

**SUBMISSION TO THE PUBLIC CONSULTATION:  
TAKING ACTION ON RIGHTS, SUPPORT AND PROTECTION OF VICTIMS  
OF CRIME AND VIOLENCE**

**Save the Children**

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Save the Children is the world's largest independent child rights organisation and it has operations in over 100 countries worldwide. It has a long experience in strengthening both children's access to justice and child friendly justice systems in Europe and in third countries. Through direct service provision, capacity building of child rights practitioners and awareness raising among parents, caretakers, communities and governments and policy and advocacy, we have operated in the field of victim protection and legal assistance for a number of years.

Save the Children warmly welcomes the Commission's intention to adopt a package of measures on the rights, support and protection of victims of crime and violence to further enhance the implementation of the Council Framework Decision on the standing of victims in criminal proceedings (2001/220/JHA). Save the Children would like to draw special attention to the fact that, across Europe, measures to protect children against violence and abuse need to be strengthened and the recognition that child victims of crime should have the same rights as adults in justice systems needs to be improved.

Children's rights, including their right to be heard and protected within justice systems, are clearly spelled out in several international human rights treaties and in particular in the UN Convention on the Rights of the Child. General Comment no 12 of the UN Committee on the Rights of the Child focuses on the child's right to be heard in proceedings.

Secondly, the Lisbon Treaty expressly states that protection of children's rights is an objective of the EU, thus reinforcing the importance of ensuring that EU justice actions specifically address the situation of children, in full respect of their rights. Referring to Save the Children's Submission to the Consultation on the European Commission's Communication on the Rights of the Child (2011-2014) on 19<sup>th</sup> of August 2010<sup>1</sup>, we take the opportunity once more to call for enhanced EU action to treat children involved in justice systems with dignity and respect and foster their right to be heard.

Despite the progress made through the international treaties and policies, experience to date shows that concrete efforts are still needed to put protection of children in justice systems to the fore in regional and national political agendas. Save the Children notes that many Member States have failed to meet their commitments made by ratifying the international human rights treaties, such as the UNCRC and the Universal Declaration on Human Rights. We encourage the EU to play a central role in ensuring that:

- children have access to justice procedures and will not experience delays in such access;
- measures are put in place to ensure that children do not experience further trauma as a result of procedures.

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<sup>1</sup> The full submission can be found on Save the Children's website [http://www.savethechildren.net/alliance/eurogroup/eurogrp\\_who.html](http://www.savethechildren.net/alliance/eurogroup/eurogrp_who.html)

- children are afforded adequate support and assistance in relation to such procedures;
- specific child appropriate judicial procedures exist both in terms of availability of human resources and availability of structures and spaces.
- the best interests of the child is taken as a primary consideration in all actions in their regard.

At the outset we point to a range of Save the Children EU policy documents which have a bearing on the issues above, some directly concerned with child victims of crime and others more generally addressing the situation of children involved in the justice system. These include submissions relating to the EU instruments on both trafficking and the sexual exploitation of children, as well as submissions concerning children seeking asylum or children involved in migration control proceedings. These are set out on the publications section of our website [www.savethechildren.int/brussels](http://www.savethechildren.int/brussels).

We do not repeat all of the points made in these specific submissions here. Rather the submission below focuses on highlighting just some of the problematic situations in which children may find themselves. We stand ready to provide more information to the Commission if requested.

We refer also to our submissions in relation to the recent EU Consultation on the EU Strategy on the Rights of the Child.

## **I. GENERAL QUESTIONS:**

### **1. What are the main obstacles and problems faced by victims of crime or violence in relation to the five categories of needs (Recognition, Protection, Support, Access to Justice, Compensation and Restoration)?**

In case of sexual abuse or other forms of violence against children, most of the violations remain unreported due to a variety of reasons.

Save the Children has evidence that indicates both intentional and unintentional silencing of a child victim when experiencing abuse. Intentional silencing of a child, i.e. using persuasion and sometimes threatening of a child in order not to speak out about the abuse, usually arises from the fact that in most cases child abusers are family members, caretakers or otherwise part of the close social environment of a child. Children often remain silent about their abuse due to feelings of shame, bewilderment, and fear of being separated from family members or caretakers. Small children often lack the means of communicating abuse. This combined with the fact that the judicial procedures may not be adequate to intervene when child abuse is suspected within the family contribute to the current situation where the majority of child abuse cases remain unreported.

