the principles of legality and proportionality, the presumption of innocence, the right to a fair trial, the right to legal advice, the right to access to courts and the right to appeal, should be guaranteed for children as they are for adults and should not be minimised or denied under the pretext of the child's best interests. This applies to all judicial and non-judicial and administrative proceedings. Children should have the right to access appropriate independent and effective complaints mechanisms. The application of the rule of law and the right of foreign children to a fair trial is greatly hindered if they are unable to speak and understand the language of the criminal proceedings in question.

3. CHILD-FRIENDLY JUSTICE FOR FOREIGN CHILD SUSPECTS

This section draws out the key provisions in European legislation which apply child-friendly justice to foreign child suspects. The section is organised in 11 parts. Each part comprises key statements in bold which summarise the main provisions – each statement is then supported by a recitation of the relevant provisions from European legislation and referenced accordingly. The statement may also be further explained or amplified by practical experience, where possible.

3.1. INTERPRETATION

Enabling communication is top priority when a foreign child first makes contact with the criminal justice system.

- 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 of those who may be under a physical or mental disability or have communication difficulties [COE- CFG 27].
- Whenever a child is apprehended by the police, the child should be informed in a manner and in language that is appropriate to his or her age and level of understanding of the reason for which he or she has been taken into custody [COE - CFG 28].
- For a foreign child this means using a language that he/she understands and furthermore using it in a way that is age-appropriate and understandable to a child.

The right to interpretation exists to ensure the fairness of proceedings and to uphold the rule of law.

- A suspect who does not speak or understand the language of the criminal proceedings must be assisted by an interpreter without delay, at all stages of the proceedings [2010/64/EU Art 2 (1)].
- A person faced with criminal proceedings needs to understand what he/she is accused of in order to have a fair trial and protect their liberty – this goes to the

heart of a society governed by the rule of law. For a foreign child suspect, the right to interpretation is a passport to the realisation of other rights.

- An interpreter needs to be allocated in a timely manner.
- Interpretation needs to be available at all key stages from the time the accused is brought into custody, when rights are read, during interviews, indictment, investigative and judgement hearings. In addition, it may be desirable to have interpreters available at other times e.g. during additional meetings with lawyers or when care arrangements are being discussed with social workers.
- Interpretation for parents and guardians should also be considered
- Other communication needs may also exist – the law requires appropriate assistance for persons with hearing or speech impediments [2010/64/EU Art 2 (3)].
- Foreign children with hearing or speech impairment are doubly vulnerable and additional support will be required, for instance, different forms of sign language. It can be a challenge providing interpretation for lesser known languages – an intermediary language such as English may be used providing there is sufficient assurance that the accused and criminal justice professional understand the intermediary language enough to avoid mis-communication.

Identifying the need for interpretation using a standardised procedure is a key initial step.

- Establishing the need for interpretation is the first critical task, most likely falling on the police authorities who apprehended the foreign child on suspicion of an offence.
- A procedure must exist and be used to determine whether the assistance of an interpreter is needed i.e. to test whether the suspect speaks and understands the language of the criminal proceedings [2010/64/EU Art 2 (4)].
 - It is better to err on the side of caution when establishing the need for an interpreter; aside from being fair to the accused person, there will also be rules in most jurisdictions about the exclusion of evidence or the cancellation of hearings at a later stage if there are questions about the ability of the accused to understand the case against him/her.
 - A standardised procedure is needed to avoid reliance on subjective inconsistent assessments.

Sharing practices – Procedure for identifying interpretation needs

In the Netherlands, the reporting officer is required to make the following determination: that *“the suspect understands the questions asked or notifications made, the suspect is able to give his own version of events on which his statements are required and the suspect is able to include enough nuances in his version of events”* When the questions are only answered “yes” or “no” it must be assumed that the suspect has insufficient command of the Dutch language.

The authorities are responsible for organising and managing the provision of interpretation of sufficient quality.

- The interpretation and translation must be of sufficient quality so that the suspect is well informed and is capable of exercising his/her right to a defence [2010/64/EU Art 5 (1)]. This includes ensuring that interpreters: have sufficient qualifications and technical knowledge to interpret in a legal process; and comply with ethical standards – for instance, duty of confidentiality, and also understand their role and boundaries i.e. translate words but not to interfere, express opinions, give advice etc. See Annex 5 for a template of a Code of Ethics for Interpreters.
- For this purpose, Member States should strive for the establishment of a register or registers of independent translators and interpreters, who are properly qualified [2010/64/EU Art 5 (2)]
- States should maintain formal registers of interpreters whose qualifications have been checked, who are sworn in at court, and are familiar with legal processes/terminology and ethical standards. However, in practice, such interpreters may not always be available, leading to the use of personal contacts and unqualified interpreters. In order to maintain a minimum level of quality, if an exception is made and informal interpreters are used, they should have some knowledge of the legal process (for instance by giving them a pre-prepared handout of legal processes/terms – see Annex 6) and also be required to sign a binding code of ethics – See Annex 5.
- Quality assurance systems need to be put in place to check the quality and qualifications at the start of the registration process, followed by regular appraisals, and complaints/disciplinary procedures. While other professionals in the criminal justice process, for instance, judges can also carry out checks as to whether the accused child understands the proceedings and has adequate translation, the system should not rely on ad hoc checks as the sole means of quality assurance.
- The costs of interpretation are to be borne by the authorities [2010/64/EU Art 4].

- A complaint may be initiated, against a failure to provide the assistance of an interpreter or to challenge the consequences of interpretation of inadequate quality [2010/64/EU Art 2 (5)]. The child and his/her lawyer should be aware of this provision and challenge decisions made on the basis of inadequate translation. The authorities themselves should have performance management systems for performance/disciplinary/dismissal processes for interpreters.

Sharing practices – Improving the quality of interpretation

The France report refers to the creation of groups of social workers who speak the languages most commonly spoken by foreign children in the criminal court in Paris (Arabic and Romanian speakers). This provision has proven to be highly beneficial in forging stronger connections with the children, although this pertains to educational measures and not criminal procedure in itself. In addition, groups of interpretation and translation professionals have reflected on and developed some action points to improve professional conditions and the quality of their services (professional training, ethical codes, database of legal fees). However, implementation of these proposals requires the support of public institutions.

The use of communications technology may greatly facilitate access to interpretation facilities.

- Communication technology may be used [2010/84/EU Art 2 (6)].
- Given the complexity of the task in hand – ensuring the provision of interpretation to a child suspect in any part of the European Union and speaking any one of the world’s languages – the use of networks of interpreters connected via communications technology (phone, skype etc.) appears a practical way of enabling timely access to interpretation.
- The main issue when using technology is how to safeguard confidentiality and privacy. While this applies to all modes of interpretation, the use of technology brings with it the added risks of data recording, misuse and access by unauthorised third parties. Additional measures need to be put in place, for instance, by ensuring all such communications take place through equipment belonging to the lawyer of the accused child. In addition, it is also worth recalling that different levels of confidentiality apply to different parts of the process, for instance, interpreting during the standard reading of rights by the police to the accused poses less risks than interpreting confidential and privileged communications between the accused and his/her lawyer.

Sharing practices – Using communications technology for speedy interpretation

In the Netherlands there are a large number of interpreters. For common languages there do not appear to be any problems to arrange an interpreter, within a short amount of time. It makes a difference that the Netherlands is a small country where distances are covered easily. There is also an extensive network for telephone interpreters; therefore, the access to interpreters is good. This may still be extended in the future, with additional opportunities to get in contact with an interpreter, via video-connection.

3.2. PROVISION OF INFORMATION

Suspects have a right to full information about the case against them in order to prepare a defence and ensure the fairness of proceedings.

- The authorities are to provide the information required and may be challenged on the non-provision of information [2012/13/EU Art 8]
- Suspects should immediately be provided information at least with regard to the following procedural rights: right to access to a lawyer; right to free legal assistance; right to information with regard to the accusation; right to interpretation and translation; right to silence [2012/13/EU Art 3]. The above information must be provided *orally or in writing* and in *simple* and *accessible* wording.
- If the suspect is arrested or detained, there are further obligations to provide a *written declaration of rights* which they can keep as long as the deprivation of liberty continues. The written declaration shall, in addition, to the above rights contain information with regard to: right of access to documents from the file; right to inform consular authorities; right of access to emergency medical assistance; maximum number of hours or days in detention before they are brought before a judicial authority [2012/13/EU Art 4].
 - In addition, basic information should be provided on the possibilities of challenging the legality of the arrest, to obtain a review of the detention or to request provisional release.
 - The accused person needs to be given a copy of this information.
 - stages It is important to check the suspect's understanding of this information at different. For instance, the lawyer of the accused can further explain the

provisions or judges and magistrates can reiterate these rights later in the process.