Furthermore, in certain Member States reporting of child abuse to the police is not necessarily required by law. For example, in Finland and Denmark the social workers are the first instance to be notified when child abuse is suspected by the health workers. In these instances the cases may be solved without the involvement of the police, leading to a situation where the cases do not appear in criminal records, nor are the perpetrators prosecuted or followed up later on.

By unintentional silencing we refer to the factors that arise from late and/or long procedures to report child abuse, or other procedures that may lead to situations where abuse cases are not reported to the justice system. Several Member States have identified delayed handling of cases involving children as a major problem. In Sweden for example handlings of legal cases can take up to 14 months, while the general recommendation limits the timelines to maximum of nine months. Some of the challenges and the reasons that lead to lengthy procedures include:

- i) The fact that the authorities do not take into account involvement of children in the case, or consider their special needs;
- ii) Child friendly systems or spaces are not available;
- iii) Practitioners that have adequate level of knowledge and experience in dealing with children are not available;
- iv) Involvement of large number of different authorities, such as social workers, health workers, the police and the judiciary, and lack of inter-agency cooperation and coordination.

Moreover, some Member States have identified the need to concentrate expertise in child friendly procedures in specific institutions or ministries as specific areas of concern, highlighting the need for capacity building of the

authorities to attain the required skills to i) support children adequately, ii) master special areas such as child friendly interrogation methods and iii) know children's rights as well as recognise the special needs of children. The need to augment judicial expertise has also been identified.

In relation to supporting and assisting children, we strongly underline that legal assistance for child victims is an essential support for them. In the case of children who are without primary caregivers or where it is not suitable for primary caregivers to be involved in assisting them, a guardian should be appointed to pursue their best interests in proceedings in their regard. We refer in particular to our submissions relating to the proposed EU trafficking directive.

We would also like to emphasise the need to establish mechanisms to ensure that reporting suspected abuse is made obligatory, with safeguards to ensure the protection of the privacy of victims, for professions that are in regular contact with children.

2. What concrete initiatives would you suggest to ensure the five categories of victims' needs are met? Do you think the EU can contribute to these initiatives and if so how?

There are a number of concrete initiatives which might be taken at national and regional level, including:

- **Creation of a framework of general standards** relating to children in justice systems. Such standards should concern, for example, interviewing procedures with children, availability of legal assistance, representation, and necessary translation services and cultural mediation, obligation to take due account of the views of children, availability of expert assessment, training of actors, availability of a guardian where necessary, and availability of aftercare mechanisms;
- **Setting clear training standards** for police, judiciary and other practitioners dealing with children in judicial systems and procedures, including checking of criminal records. Training should be made available for all relevant actors, including police, guardians, social workers, lawyers and judiciary, decision-makers, border guards and immigration officials, and psychologists and psychiatrists working in the justice sector;
- **Allocating resources to mainstream children's issues** to all sectors involved in the judicial processes, including judiciary, social, psychosocial, migration and referral services;
- **Development of child friendly information** concerning processes and promotion of children's participation in these efforts;
- **Designing processes for status determination** for migrant children that take into account the child protection dimension of the situation of a child who is outside his or her country of origin, taking the best interests of the child as a primary consideration;
- **Developing tools to ensure the necessary assessment of information** relevant to assess the best interests of the child;

- **Strengthening and resourcing national and regional inter-agency collaboration** to ensure a coherent and multi-disciplinary approach to addressing abuse and supporting victims.

It has become increasingly evident that national responses alone are not enough anymore to tackle issues in a situation where international and transnational crimes and rights violations are common. Regional action may take a variety of forms, including harmonising child friendly practice standards and developing transnational mechanisms and addressing capacity building needs of the practitioners<sup>2</sup>. Moreover, Save the Children's practitioners and authorities involved in the programmes frequently repeat the need for opportunities for knowledge and information exchange at regional level to support harmonising of practices across the EU. More generally, Save the Children believes that the EU can play an important role in addressing regional discrepancies by ensuring that children's specific rights and needs are properly considered and given special attention in the context of ongoing EU action to address the rights of victims, in particular in criminal proceedings.