- The accused/suspect has further rights to information as the case continues including:
 - Right to information with regard to the accusation [2012/13/EU Art 6] as soon as possible including the nature and legal classification of the offense; nature of the involvement of the accused; right to information about the reasons for the arrest or detention; right to receive information without delay if changes occur in the provided information.
 - Information on any charges against the child must be given promptly and directly after the charges are brought. This information should be given to both the child and the parents in such a way that they understand the exact charge and the possible consequences [COE – CFG 1-5].
 - Right of access to the documents in the file [2012/13/EU Art 7]. This is a right to all the essential supporting documents which the authorities have and which are incriminating or exonerating of those involved. The information from these procedural documents shall be provided and with the detail necessary to ensure the fairness of the proceedings. It is possible to refuse access to certain documents. However, this can only occur if the right to a fair process is not violated and if providing access to the documents seriously compromises the life or rights of another person. Access can also be refused if it is strictly necessary for the protection of a compelling interest. The decision to refuse must be taken by a judicial authority or at least be subject to review by a judicial authority. Access to the file documents must be provided free of charge.

Information should be suitably adapted to the needs of foreign children in terms of language, cultural sensitivity and in accordance with their age and level of maturity.

- The information should be provided in simple and accessible language, taking into account any particular needs of vulnerable suspects or vulnerable accused persons [2012/13/EU Art 3 (2)]. The information and advice should be provided to children in a manner adapted to their age and maturity, in a language which they can understand and which is gender- and culture-sensitive [COE – CFG 2].
- For foreign children, this includes ensuring the information is provided in a language that they can understand but also through the use of other formats/methods for instance, written material may be supplemented with oral explanation or drawings, videos (including ready-made generic material on the criminal process).
- As a rule, both the child and parents or legal representatives should directly receive the information. Provision of the information to the parents should not be an alternative to communicating the information to the child [COE – CFG 3].

- Child-friendly materials containing relevant legal information should be made available and widely distributed, and special information services for children such as specialised websites and help lines established [COE – CFG 4].
- There is also a right to translation of essential procedural documents whereby a suspect who cannot understand the language of the criminal proceedings, must within a reasonable period of time, receive a written translation of all essential documents [2010/64/EU Art 3 (1)]. Essential procedural documents include the detention decision, the indictment or subpoena decisions and judgments [2010/64/EU Art 3 (2)].
 - With regard to other documents the authorities may decide, on a case by case basis, if these are marked as essential. If a request for translation of procedural documents is rejected a complaint may be initiated. In exceptional cases an oral translation or summary of the essential procedural documents can be provided. This may only occur if it does not impede the fair conduct of the proceedings.
 - The cost of translation and the lack of available interpreters are likely impediments. The development of pro forma templates and digital tools may facilitate the translation of standard documents.
 - It may be necessary to go beyond the prescribed requirements and translate other documents in some cases e.g. children’s statements.
- The written declaration must be drafted in language that is understandable by the suspect. If a written declaration is not available in the language spoken and understood by the suspect, then the content of the declaration must be provided orally in a language that is understood. An interpreter may be used for this purpose [2012/13/EU Art 4(5)].

Sharing practices – Providing information on rights to foreign suspects

Belgium has produced a brochure in digital form with information on rights in 27 languages. The relevant version is simply printed off and given to the suspect, and his/her lawyer and interpreter as necessary. If the language of the accused/suspect is not among the pro-forma templates then the declaration is given in English. The Netherlands and some local authorities in Spain have produced similar ready made templates for giving information to foreign suspects.

Children should be provided with additional information which covers all forms of administrative proceedings and explains alternatives to court proceedings.

- Information and advice should be available to children from their first involvement with the justice system or other competent authorities (such as the police, immigration, educational, social or health care services) and throughout the process [COE – CFG 1].
- Children should be thoroughly informed and consulted on the opportunity to have recourse to either a court proceeding or alternatives outside court settings. This information should also explain the possible consequences of each option. Based on adequate information, both legal and otherwise, a choice should be available to use either court procedures or alternatives for these proceedings whenever they exist. Children should be given the opportunity to obtain legal advice and other assistance in determining the appropriateness and desirability of the proposed alternatives. In making this decision, the views of the child should be taken into account [COE – CFG 25].
- Children and their parents should be promptly and adequately informed of, *inter alia*:
 - a.* their rights, in particular the specific rights children have with regard to judicial or non-judicial proceedings in which they are or might be involved, and the instruments available to remedy possible violations of their rights including the opportunity to have recourse to either a judicial or non-judicial proceeding or other interventions. This may include information on the likely duration of proceedings, possible access to appeals and independent complaints mechanisms;
 - b.* the system and procedures involved, taking into consideration the particular place the child will have and the role he or she may play in it and the different procedural steps;
 - c.* the existing support mechanisms for the child when participating in the judicial or non-judicial procedures;
 - d.* the appropriateness and possible consequences of a given in-court or out-of-court proceedings;
 - e.* where applicable, the charges or the follow-up given to their complaint;
 - f.* the time and place of court proceedings and other relevant events, such as hearings, if the child is personally affected;
 - g.* the general progress and outcome of the proceedings or intervention;
 - h.* the availability of protective measures;
 - i.* the existing mechanisms for review of decisions affecting the child;
 - j.* the existing opportunities to obtain reparation from the offender or from the state through the justice process, through alternative civil proceedings or through other processes;
 - k.* the availability of the services (health, psychological, social, interpretation and translation, and other) or organisations which can provide support and the means of accessing such services along with emergency financial support, where applicable;
 - l.* any special arrangements available in order to protect as far as possible their best interests if they are resident in another state. [COE – CFG 1].

3.3. ACCESS TO LAWYER

Children have a right to access their own legal counsel and representation.

- Suspects have the right of access to a lawyer without undue delay [2013/14/EU; COE CFG 28]. As noted above, suspects are to be informed of this right, and furthermore States are required to provide general information to help suspects to find a lawyer.
- The suspect has right of access to a lawyer prior to an interrogation (consultation assistance); when investigations - or other measures are performed in the context of gathering evidence; as soon as possible after deprivation of liberty; within a reasonable time period before he/she appears in court.
- Children should have the right to their own legal counsel and representation, in their own name, in proceedings where there is, or could be, a conflict of interest between the child and the parents or other involved parties [COE – CFG 37]. Children should be considered as fully-fledged clients with their own rights and lawyers representing children should bring forward the opinion of the child [COE – CFG 40]. Adequate representation and the right to be represented independently from the parents should be guaranteed, especially in proceedings where the parents, members of the family or caregivers are the alleged offenders [COE – CFG 43].
- Children should have access to free legal aid, under the same or more lenient conditions as adults [COE – CFG 38].
- Lawyers should provide the child with all necessary information and explanations concerning the possible consequences of the child's views and/or opinions [COE – CFG 41].
- In cases where there are conflicting interests between parents and children, the competent authority should appoint either a guardian *ad litem* or another independent representative to represent the views and interests of the child [COE – CFG 42].
- A suspect has a right to renounce a lawyer [2013/14/EU Art 9] providing clear, understandable and sufficient information must be given, orally or in writing, on the right to a lawyer and on the possible consequences of renouncing that right. Renunciation of the right to a lawyer can only occur if this is done voluntarily and unequivocally. This can be done orally or in writing, provided that it is documented that this has occurred and the opportunity exists to revoke this decision, at any time. Extra efforts need to be made to ensure that a foreign child fully understands the implications of not being represented by a lawyer.
- In very exceptional circumstances and following strict requirements, the authorities may deviate from the obligation to provide without undue delay the right to access to a lawyer for instance, if the geographical distance between the suspect on the

one hand and the lawyer on the other hand, make it impossible to exercise this right immediately after deprivation of liberty [2013/14/EU Art 8].