In summary overview and drawing from the above, Save the Children recommends that the EU:

- Foster exchange of information and good practices on how Member States address children within justice systems;
- Foster the creation of harmonised standards concerning children in judicial procedures/systems, clearly spelling out consideration of a child's best interest a primary consideration in all actions.
- Harmonise legislation at EU level which has an impact on children in contact with justice systems (including the ongoing revisions of the victim protection, sexual exploitation and trafficking instruments); Foster expansion of inter-agency cooperation within and between countries;
- Foster expansion of cooperation of the European Union and the European Council with regards to children in judicial procedures/systems;
- Further develop information and consultation mechanisms between jurisdictions which are implicated in the situation of the child (e.g. transnational referral mechanisms in the case of trafficked children, family tracing mechanisms);
- Engage in practical measures of support, including regional training for actors addressing children, development of standard information for children, guidelines for the practitioners to operate in the best interest of a child.
- Support mechanisms and solutions that facilitate inter-agency collaboration and multi-disciplinary approaches to addressing abuse and supporting victims

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<sup>2</sup> The Council of Europe is currently finalizing Guidelines on child-friendly justice intended to enhance children's access to and treatment in justice.

For more information, please refer for example to Save the Children's Report on EU Framework decision, which can be found on our website [http://www.savethechildren.net/alliance/europegroup/europegrp\\_pubs.html#ex](http://www.savethechildren.net/alliance/europegroup/europegrp_pubs.html#ex)

3. Are you aware of good practices, initiatives, programmes (including training programmes) or tools that contribute to meeting the needs of victims?

Save the Children has a number of on-going initiatives with regards to children in justice systems in the areas of child witnesses and child victims of a crime and provision of support in form of legal aid and psycho-social services to children involved in justice systems. Our projects have aimed to both capacity building of the practitioners and parents, and introduction of child friendly tools and approaches specially tailored for judicial matters. Several tools and approaches have been introduced by Save the Children and by the national authorities. Below we introduce selected on-going national projects within Save the Children and other initiatives:

#### *Barnahus, Sweden*

Save the Children (Sweden) has established and supported operations of Barnahus, Advocacy Centres for Children, in which different public authorities operate concerning investigations of violence against children and sexual abuse. Barnahus / Advocacy Centres for Children provide wide range of expertise with regards to child abuse cases. Barnahus bring together social services, police, prosecutor, forensic medical experts and paediatric psychiatry services, collaborating primarily in the initial stages of the police and social services investigations.

A recent evaluation of the operations of Barnahus indicated a clear improvement in the coordination of the response to child abuse and crisis support in general. Barnahus have enabled better coordination of the work of the involved authorities and improved quality of the services from a child's perspective. More interviews and medical examinations are carried out with children, giving the children a more prominent role already in the beginning of the investigations in a safe and child friendly environment.

#### *Consultative Team Models Applied in Children's Hospitals in Finland*

In order to reduce the number of consultative meetings and interviews of a child when determining child abuse and evaluating the level of trauma caused by the incidence, a consultative paediatric team model has been created in children's hospitals in Finland, providing an alternative when Barnahus, or children's houses are not available. The model has been applied especially in evaluating child victims of sexual exploitation, and is used in parallel to judicial procedures. The core principle of the model is involvement of a working group of psychologists and psychiatrists to determine both the level of trauma and the need for psycho-social support and therapy. In the model a child is interviewed and evaluated by a single psychologist, while social workers obtain the necessary information from the parents and other concerned adults, excluding the possible perpetrator. The model emphasises the importance of a holistic approach, setting a series of hypotheses prior to the evaluation, which provides the framework and guiding principles to the interviews and evaluation process. During the process, the hypotheses are to be either confirmed or eliminated in a

unilateral agreement within the evaluating team. The final conclusions of the state of the child are made by a paediatric psychiatrist in consultation with the concerned psychologist/s and the social worker. The aim of the model is to ensure adequate professional standards to arrive in evaluation conclusions with minimum direct involvement of the child, thus minimizing stress and damage to a child. The model, which is based on careful pre-evaluation of the situation and teamwork, has proved to be efficient, significantly reducing false diagnoses and conclusions, thus speeding provision of therapy and rehabilitation services.

### *Guidelines for Interviewing Asylum Seeking Children (Finland)*

Save the Children Finland worked with the Directorate General for Immigration, Finland to produce Immigration Guidelines for Interviewing (Separated) Minors in March 2002. The Guidelines take a holistic approach in terms of the range of issues addressed, including, for example, recommendations on seating arrangements, topics for questions, on how the interview must be ended. They aim to ensure a wide range of information is provided to the child, including the purpose and possible outcomes of the interview and his/her rights according to his/her developmental level and establish ways to confirm understanding. They provide detailed guidance on a range of issues, for example, discussing the different cultural understandings of eye contact, listening and talking, the purpose of a smile and laughter, answering questions. They are sensitive to differences in age, development, culture, experiences. They identify both basic verbal and non-verbal communication rules that take into consideration the cultural background of the child. They also introduce different psychological and psychiatric tools to activate child's memory in accordance with the child's individual cognitive faculties. They note that violence has to be approached with the highest level of sensitivity and the interviewer has to develop special skills in approaching this issue.

### *The Blue Room Project*

The Blue Room Project is implemented under the "Hear the Child" project in Bulgaria. Following the above described consultative models with the philosophy "all services under one roof", the project aims to guarantee judicial procedures involving children in judicial hearings in a manner that respects and gives priority to the best interest of the child. Under the project, child friendly interrogation rooms have been built and trainings to the local authorities have been provided in child friendly interrogation methods. In addition, the project enhances collaboration between different authorities, aiming to the development of sustainable cooperation mechanisms. Finally, the project aims to developing of methodologies and standardised practices to interrogate children with maximum effects and minimum harm and trauma to the children, taking into consideration the special conditions of Bulgaria.

5. Is sufficient information and data collected on victims' policies and needs? How do you think such information should be collected (e.g. specific studies and research, national or EU wide victim satisfaction surveys)?

According to Save the Children's experience, there is a great need to strengthen the collection and distribution of gender and age disaggregated data on child victims, and policies and practices that influence them. There is acute need to ensure that data that allows regional comparisons is collected regularly, and that

different regional data bases are availed to the national authorities. Furthermore, the current data collection systems, or frequency of data collection in some Member States does not allow efficient follow up of implementation of the national child protection laws, or the quality and quantity of the child protection services that should be provided by national laws.

Referring to the joint NGO briefing on the proposal for a Directive on combating the sexual exploitation of children and child pornography, Save the Children again takes the opportunity to urge creating systems in all Member States to manage known sex offenders with a view to protect children from further exploitation<sup>3</sup>. Such systems should include information on convictions with proper data protection safe guards in place. Further, there is need to develop proper risk assessment mechanisms combined with adequate rehabilitation and reintegration of offenders in the Member States, and avail this information for regional use.

Our submissions on the EU trafficking instruments have also emphasised the need for improved data collection concerning the situation of children.

In line with the above, Save the Children recommends that data collection is strengthened at national level, where;

- Data should be made available with regards to types of criminal activities of which children are victims;
- Data should be made available with regards to age and gender of children involved in justice systems;
- Comparable data on compensations (children vs. adults), including types of compensation (case of financial compensations, the amounts of financial compensation) should be availed to different actors;
- Information under which laws the convictions are made.

Save the Children further emphasises that the data should be easily accessible, without compensating or jeopardising victim protection and anonymity, to research institutions and universities to analyse and determine the level of realisation of children's rights. In some Member States public debates have recently been held around availability of data that is collected by national authorities. Cumbersome licence procedures to access the data may become a hindering factor especially in emerging issues that require more analysis and rapid responses.

At the EU level, data collection and access to databases should be building on the suggestions above. More comprehensive databases should be developed and maintained especially on issues with transnational nature, such as online sexual abuse of children, trafficking and more generally child victims of a crime. Current, existing databases are not sufficient for effective collaboration or

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<sup>3</sup> Joint NGO Briefing for MEPs on the European Commission's proposal for a Directive on 'combating the sexual exploitation of children and child pornography', submitted on 5<sup>th</sup> of May 2010.

coordination with the national authorities, thus, the EU could play a significant role in:

- Ensuring availability of the collected data at the EU level, giving special consideration to the fact that the EU citizens are moving freely within the EU;
- Setting common principles on mandatory criminal record checks for those seeking employment in fields which are likely to involve children, and establishing regional mechanisms that allow cross-border implementation;
- Setting common principles and codes of conduct for police, judiciary, lawyers and other practitioners that are potentially working with children;
- Allocating more resources to research and analysis of the data at regional level;
- Enhancing mechanisms for frequent best practice and expertise exchange.

## **II. SPECIFIC QUESTIONS BASED ON THE NEEDS OF VICTIMS**

### **RECOGNITION**

6. Do you think victims related training should be compulsory for practitioners? How do you think the quality of training programmes can be improved?