- Children should have the same right to challenge the quality of legal support as adult clients, for instance, through complaints to law firms or legal regulators.

Foreign child suspects will require additional support in terms of access to lawyers with specialised skills in working with children and on intercultural matters.

- It is important to enable access to a lawyer in a timely way and for a sufficient amount of time to allow for translation and to ensure that children who do not speak the language of the proceedings are able to understand and ask questions.
- Lawyers representing children should be trained in and knowledgeable on children's rights and related issues, receive ongoing and in-depth training and be capable of communicating with children at their level of understanding [COE – CFG 39] - See Annexes 1, 2 and 3. In addition, lawyers working with foreign child suspects will also need to understand inter-cultural issues (Annex 4); migration and related processes (Annex 7); and the experience of working with an interpreter (Annex 5).
- It is helpful to ensure that the same lawyer represents the child at different stages of the proceedings and different hearings in order to ensure a coherent defence strategy.

Sharing practices – Ensuring consistent legal representation

The bars of some courts in France have mitigated the difficulties of children being represented by different lawyers at each stage of the process by organising their juvenile committees to ensure a specialised legal service and the presence of lawyers to assist, within a short period, in the defence of accused children from the first moments of proceedings. Some bars thus implement methods to ensure that each child has a lawyer of reference, which avoids children having several lawyers in the event of repeat offences. In addition, some measures include transversal legal aid involving lawyers who specialise in juvenile law, but also working across different legal domains (civil, criminal and administrative). These holistic legal service mechanisms, best demonstrated by the Juvenile Branch Office of Paris (Antenne des mineurs de Paris), ensure an efficient access to legal assistance.

3.4. CONTACT WITH PARENTS AND THIRD PARTIES

Children should be allowed contact with their parents except for exceptional circumstances where it would not be in their best interests to do so. In the case of foreign unaccompanied minors, a guardian should be appointed to act in loco parentis.

- Suspects have the right to inform a third party [2013/14/EU Art 6] and must – without undue delay – inform at least one person of the deprivation of their liberty.
- For children, the person who has parental responsibility for the child must be informed as soon as possible of the deprivation of liberty and the reason thereof [2013/14/EU Art 5(2)]. Children should be given the opportunity to contact their parents or a person whom they trust [COE - CFG 28].
- Save in exceptional circumstances, the parent(s) should be informed of the child's presence in the police station, given details of the reason why the child has been taken into custody and be asked to come to the station [COE - CFG 29]. If a foreign child suspect is unaccompanied, a guardian or social worker appointed to support the child in loco parentis, should assume this role.
- An exception [to informing parents] only applies when it is not in the best interests of the child to inform such a person. If this exceptional situation occurs, then another adult must be informed and communicate with the child, such as another family member. The authorities may deviate temporarily for the purpose of compelling operational requirements – in the same circumstances in which a deviation to the right to a lawyer is allowed i.e. when (a) compellingly necessary to prevent serious negative consequences for the life, freedom or physical integrity of a person or (b) where urgent action by the authorities is necessary to prevent that substantial damage occurs to the criminal proceedings [2013/14/EU Art 5 (1) (2)].
- If the suspect is a child and such a deviation occurs, then the authority who is responsible for the protection and the welfare of children is to be urgently informed of the deprivation of liberty. It is important that deviations do not occur unless strictly necessary, they should have a limited duration, may not be based solely on the type or severity of the offence and may not impinge on the overall fairness of the proceedings. In addition, temporary deviations can only be allowed if the decision is issued on an individual basis by a judicial authority or any other competent authority, on the condition that there is a possibility to test the decision by the judge [2013/14/EU Art 5 (4)].

- A child who has been taken into custody should not be questioned in respect of criminal behaviour, or asked to make or sign a statement concerning such involvement, except in the presence of a lawyer or one of the child's parents or, if no parent is available, another person whom the child trusts. The parent or this person may be excluded if suspected of involvement in the criminal behaviour or if engaging in conduct which amounts to an obstruction of justice [COE- CFG 30].

3.5. CONTACT WITH CONSULAR AUTHORITIES

Suspects have a right to contact the consular authorities of the State of which they have nationality but contact should not be made without their consent.

- Suspects have the right to communicate with consular authorities [2013/14/EU Art 7].
- Persons who are non-nationals of the State in which they are deprived of their liberty, have the right to inform consular authorities of the State of which they have nationality, of their deprivation of liberty and to communicate with them. They have the right to be visited by their consular authorities, to maintain contact with them and to correspond with them. They may also be represented by their consular authorities, if they so desire [2013/14/EU Art 7].
- While a foreign person, including a child suspect has this right, they may be fearful of contacting consular authorities, for instance, if they are seeking asylum from the country of their nationality on the basis of a well-founded fear of persecution. As such contact should not be made with consular authorities without the full consent and understanding of the child.

3.6. RIGHT TO BE HEARD

Children have a right to speak for themselves in criminal proceedings, and in the case of foreign child suspects, the exercise and implications of this right should be explained and the right facilitated through access to an interpreter.

- Judges should respect the right of children to be heard in all matters that affect them or at least to be heard when they are deemed to have a sufficient understanding of the matters in question. Means used for this purpose should be adapted to the child's level of understanding and ability to communicate and take into account the circumstances of the case. Children should be consulted on the manner in which they wish to be heard [COE - CFG 44]. Foreign child suspects should have access to an interpreter during court proceedings.

- Due weight should be given to the child’s views and opinion in accordance with his or her age and maturity [COE – CFG 45].
- The right to be heard is a right of the child, not a duty on the child [COE – CFG 45].
- A child should not be precluded from being heard solely on the basis of age. Whenever a child takes the initiative to be heard in a case that affects him or her, the judge should not, unless it is in the child’s best interests, refuse to hear the child and should listen to his or her views and opinion on matters concerning him or her in the case [COE - CFG 47].
- Children should be provided with all necessary information on how effectively to use the right to be heard. However, it should be explained to them that their right to be heard and to have their views taken into consideration may not necessarily determine the final decision [COE – CFG 48].
- Judgments and court rulings affecting children should be duly reasoned and explained to them in language that children can understand, particularly those decisions in which the child’s views and opinions have not been followed [COE – CFG 49].

3.7. JUVENILE JUSTICE APPROACHES AND DETENTION

The criminal justice system should take account of the age and maturity of children in determining their level of responsibility; the age of criminal responsibility should not be set too low; alternatives to judicial proceedings should be encouraged; and detention should be used as a last resort. The deprivation of the liberty of foreign minors should never be motivated or solely based on the absence of residence status.

- The minimum age of criminal responsibility should not be too low and should be determined by law [COE - CFG 23]. It should be noted that the UN Committee on the Rights of the Child in its General Comment 10 concluded that the minimum age of criminal responsibility below the age of 12 years is considered by the Committee not to be internationally acceptable. Member States of the UN convention on the Rights of the Child are encouraged to increase their lower minimum age of criminal responsibility to the age of 12 years as an absolute minimum.
- Alternatives to judicial proceedings such as mediation, diversion (of judicial mechanisms) and alternative dispute resolution should be encouraged whenever these may best serve the child’s best interests. The preliminary use of such alternatives should not be used as an obstacle to the child’s access to justice [COE – CFG 24].

- Alternatives to court proceedings should guarantee an equivalent level of legal safeguards. Respect for children’s rights as described in these guidelines and in all relevant legal instruments on the rights of the child should be guaranteed to the same extent in both in-court and out-of-court proceedings [COE – CFG 26].
- Any form of deprivation of liberty of children should be a measure of last resort and be for the shortest appropriate period of time [COE - CFG 19]. The UN Convention on the Rights of the Child Art 37 (b) says that no child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.
- When deprivation of liberty is imposed, children should, as a rule, be held separately from adults. In the case of pre-trial custody, police should ensure that, as far as possible, no child in their custody is detained together with adults [COE - CFG 31]. Authorities should ensure that children in police custody are kept in conditions that are safe and appropriate to their needs [COE - CFG 32]. In the case of post-trial custody, where detention is necessary, this should be in specialised institutions. When children are detained with adults, this should be for exceptional reasons and based solely on the best interests of the child. In all circumstances, children should be detained in premises suited to their needs [COE – CFG 20].
- The deprivation of liberty of unaccompanied minors, including those seeking asylum, and separated children should never be motivated or based solely on the absence of residence status [COE – CFG 22].
- Given the vulnerability of children deprived of liberty, the importance of family ties and promoting the reintegration into society, competent authorities should ensure respect and actively support the fulfilment of the rights of the child as set out in universal and European instruments. In addition to other rights, children in particular should have the right to: *a.* maintain regular and meaningful contact with parents, family and friends through visits and correspondence, except when restrictions are required in the interests of justice and the interests of the child. Restrictions on this right should never be used as a punishment; *b.* receive appropriate education, vocational guidance and training, medical care, and enjoy freedom of thought, conscience and religion and access to leisure, including physical education and sport; *c.* access programmes that prepare children in advance for their return to their communities, with full attention given to them in respect of their emotional and physical needs, their family relationships, housing, schooling and employment possibilities and socio-economic status [COE – CFG 21].

3.8. RIGHT TO PRIVACY

The privacy of children involved in criminal proceedings should be safeguarded and this implies, in particular, that professionals, such as lawyers and interpreters, have a duty of confidentiality.

- The privacy and personal data of children who are or have been involved in judicial or non-judicial proceedings and other interventions should be protected in accordance with national law. This generally implies that no information or personal data may be made available or published, particularly in the media, which could reveal or indirectly enable the disclosure of the child's identity, including images, detailed descriptions of the child or the child's family, names or addresses, audio and video records, etc [COE – CFG 6].
- Member states should prevent violations of the privacy rights as mentioned under guideline 6 above by the media through legislative measures or monitoring self-regulation by the media [COE – CFG 7].
- Member states should stipulate limited access to all records or documents containing personal and sensitive data of children, in particular in proceedings involving them. If the transfer of personal and sensitive data is necessary, while taking into account the best interests of the child, member states should regulate this transfer in line with relevant data protection legislation [COE – CFG 8].
- Whenever children are being heard or giving evidence in judicial or non-judicial proceedings or other interventions, where appropriate, this should preferably take place in camera. As a rule, only those directly involved should be present, provided that they do not obstruct children in giving evidence [COE – CFG 9].
- Professionals working with and for children should abide by the strict rules of confidentiality, except where there is a risk of harm to the child [COE – CFG 10].
 - Confidentiality of communications with the lawyer [2013/14/EU Art 4] must be respected. The right to privacy in communications between the lawyer and the accused/suspect is paramount. The safeguarding of confidentiality is essential for the effective exercise of the right of defence. The confidentiality of communications applies to meetings in person and also to letters, phone calls and all other forms of communication that are allowed under national law [2013/14/EU Art 4]. This includes for example, child friendly private spaces for client lawyer consultations in police stations and in courts and also secure use of communications technology. The confidentiality principle should be upheld in cases where there is a potential conflict of interest between the child and parents/guardians.

- Consideration must be given to ensuring confidentiality [2010/64/EU Art 5 (3)] in interpretation and particularly where the interpreter participates on confidential meetings involving the child and his/her lawyer. Principles of independence, confidentiality and impartiality are core to the ethical code for interpreters. See Annex 5.

3.9. EVIDENCE FROM CHILDREN

The methods for gathering of evidence from children should be suitably adapted to their age, maturity and individual circumstances such as their language needs and cultural understanding in the case of foreign child suspects.

- Interviews of and the gathering of statements from children should, as far as possible, be carried out by trained professionals. Every effort should be made for children to give evidence in the most favourable settings and under the most suitable conditions, having regard to their age, maturity and level of understanding and any communication difficulties they may have [COE CFG 64].
- When more than one interview is necessary, they should preferably be carried out by the same person, in order to ensure coherence of approach in the best interests of the child [COE – CFG 66]. The number of interviews should be as limited as possible and their length should be adapted to the child’s age and attention span [COE – CFG 67].
- The existence of less strict rules on giving evidence such as the absence of the requirement for oath or other similar declarations, or other child-friendly procedural measures, should not in itself diminish the value given to a child’s testimony or evidence [COE – CFG 70].
- Interview protocols that take into account different stages of the child’s development should be designed and implemented to underpin the validity of children’s evidence. These should avoid leading questions and thereby enhance reliability [COE – CFG 71].
- With regard to the best interests and well-being of children, it should be possible for a judge to allow a child not to testify [COE – CFG 72].
- A child’s statements and evidence should never be presumed invalid or untrustworthy by reason only of the child’s age [COE – CFG 73].

3.10. ORGANISATION

Special preventive measures should be taken to ensure that children are not victimised by the court process itself.

- In all judicial and non-judicial proceedings or other interventions, children should be protected from harm, including intimidation, reprisals and secondary victimisation [COE – CFG 11].
- Professionals working with and for children should, where necessary, be subject to regular vetting, according to national law and without prejudice to the independence of the judiciary, to ensure their suitability to work with children [COE - CFG 12].

Professionals working with children should receive interdisciplinary training on child development including training on the cultural and interpretation needs for foreign child suspects.

- All professionals working with and for children should receive necessary interdisciplinary training on the rights and needs of children of different age groups, and on proceedings that are adapted to them [COE – CFG 14]. See Annexes 1, 2 and 3.
- Professionals having direct contact with children should also be trained in communicating with them at all ages and stages of development, and with children in situations of particular vulnerability [COE – CFG 15]. See Annexes 1, 2 and 3.
- Those responsible for the training of judges, prosecutors and other judicial personnel involved in criminal matters, must pay special attention to communication with the assistance of an interpreter [2010/64/EU Art 6]. See Annex 5.
- The interpreters themselves also need training on child development/working with children, legal processes and terminology, multicultural issues and migratory processes. See Annexes 1 to 7.

A multidisciplinary approach which addresses all dimensions of a child's situation – legal, psychological, social, emotional, physical etc. and in the case of foreign child suspects, their migration status, is paramount.

- With full respect of the child's right to private and family life, close co-operation between different professionals should be encouraged in order to obtain a comprehensive understanding of the child, and an assessment of his or her legal, psychological, social, emotional, physical and cognitive situation [COE – CFG 16].
- A common assessment framework should be established for professionals working with or for children (such as lawyers, psychologists, physicians, police, immigration officials, social workers and mediators) in proceedings or interventions that involve or

affect children to provide any necessary support to those taking decisions, enabling them to best serve children's interests in a given case [COE – CFG 17].

- While implementing a multidisciplinary approach, professional rules on confidentiality should be respected [COE – CFG 18].
- A multidisciplinary approach in the case of foreign child suspects will also include immigration and other related authorities. See Annex 7.

Children should have equal recourse to the courts and the judicial process

- As bearers of rights, children should have recourse to remedies to effectively exercise their rights or act upon violations of their rights. The domestic law should facilitate where appropriate the possibility of access to court for children who have sufficient understanding of their rights and of the use of remedies to protect these rights, based on adequately given legal advice [COE – CFG 34].
- Any obstacles to access to court, such as the cost of the proceedings or the lack of legal counsel, should be removed [COE- CFG 35].
- In cases of certain specific crimes committed against children, or certain aspects of civil or family law, access to court should be granted for a period of time after the child has reached the age of majority where necessary. Member states are encouraged to review their statutes of limitation [COE – CFG 36].

Proceedings should be executed promptly and avoiding undue delay in order to protect the best interests of the children involved.

- In all proceedings involving children, the urgency principle should be applied to provide a speedy response and protect the best interests of the child, while respecting the rule of law [COE – CFG 50].
- When necessary, judicial authorities should consider the possibility of taking provisional decisions or making preliminary judgments to be monitored for a certain period of time in order to be reviewed later [COE – CFG 52].
- In accordance with the law, judicial authorities should have the possibility to take decisions which are immediately enforceable in cases where this would be in the best interests of the child [COE – CFG 53].

Proceedings should take place in a child-friendly environment and using child-friendly language.