The best interest of the child should always set primary conditions when children are involved in judicial systems. Determining the best interest of the child requires special expertise, knowledge and skills. As mentioned before, according to Save the Children's experience, some Member States have adopted clear, child friendly practices when for instance interviewing children. In some Member States such procedures, or training opportunities in child friendly methods to police, judiciary and other authorities do not exist, and there is a clear need to take further steps in developing standardised trainings at both university and professional level. Save the Children strongly emphasises the need for continuous training of those professionals that are occasionally or frequently working with children. In summary, due weight should be given to both 1) improved educational standards for the experts responsible for training others, such as legal practitioners and the authorities, and 2) provision of regular professional training for those dealing with children.

With regards to educational standards, availability and quality of child friendly psycho-social support for child victims, there is a need to both increase the educational opportunities and quality standards of the education provided. It is important to note that qualified forensic and paediatric psychologists and psychiatrists are needed for both clinical support of a child victim and for assisting and supporting other authorities in judicial proceedings involving children, requiring multiple skills both in terms of understanding children's needs and practical skills when dealing with children, or with judiciary systems.

In some Member States education of psychiatrists and psychologists include specialisation programmes on forensic psychology while in most of the European

countries such specialisation is not yet possible. Where university level studies for forensic psychology are not offered, psychologists and psychiatrists are self-taught in the area. In order to provide services for child witnesses and children in conflict with the law, it is imperative that the EU supports initiatives to include specialisation in forensic psychology in the university curricula in the Member States. Such specialisation will enable standardised practices to interviewing of children and eliminating phenomena such as false memory, which is common among children undergoing traumas. Standardised practices and evaluations by forensic psychologists with paediatric expertise will increase the effectiveness in provision of services both for child victims and authorities in criminal justice.

Secondly, professional groups such as social workers should have adequate opportunities to further deepen their knowledge and understanding on national legislations and judicial procedures, and their implications to children. Such knowledge would enable more efficient and less time consuming service delivery for children involved in justice systems. Therefore sharing of best practices, continuous professional training, collaboration between the different actors as well as monitoring mechanisms of the applied methods and practices should be strengthened at all levels.

7. How should it be ensured that the individual needs of victims are properly assessed (e.g. individual needs assessment when reporting crime)?

We have given some examples on best practices in the Member States with regards to determining and responding to child abuse. In general, determining child abuse is a long process that requires involvement of several professional groups, thus resources. As a priority concern, Save the Children urges to put measures in place to ensure adequate resource allocation allowing trainings for sufficient number of skilful authorities that guarantee early involvement in child abuse. Maximum time limits to complete cases where children are involved are set in several Member States. Lack of adequate resources and qualified personnel has lead to compromises in both access and quality of the victim assessment and assistance for children. Save the Children recommends that the EU considers:

- a. Minimum, binding, standards regarding adequate assistance including translation services for children in justice systems, when required, are set at the regional level;
- b. Adequate support to the Member States to translate these standards into action at national level;
- c. That when the resources in the national systems are not sufficient, external assistance for instance from NGOs are allowed, while ensuring that the institutions and organisations have the competence to do so.

8. How do you think vulnerable victims should be identified? What special measures should be available to them (e.g. provide testimony only once, legal assistance always available, specially trained professionals carry out questioning)?

According to the EU Child Sexual Abuse Framework Decision, victims of child abuse should be considered as “particularly vulnerable victims for the purposes

of standing in criminal proceedings as defined in the EU Victims Framework Decision. In particular, such victims may by decision taken by the court, be entitled to testify in a manner by any appropriate means compatible with basic legal principles<sup>4</sup>.

The CoE Convention states the basic principles of interviewing child victims. According to the CoE, the interviews should always be conducted by professionals that have the competence to do so. The number of interviews should be limited to the minimum possible. Further, the interviews should be conducted, when possible, by a single expert, and in presence of an adult trustee, chosen by the child, if circumstances so require<sup>5</sup>.

In line with what has been presented under previous questions, children's needs should always be given special consideration in justice systems. As a general principle, in order to obtain maximum level of information with minimum trauma and damage to a child, interviews and interrogations of children should not be conducted in a court room, if it is in the best interest of the child. Videoconferences and video recordings should always be available to both children and adults, should there be proof or strong indication that by revealing the identity of the witness, his/her or other person's life, physical integrity or freedom could be endangered.