- In all proceedings, children should be treated with respect for their age, their special needs, their maturity and level of understanding, and bearing in mind any communication difficulties they may have. Cases involving children should be dealt with in non-intimidating and child-sensitive settings [COE – CFG 54].
- Before proceedings begin, children should be familiarised with the layout of the court or other facilities and the roles and identities of the officials involved [COE – CFG 55].
- Language appropriate to children’s age and level of understanding should be used [COE – CFG 55]. In the case of foreign child suspects, this includes the translated language.
- When children are heard or interviewed in judicial and non-judicial proceedings and during other interventions, judges and other professionals should interact with them with respect and sensitivity [COE- CFG 57].
- Children should be allowed to be accompanied by their parents or, where appropriate, an adult of their choice, unless a reasoned decision has been made to the contrary in respect of that person [COE – CFG 58].
- Interview methods, such as video or audio-recording or pre-trial hearings in camera, should be used and considered as admissible evidence [COE – CFG 59].
- Children should be protected, as far as possible, against images or information that could be harmful to their welfare. In deciding on disclosure of possibly harmful images or information to the child, the judge should seek advice from other professionals, such as psychologists and social workers [COE – CFG 60].
- Court sessions involving children should be adapted to the child’s pace and attention span: regular breaks should be planned and hearings should not last too long. To facilitate the participation of children to their full cognitive capacity and to support their emotional stability, disruption and distractions during court sessions should be kept to a minimum [COE – CFG 61].
- As far as appropriate and possible, interviewing and waiting rooms should be arranged for children in a child-friendly environment [COE – CFG 62].
- As far as possible, specialist courts (or court chambers), procedures and institutions should be established for children in conflict with the law. This could include the establishment of specialised units within the police, the judiciary, the court system and the prosecutor’s office. [COE – CFG 63].

3.11. POST PROCEEDINGS

- The child's lawyer, guardian *ad litem* or legal representative should communicate and explain the given decision or judgment to the child in a language adapted to the child's level of understanding and should give the necessary information on possible measures that could be taken, such as appeal or independent complaint mechanisms [COE – CFG 75].
- National authorities should take all necessary steps to facilitate the execution of judicial decisions/rulings involving and affecting children without delay [COE – CFG 76].
- When a decision has not been enforced, children should be informed, possibly through their lawyer, guardian *ad litem* or legal representative, of available remedies either through non-judicial mechanisms or access to justice [COE – CFG 77].
- Measures and sanctions for children in conflict with the law should always be constructive and individualised responses to the committed acts, bearing in mind the principle of proportionality, the child's age, physical and mental well-being and development and the circumstances of the case. The right to education, vocational training, employment, rehabilitation and reintegration should be guaranteed [COE – CFG 82].
- In order to promote the reintegration within society, and in accordance with the national law, criminal records of children should be non-disclosable outside the justice system on reaching the age of majority. Exceptions for the disclosure of such information can be permitted in cases of serious offences, *inter alia* for reasons of public safety or when employment with children is concerned [COE – CFG 83].
- In the case of foreign child suspects, the authorities must ensure that any conviction or sentence does not impact unduly on the child's migration status and preserves all rights available to him/her under international law.

4. CONCLUSIONS

The task of assuring proper interpretation support at any point in time across all EU countries is a formidable one for any country acting alone: there are almost limitless permutations that may arise from trying to match up foreign children speaking any number of the world's languages and dialects with interpreters who are able to speak the language of the child as well as the country in which the criminal procedure is taking place to a sufficiently high level to ensure a fair process. The challenge is considerable and further exacerbated by the lack of adequate financial and human resources needed to meet these needs. The initiatives by the European Institutions through the three EU Directives discussed in this handbook and the Council of Europe Child-friendly Guidelines offer States the opportunity to tackle this challenge collectively, to harmonise their legislation in accordance with best practice and in line with international law, and to learn from each other through the sharing of experiences on implementation. The aim of this handbook is to support this process by providing the tools and knowledge necessary for criminal justice professionals working on the ground to ensure that foreign child suspects are dealt with in accordance with the standards prescribed by international and European law.

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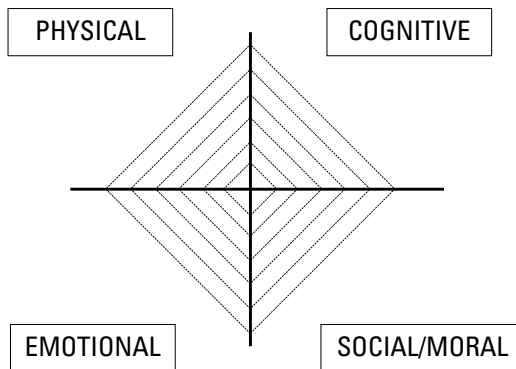
Annex 1

Child Development

An understanding of child development is critical to professionals in the criminal justice system so that they may make the necessary adjustments taking into account the age and level of maturity of a child suspect.

[Acknowledgements are due to Marie Wernham for the source material for this section - This overview is taken from Wernham, M., 'Interviewing children in conflict with the law – handouts', Kosovo Training as adapted slightly from Wernham, M., 'Working with children in street situations - Training Manual 1: Core Knowledge, Approaches and Training Techniques', for EveryChild Kyrgyzstan, June 2007, Handout 13.]

As children grow, they 'develop' in four different areas.



Physical: Refers to the child's body. Physical development includes the child growing bigger and changes in the body. Physical sexual development includes changes in hormones (chemicals in the body) which can strongly affect an adolescent's emotional state.

Cognitive: Refers to what a person or child knows and understands. It refers to the mental process of knowing, thinking, remembering, reasoning, understanding, problem solving, evaluating, and using judgment. It is in contrast to emotional processes. As children get older, their ability in all of these areas increases.

Emotional: Refers to feelings rather than knowledge. As a child gets older, he or she gains increasing control over his/her emotions, learning - through social interactions – what is considered ‘appropriate’ emotional behaviour in different circumstances and within the context of his/her culture.

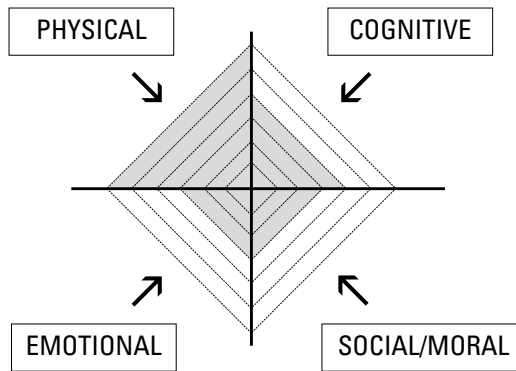
Social / moral: Social development is about knowing how to communicate and act with others. Moral refers to knowing what is right and wrong. As a child gets older, his/her understanding of this increases, but it depends very much on what environment he/she is in and who his/her role models are. There is a difference between ‘cognitive’ and ‘moral’ reasoning and judgment. For example, a child might ‘understand’ in a cognitive way, that stealing is ‘against the rules’ because they have been told this, but they might not ‘understand’ that it is ‘wrong’ in a moral sense.

In an ideal situation, all children’s rights are respected and fulfilled and children receive all of the input they need in order to develop as well-rounded individuals. The younger the child, the less developed they will be in all of these areas, but if they are growing up in a supportive, safe and loving environment, they will still be on track for overall balanced development.

Think about the types of input needed for a child to develop equally and healthily in each of the four areas, for example:

- **physical development** - proper nutrition, protection from violence etc.;
- **cognitive development** – stimulation, education, play etc.;
- **emotional development** – supportive family, love, protection from neglect and emotional abuse etc.;
- **social and moral development** – positive role models, positive and consistent discipline in a loving context (praising good behaviour, explaining why bad behaviour is wrong) etc.

'Uneven' child development



However, if children do not get the right kind of input and they grow up in an environment where their rights are not respected or fulfilled, then their development will be affected and can be 'unbalanced.'

For example:

- If a child does not get enough nutritious food he or she will not develop properly **physically**;
- If a child does not get enough stimulation or education, his or her **cognitive development** will be affected;
- If a child does not grow up in a loving and supportive environment, or if they grow up in a situation of neglect and emotional abuse, then their **emotional, social and moral development** will be less advanced than that of a child who has better opportunities.

For example, a 15-year-old boy or girl living on the streets may be physically (including sexually) developed and may 'look' like a '15-year-old', and they might even have quite good cognitive 'streetwise' skills which they have picked up in order to survive, *but their emotional, social and moral development might be at a much lower level.*

Implications for working with children

- **Different ages:** A 7-year-old is obviously very different to a 17-year-old. The younger the child is in general, regardless of their background, the less he or she will be to understand certain things.

- **Different abilities:** Each child is different. We are all born with different personalities and abilities. Some children are naturally more intelligent, creative or sensitive than others. Some are born with, or acquire, physical or mental impairments which can lead to disability. Some disadvantages may be overcome by appropriate support in a loving and encouraging environment. However, regardless of age or social background, it is still safe to say that not all 7-year-olds are at the same level of development. Each child must therefore be assessed and treated on an individual basis.
- **Different backgrounds:** In addition to age differences, children such as some children in conflict with the law, who may lack the necessary supportive and nurturing environment needed in order to develop to their fullest potential, are likely to have experienced uneven, or 'unbalanced' development across the four areas discussed above. Even if an adolescent child appears to be physically well developed, he or she might well display a lower level of emotional, social and moral development.

In general, younger children, those with more limited abilities, and those with uneven / unbalanced development may be less able to understand:

- The implications of their choices and behaviour – the impact on others and ramifications for themselves;
- The difference between right and wrong;
- The way systems work;
- Complex / technical language;
- Adult concepts and understanding of time – e.g. they might refer to an event as happening 'on the same day that my friend hurt his leg' rather than 'three days ago' as an adult would describe it.

Key learning points: Your treatment of every child should always be appropriate to the individual child's *developmental age* – not just how old they 'look.' Do not assume that a child has achieved 'adult' levels of emotional and moral development because of the way they look and act. Be patient and understanding; use child-friendly language; explain things clearly; check they have genuinely understood by getting them to repeat important information back to you. Understand the choices that the child has made within the limits of their particular developmental context and work to expand those choices so as to have a positive, rather than a negative, impact on their development.

When working with children in conflict with the law, remember this diagram and the 4 rules which accompany it:

1. **Do no harm** to any of the areas of development through your intervention
2. **Contribute positively** to these areas of development through your intervention
3. **Remember the evolving capacities of the child:** a 7-year-old is at a different developmental level to a 17-year-old
4. **Remember the individuality of each child:** even children of the same age have different natural abilities and additionally some may have experienced uneven child development through their upbringing.

Annex 2

Adolescent Development

Adolescents are defined as falling within the ages of 10 and 19 years according to the United Nations [UNICEF, 'State of the World's Children', 2011, p3 downloaded on 20 December 2016 from: https://www.unicef.org/adolescence/files/SOWC_2011_Executive_Summary_EN_01122011.pdf] This means that most adolescents also fall within the definition of children as well (i.e. persons up to 18 years). However, there is increasing focus on adolescence as a distinct phase of development and life experience with its own social, emotional, physical and cognitive characteristics. As child suspects are most likely to fall in the adolescent age range, criminal justice professionals need a good understanding of this development stage in order to ensure the legislative process is adapted and applied in an appropriate way.

[Acknowledgements are due to Marie Wernham for the source material for this section - This overview is taken from Wernham, M., 'Interviewing children in conflict with the law – handouts', Kosovo Training.]

It has long been considered that adolescence is naturally a time of risk-taking behaviour and that this is a normal part of development. Within this context, a large number of children will at some point engage in behaviour which brings them into conflict with the law. However, for the vast majority of these children this is a short developmental phase and they will go on to become law-abiding citizens. Recent research ['Using Adolescent Brain research to inform Policy: A guide for Juvenile Justice Advocates', (US) National Juvenile Justice network, pp. 1-2] into adolescent brain development supports this hypothesis and has shown that:

1. The part of the brain that regulates **decision making, planning, judgment, expression of emotions and impulse control** (the frontal lobe, especially the prefrontal cortex) may **not be fully mature until the mid-20s**;
2. The part of the brain which helps to **process and manage emotion** (the limbic system) is also developing during adolescence but, despite its relative immaturity, it stands in for the under-developed frontal lobe to process emotions and this **causes adolescents to experience more mood swings and impulsive behaviour than adults**;

3. Changes during adolescence in levels of dopamine production (a chemical produced in the brain linking stimulation and sensations of pleasure) **can raise the threshold needed for stimulation, leading adolescents to seek excitement through increasingly risky behaviour;**
4. Changes to the adolescent brain can have long-term consequences because **parts of the brain that are used frequently are strengthened, while other parts that are used less frequently weaken;**
5. The higher-thinking, decision-and-reward areas of the brain are not engaged for adolescents as much as for adults when making choices involving risk and **this can lead adolescents to overstate rewards without fully evaluating the long-term consequences or risks involved in a situation.**

“The teenage brain is like a car with a good accelerator but a weak brake. With powerful impulses under poor control, the likely result is a crash.”

[Laurence Steinberg, a psychology professor at Temple University & key researcher in adolescent brain development]

Source of quotation Malcolm Ritter, 'Scientists: Teen Brain Still Maturing' Associated Press (December 2, 2007).
Online. Available: <http://www.washingtonpost.com/wp-dyn/content/article/2007/12/02/AR2007120200809.html>.
Accessed: May 12, 2008



Warning!

“Sometimes the language used to talk about these new findings makes it sound as though young people are not intelligent, incapable of making good decisions, inevitably led by peer pressure to do risky things, and lacking the competence to contribute usefully to the organizations and communities in which they are involved.” [paraphrasing from (US) National Juvenile Justice network cited above]. We must therefore take care to talk about this research in a way that **respects the capabilities of adolescents** as well as making the case for **age-appropriate treatment** that recognizes differences between adolescents and adults. We can do this by focusing on the following concepts:

- **Opportunity** - to help adolescents become responsible adults and make informed decisions;
- **Investment** - to provide adolescents with the right environment, tools and encouragement to reach their full potential, including guidance and rehabilitation for those who make mistakes; and
- **Education** – to educate adolescents about their own development, and that of their peers, and how it can impact their behaviour, and to educate adults about these same things.

Annex 3

Interview Techniques

Interviewing children is a key skill essential for lawyers assigned to represent them as well as other professionals in the criminal justice system – police, prosecutors, judges, interpreters etc. While this requires training and practice, the information below provides some guidance and know-how on useful techniques.

[Acknowledgements are due to Marie Wernham for the source material for this section This overview is taken from Wernham, M., 'Interviewing children in conflict with the law – handouts', Kosovo Training.]

A. A child's memory

The section is based on information from Claire Wilson and Martine Powell, 'A Guide to Interviewing Children: Essential Skills for Counsellors, Police Lawyers and Social Workers', Routledge, 2001. The original source is about interviewing children as victims/survivors rather than as offenders, but many of the same principles apply. It is also worth noting that the boundaries are not clear cut, children who are accused or suspected, may also be victims themselves. Moreover, communication with children should take account of their circumstances. For instance, traumatic experiences will impact on the ability of a child to communicate. In terms of the focus of this handbook, this means taking account of children's experiences as migrants, asylum-seekers or victims of trafficking or smuggling.

Memory of an event involves reconstructing the event in our minds. This process involves:

1. Knowledge:

- The more meaningful something is to us, the more detailed knowledge we are likely to have about it.
- Children may not have a good knowledge of measurements (which are abstract and can therefore be difficult for children – e.g. they may describe someone as being 'really old' when in fact they are only in their 20s); children may find it easier to respond to comparisons – e.g. "Was she older than me?".
- Children tend to think of time in a concrete rather than an abstract way. For example, they might describe something as happening "after lunch" rather than "at 2 o'clock" or "on the same day as I fell over" rather than "on Wednesday". Younger children may not be able to tell the time.

2. **Sequencing (what happens in what order):** Children are often used to routines and find them easy to talk about. If children are having trouble remembering something then it can sometimes help to ask about their normal routines. This gives the interviewer a sense of the level of language and memory the child has and it may prompt memories.
3. **Prioritising:** A child's priorities may be different to an adult's; we rarely give detailed descriptions of things in everyday conversation so a child may find this strange in an interview. Explain why you need to know details (e.g. "I wasn't there but I need to know what happened. Can you help describe what happened in as much detail as possible?").

Is a child's memory accurate and reliable?

1. As with adults, memory is complex: it can depend on the time of day, the level of stress experienced, where the child's attention was focused at the time, and how much time has elapsed between the incident the interview.
2. However, "[a] 3-year-old child can provide detailed and accurate information, although his ability to remember and express information will increase with age. Further, personally significant information is remembered better than other types of information (Goodman et al. 1990)". [Source: Cited in Wilson and Powell, op cit., p.5.]