Save the Children recommends that the interviews should be carried out by an expert, specialised in paediatric psychology with adequate level of experience and qualifications. The interview of a child should be recorded and broadcasted, and observed by the police, lawyers and a team member of the interviewing expert in a separate location. Time allocated to the interview should include adequate time for breaks, both for the child to rest and to provide the police and other authorities an opportunity for further questions. The interviewing expert should have the mandate to steer the interview and to evaluate whether the questions are appropriate. The recordings of the interview are availed to the court, and the child is presented by the interviewing expert in the court handling.

Structured interviews specifically tailored to determine sexual abuse and physical violence against children, are used for example in Finland. The above described proceedings have been adopted from the *US National Institute of Child Health and Human Development*, where the method has been thoroughly tested and researched. Results in Finland have been satisfactory and encouraging, and similar models could be replicated in Member States, where there is need to further develop child friendly interview methods and usage of video recordings in justice systems.

Finally, Save the Children recommends that the EU would give due consideration to setting age limits to interrogations of children / children in court rooms. In certain Member States minimum age limits are not set by national laws.

## **PROTECTION**

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<sup>4</sup> Article 8, EU Victims Framework Decision

<sup>5</sup> Article 35, CoE

9. Do you think measures are needed to protect a victim's privacy and if so how (e.g. court orders, code of conduct)?

In the case of sexual abuse, there is an imperative need to protect the victim's privacy and avoid to the greatest extent possible any revictimisation. The current Victims Framework Decision does not address issues with regards to care and treatment of children subject to abuse, thus, there is need to clearly put focus on the welfare and safety of the child especially in cases of child abuse.<sup>6</sup>

EU legislation should contribute to ensuring that the protection of child victims, as well as that of their families and witnesses on their behalf, from intimidation, retaliation and repeat victimisation. Secondly, the legislation should ensure that contact between victims and perpetrators within court and law enforcement agency premises is avoided, unless the competent authorities establish otherwise in the best interests of the child or when the investigations or proceedings require such contact.

We strongly recommend that EU legislation ensure the protection of the privacy of child victims, their identity and their image and by taking measures in accordance with internal law to prevent the public dissemination of any information that could lead to their identification.

Finally, a child's right to remain at home should be clearly set as a guiding principle when in the best interest of the child. For instance in Bulgaria, evidence shows the tendency to place children in institutions when cases of domestic violence have been reported to the authorities, is high. This may be due to misinterpretation of the Law on Protection against Domestic violence combined with lack of standardised operational procedures to implement the law, and lack communication between the authorities.

## **SUPPORT**

10. How do you think victim support organisations can be assisted to provide effective services to victims?

As an example, Save the Children's experience shows that when the State structures are not sufficient to provide services, the NGOs could provide assistance to children and the local authorities by ensuring that the child receives adequate level of skilful assistance in justice procedures. While we emphasize that the responsibility is primarily within the national authorities, as a short term solution NGOs may provide valuable support to children. Therefore, Save the Children welcomes support to initiatives that allow NGOs to assist children for instance in courts and to provide pro-bono lawyer services.

Nevertheless, we stress the importance of setting common standards with regards to quality of such services provided. These standards should include areas such as child friendly spaces, expertise in child friendly approaches, and

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<sup>6</sup> Please refer to UN Guidelines on Alternative Care of Children, which can be found in [http://www.unicef.org/aids/files/UN\\_Guidelines\\_for\\_alternative\\_care\\_of\\_children.pdf](http://www.unicef.org/aids/files/UN_Guidelines_for_alternative_care_of_children.pdf)

equity principles, enhancing mechanisms which guarantee that no child is left without assistance.

12. What services do you think they should provide?

Referring to what has mentioned above, such services could include assistance in:

- Filing complaints and pressing charges;
- Provision of safe homes for abused children;
- Provision of child friendly spaces for interrogations and other legal procedures;
- Provision of legal aid and lawyer services;
- Provision of cultural mediation and translation services;
- Provision of medical services and therapy;
- Provision of rehabilitation services;
- Provision of parental guidance and family mediation.

13,Do you think foreign and/or domestic victims should be provided immediate basic assistance (e.g. hotel accommodation, food vouchers, phone calls)? If so, who should provide such assistance (e.g. consular authorities, other government agencies, victim support organisations, tourist industry)?