B. Body language

Be aware of the power balance in an interview:

- Chairs should be placed at an angle ('ten-to-two', like the hands of a clock showing this time) rather than directly opposite each other (which can be very intimidating and may not encourage the child to talk).
- Be aware of what is at the child's eye-level: e.g. for police officers - are your gun and handcuffs the first thing the child sees?
- Bring yourself down to the eye-level of the child.

Your body language should be neutral or positive rather than negative:

- Avoid frowning which shows negative judgement.
- Adopt an interested expression and good (but not intimidating) eye-contact.
- Avoid tense body postures.
- Remember that the posture you adopt will automatically evoke a certain response from the child.

C. Active listening

- Active listening can be even more important than questions.
- “The best interviewers are those who listen a great deal more than they talk”. [Source: Wilson and Powell, op cit., p.41.]
- Active listening takes place through body language and verbal language, e.g. gentle encouragement, prompts, gentle nodding, eye contact, “Mmmm?”, “Ah ha”, “...And then?”

D. Verbal language

[Source: Includes some information from the ‘free recall questioning style’ of interview used by the New Zealand Police for young or vulnerable suspects: New Zealand Police, ‘Investigative Interviewing Suspect Guide’, Version 1, July 2008, p.33.]

Avoid:	Use:
General	
1. Long sentences	1. Short sentences
2. Complicated sentences	2. Simple sentences
3. Technical words and language.	3. Words and language which the child understands [Check with the child and/or support person or parent words they might find difficult or which they might have a special name for (this is especially relevant for sexual language)].
4. Interrupting.	4. Patience and let the child finish their sentence [Some vulnerable suspects may speak slower or pause for longer].
5. Jumping between different topics.	5. Logical sequence of questions.
6. The passive voice (‘Was he hit by the man?’)	6. The active voice (‘Did the man hit him’)
7. Hypothetical situations (‘If you are tired, tell me’)	7. Direct approach (‘Are you tired?’)

Questions	
8. Developmentally inappropriate questions (e.g. relating to measurements like time, date, age, weight, length and height)	8. Developmentally appropriate questions (e.g. comparisons to something the child is familiar with)
9. Repeating the same question	9. Rephrasing the same question in a different way if necessary (repeating the same question makes the child think they have given the 'wrong' answer which they might then change next time round).
10. 'Yes/no' questions [children have a tendency to say 'yes' in order to please others]	10. Open questions as much as possible.
11. Questions with more than one meaning	11. Questions with only one meaning
12. Asking 'why?' [this can sometimes be difficult for children to answer as it involves complex reasoning; it can also imply blame]	12. 'What were you thinking / feeling at the time?'
13. Leading questions (which imply the answer).	13. Open questions.
14. Negative questions ('Didn't you tell her?')	14. Positive questions ('Did you tell her?')
15. Double negatives ('Didn't your mother tell you not to go out?')	15. Single negatives or positives ("Did your mother tell you not to go out?" / "Did your mother tell you to go out?")

E. Question types

“The main interviewing skill is knowing how to encourage a child to talk honestly by asking questions that stimulate the conversation.” [Source: Wilson and Powell, op cit., p.41.]

Question types		Comments
OPEN QUESTIONS		
TEDS ('free narrative') Tell me Explain Describe Show me	5 WHs & How ('probing') What? Where? When? Who? Why? How?	Open questions are usually the most productive ones. Start with the TEDS questions (Stage 2 of the 5-stage interview process below: 'free narrative'), then probe further with the 'Wh / How' questions as necessary (Stage 3 of the 5-stage interview process below: 'open questions'). Where possible, avoid asking 'why' as this may be difficult for a child to answer and can imply that you are blaming them for something. Try instead 'what were you thinking / feeling at the time?'
CLOSED QUESTIONS		
Yes/No questions	Multiple choice questions (e.g. "Was it A or B?")	Only use closed questions after you have exhausted open questions – i.e. at Stage 4 of the 5-stage interview process below ('closed questions'). This is because they are limiting and encourage the child to give only short answers rather than additional information. They also involve the interviewer talking more than the child. Avoid asking 'yes/no' questions to a child as children are sometimes likely to answer 'yes' as a way to 'please' the interviewer.

LEADING QUESTIONS		
<p>Questions which imply the answer (e.g. “There were 700 euros in the wallet, weren’t there?” – you should ask instead “How much money was in the wallet?”)</p>	<p>Questions which assume for a fact things which are actually still in dispute (e.g. “What were you wearing when you stole the money?” – this assumes the child stole the money, although they may not have admitted this)</p>	<p>Avoid these unless there is absolutely no other choice as this consists of ‘putting the answer into the child’s mouth’ and in some circumstances, may be construed as pressuring or ‘tricking’ the child. If it is necessary to pose a leading question then revert immediately to open or closed questions afterwards.</p>

F. The New Zealand ‘PEACE’ framework for interviewing

1. **Planning and preparation:** Review available information and establish interview objectives. [This stage involves an assessment of the child’s emotional state (e.g. trauma, distress, shock, depression) and their physical state (e.g. injuries, intoxication, tiredness). Ensure appropriate medical treatment and delay the interview if appropriate].
2. **Engage and explain:** Develop rapport and explain interview processes and procedures.
1. **Account, probe and challenge:** Using an appropriate interview model [Either the ‘conversation management’ model or the ‘free recall questioning style’ for younger and more vulnerable children] gain an account of events, probe for more information and challenge any inconsistencies.
2. **Closure:** Conclude the interview and address any concerns.
3. **Evaluation:** Evaluate how the information obtained impacts on the investigation and the performance of the interviewer.

G. The actual interview: the 5-stage interview process

1. **Develop rapport** (introductions and explanations)
2. **Free narrative** (let the child tell the story in their own words – use the ‘TEDS’ questions: tell me; explain; describe; show me)
3. **Open questions** (probing questions: what, when, where, who, why and how)

4. **Closed questions** (yes/no questions and 'choice' questions e.g. "Was it A or B?")
5. **Closing the interview**

G1. Develop rapport

[Source: Adapted from 'Interviewing children: the 5-step model', powerpoint presentation by Kyriaki Lambrianidou, Chief Inspector – Criminologist, European Union & International, Police Cooperation Directorate, Cyprus Police Headquarters, March 2008.]

Introductions

- Introduce yourself and others present and ask what the child prefers to be called.
- Establish a professional working relationship with the suspect. Be organised.
- Talk to the child in a manner and language they understand.

Explanations

- Explain why you want to talk to them and the nature of the allegations. (E.g. *"Mike, somebody has hurt Mrs Brown and I am trying to find out what happened. Someone has said that you did this. I want to talk to you about this."*)
- Do you need to give them their rights?
 - are there reasonable grounds to suspect they have committed an offence?
 - are you asking questions intended to obtain an admission?
- Is there a need for a nominated adult to be present?
- Are there any potential complications? (e.g. if they are a victim and/or witness as well as being a suspect).
- Explain (if relevant) that the interview will be tape-recorded / videoed.

G2. Free narrative

- Initiate the interview using open '**TEDS-type** questions' (see section E above). Ask the suspect to give an account of everything they know about the matter under investigation. Allow for pauses. Do not interrupt.
- Actively listen using minimal prompts not going beyond the suspect's account and reflect back what was said where necessary.
- Be flexible, adopt a neutral stance and keep an open mind throughout.
- Take notes of areas you wish to obtain more information about.

- Summarise back what the suspect has told you and check accuracy with the suspect.

G3. Open questions - identify and expand topics

- Break down the child's account into manageable topics.
- Systematically expand on each topic using probing '**5Wh's + How**' open questions.
- Do not ask leading or multiple questions. Avoid undue repetition of questions. Use simple, relevant questions. The younger the person, the shorter and more simply phrased the questions must be.
- Avoid developmentally inappropriate questions (e.g. young people might find questions relating to time, date, height, length, weight, age etc. difficult).
- Only use leading questions as a last resort. If the suspect responds to a leading question with relevant information not led by the question, revert to open or specific questions.
- Avoid using technical/police jargon.
- Keep a structure to the interview, using your plan as a guide. Develop topics in a structured and logical way. Keep the suspect to the relevant topics. Avoid topic hopping as it is confusing to all.
- With each topic summarise what the suspect has said using their own words and link to the next topic. Clarify exactly what is meant by the suspect's explanations.
- Repeat this process until you have covered all topics.
- Next, cover all topics that are investigatively important but that have not yet been addressed (e.g. if the offender knew the act was wrong or against the law).
- Ensure you have given the suspect an opportunity to provide their account of what happened before knowing the nature of evidence against them. Cover off all possible explanations. If they are being deceitful, this will prevent them from twisting their story to fit with the evidence.

G4. Closed questions

- If, having exhausted the use of open, probing questions, there are still issues which need clarifying, ask closed questions to obtain the relevant information, e.g. multiple choice questions such as "Did you give the money to Tony or to Sam?"
- Avoid asking questions with a 'Yes'/'No' answer as children have a tendency to want to please by saying 'Yes'.

C5. Closing the interview

Once you feel that this interview came to an end:

- Ask the child if they has any questions for you or anything they want to clarify.
- Get the child to read and sign the statement and/or read it to them if they are unable to do so themselves.
- Ask how they feel.
- Show interest in what they say and thank them for talking to you.
- Explain to them what might happen next.
- Conduct next steps as necessary (e.g. release to parents, finger-printing, taking an identity photo etc.).

Annex 4

Intercultural Education

An understanding and appreciation of different cultures is essential if criminal justice professionals are to deal effectively and fairly with foreign child suspects. Intercultural education promotes the understanding of different people and cultures. It includes teachings that accept and respect the normality of diversity in all areas of life and the understanding that all people have naturally developed in different ways. Further information on this subject for reading or training can be found at the following links:

American Bar Association, Building Community Trust: Improving Cross-cultural Communication in the Criminal Justice System

<http://www.americanbar.org/content/dam/aba/migrated/sections/criminaljustice/PublicDocuments/bctext.authcheckdam.pdf>

Council of Europe, Webpage on Intercultural Education

http://www.coe.int/t/dg4/linguistic/EduclInter_en.asp

Culturewise, Intercultural Training Exercise Pack,

<http://www.culturewise.net/wp-content/uploads/2013/05/Cultural-awareness-training-exercise-pack.pdf>

Intersentia, Children and Justice: Overcoming language barriers, 2015

<http://intersentia.com/en/children-and-justice-overcoming-language-barriers.html>

UNESCO Guidelines on Intercultural Education,

<http://unesdoc.unesco.org/images/0014/001478/147878e.pdf>

Annex 5

Code of Ethics for Interpreters

Interpreters play a critical role in cases involving foreign child suspects and their conduct can have serious impacts on the outcome of individual cases as well as perceptions about criminal justice systems as a whole. It is good practice to ensure that all interpreters engaged in interpretation or translation in criminal cases abide by a code of conduct that covers fundamental principles such as honesty and integrity, professional competence, and client confidentiality and trust. Examples of existing codes can be found at the following links:

Institute of translation and interpreting, Code of Professional Conduct, 8 September 2013, http://www.iti.org.uk/attachments/article/154/Code%20of%20professional%20conduct%2008%2009%202013_Final.pdf

National Register of Public Service Interpreters, Code of Professional Conduct, 22 January 2016, <http://www.nrpsi.org.uk/for-clients-of-interpreters/code-of-professional-conduct.html>

Annex 6

Criminal Justice Systems and Terminology

Apart from a good understanding of child development and intercultural issues, interpreters will also need familiarity with the criminal justice process and legal terminology. This will vary from country to country and standard information cannot be provided. However, it is good practice for those commissioning interpreters to ensure that standard documents outlining national procedure and national terminology are pre-prepared and made available. By way of example only, links to documents explaining criminal justice processes and terminology in the UK.

Police UK website, 'The criminal justice process' available at <https://www.police.uk/information-and-advice/court-service/the-process/>

Ministry of Justice, Criminal Procedure Rules. Glossary, 6 October 2014, <https://www.justice.gov.uk/courts/procedure-rules/criminal/docs/crim-proc-rules-2014-glossary.pdf>

Annex 7

Migration, asylum and refugees

Criminal justice professionals and particularly lawyers assigned to represent foreign child suspects and judges who adjudicate on their cases will need a proper understanding of the migration status of the child in question especially given the potential impact of a conviction on the migration status of a child. While concepts and definitions may vary slightly from country to country, the list below provides definitions of internationally recognised concepts:

Asylum seeker - An asylum-seeker is an individual who is seeking international protection. In countries with individualised procedures, an asylum-seeker is someone whose claim has not yet been finally decided on by the country in which he or she has submitted it. Not every asylum-seeker will ultimately be recognized as a refugee, but every refugee is initially an asylum-seeker. (UNHCR Master Glossary of Terms)

Migrant - At the international level, no universally accepted definition for 'migrant' exists. The term migrant was usually understood to cover all cases where the decision to migrate was taken freely by the individual concerned for reasons of 'personal convenience' and without intervention of an external compelling factor; it therefore applied to persons, and family members, moving to another country or region to better their material or social conditions and improve the prospect for themselves or their family. The United Nations defines migrant as an individual who has resided in a foreign country for more than one year irrespective of the causes, voluntary or involuntary, and the means, regular or irregular, used to migrate. Under such a definition, those travelling for shorter periods as tourists and businesspersons would not be considered. However, common usage includes certain kinds of shorter-term migrants, such as seasonal farm-workers who travel for short periods to work planting or harvesting farm products. (IOM, Glossary on Migration)

Irregular migrant - A person who, owing to unauthorized entry, breach of a condition of entry, or the expiry of his or her visa, lacks legal status in a transit or host country. The definition covers inter alia those persons who have entered a transit or host country lawfully but have stayed for a longer period than authorized or subsequently taken up unauthorized employment (also called clandestine/undocumented migrant or migrant in an irregular situation). The term 'irregular' is preferable to 'illegal' because the latter

carries a criminal connotation and is seen as denying migrants' humanity and human rights according to UN GA resolution 3448 (XXX). (IOM, Glossary on Migration)

Refugee: A person who meets the eligibility criteria under the applicable refugee definition, as provided for in international or regional refugee instruments, under UNHCR's mandate, and/or in national legislation. (UNHCR Master Glossary of Terms) A person who, "owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinions, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country." (Art. 1(A)(2), Convention relating to the Status of Refugees, Art. 1A(2), 1951 as modified by the 1967 Protocol). In addition to the refugee definition in the 1951 Refugee Convention, Art. 1(2), 1969 (IOM, Glossary on Migration)

Smuggling - "The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident" (Art. 3(a), UN Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). Smuggling, contrary to trafficking, does not require an element of exploitation, coercion, or violation of human rights. (IOM, Glossary on Migration)

Trafficking in persons - "The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation" (Art. 3(a), UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organized Crime, 2000). Trafficking in persons can take place within the borders of one State or may have a transnational character. (IOM, Glossary on Migration)

Unaccompanied minors - Persons below the legal age of majority who are not in the company of an adult who, by law or custom, is responsible to do so, such as parents, guardians or primary caregivers. (UNHCR Master Glossary of Terms)

Main sources of definitions:

- IOM, Glossary on Migration, International Migration Law Series No. 25, 2011 available at http://publications.iom.int/bookstore/free/IML_1_EN.pdf

- UNHCR Master Glossary of Terms, June 2006, Rev.1, available at: <http://www.refworld.org/docid/42ce7d444.html>

Other reading materials:

Amnesty UK, Refugee Training Pack, available at:

https://www.amnesty.org.uk/sites/default/files/amnesty_trainers_refugee_training_pack.pdf

International Detention Coalition, 'Captured Childhood', 2012 available at:

<http://idcoalition.org/wp-content/uploads/2012/03/Captured-Childhood-FINAL-June-2012.pdf>

Naik A., 'Detained Youth: the fate of young migrants, asylum-seekers and refugees in Libya today', 2015, available at:

http://www.mixedmigrationhub.org/wp-content/uploads/2015/07/MHUB_2015_Detained-Youth.pdf



**Procedural Rights of Children
Suspected or Accused in Criminal Proceedings in the EU**