Children outside their countries of origin have a right to immediate assistance in the country in which they are found, taking full account of their needs and rights as children, in the same way as a national child. In the case of unaccompanied children, there will be a need to ensure special protection and assistance. We refer to our submissions addressing the issue of unaccompanied children and indeed to the Commission's Communication on an EU Action Plan on Unaccompanied Minors, which in this context is particularly relevant to the situation of trafficked children.

### **ACCESS TO JUSTICE**

14.How should we ensure that victims fully understand their rights and the information they are given (e.g. Translation and interpretation available to all victims who don't understand, legal assistance, simplification of forms and documents, information provided through different media)?

Child victims should always be informed of their rights and the services at their disposal and, unless they do not wish to receive such information, the follow-up given to their complaint, the charges, the general progress of the investigation or proceedings, and their role therein as well as the outcome of their cases.

Many initiatives have been taken by the governments, NGOs and the EU to develop child friendly information on both children's rights and children as victims. While these efforts are to be acknowledged, they are not sufficient to

meet all the current needs. Save the Children welcomes continued support to material production and information distribution in conjunction with further development of child friendly judicial procedures and practices both at national and regional levels. These materials should be published in all the necessary languages in the concerned Member States, taking into account special needs of the minority groups.

## **COMPENSATION AND RESTORATION**

16.How do you think victims should be assisted when making compensation claims and when seeking to enforce compensation orders (e.g. State assistance in recovery, State payment in advance, simplification of forms)?

With regards to financial compensations, the current data collection systems in the Member States do not allow effective comparisons of compensation orders between child abuse and other criminal acts. This is mainly due to the fact that statistics on court decisions are gathered and published under different laws that are not necessarily child specific, and therefore do not specify the age of the victims. However, Save the Children has evidence of cases where compensations to children are of minimum standards and of little significance.

In order to exhaustively analyse the level of compensations in cases that involve children, there is a need to collect comprehensive, quantitative and qualitative data on compensations to child victims. While the Member States should ensure that the national laws provide for adequate compensation for children, a common framework for minimum standards should be developed based on comparisons on the compensations and availability of public referral and recovery services between the Member States.

With regards to the recovery, according to the information from Save the Children's partners and other organisations, the services are scattered and inadequate both in terms of availability quality, unfortunately failing to meet the needs of all the children in need for recovery services. It is to be noted that in many countries the offered services rely heavily on other than State structures (such as NGOs), which are neither sufficient nor sustainable as a long term solution to child protection needs.

17.Should restorative justice practices such as mediation be available to all victims? Should minimum standards be applied to organisations providing such services?

Mediation needs in cases involving children should be assessed individually, but children involved in judicial systems should, at all times, have assigned mediators if the best interest of the child so requires. In general, Save the Children considers minimum standards for restorative justice practices, especially with regards to mediation a priority that should primarily be the responsibility of appropriate institutions in the Member States instead of NGOs. We also emphasise the fact that translation services, offered by several Member States, should go beyond mere translation to offering of cultural mediation when required. Save the Children has implemented pilot projects that focus on cultural mediation and assistance to unaccompanied minors for example in Palermo and Turin in Italy. Similar models could be replicated in other Member States.

Emphasising the increased need for transnational exchange and collaboration between the authorities, minimum standards for mediation should be set by the EU at the regional level. These minimum standards should include:

- Practice standards – these standards should include a variety of types of service provision for child victims in different situations;
- Standards that guarantee adequate children's rights, and access to coherent service delivery with minimum changes of mediators during the process;
- Standards for qualifications of mediators between justice systems and children in different situations – these standards should provide for reasonable and adequate training opportunities in child friendly practices and mediation in situations where language and different cultural backgrounds may affect proceedings of the case.

Finally, Save the Children would like to refer to the NGO Joint Position Paper on the proposal for a Directive on combating child sexual abuse, exploitation and child pornography, in particular comments to article 17-19 on victim protection:

### **Article 17-19 – Assistance, support and protection measures for victims**

#### *Article 17*

In order to ensure that the rights of victims are fully ensured, we recommend that elements set out in Article 30 of the CoE Convention on child sexual abuse are adopted by the Draft Directive. In particular, the following principles should be added to Article 17 (or possibly Article 19):

- (i) informing child victims of their rights and the services at their disposal and, unless they do not wish to receive such information, the follow-up given to their complaint, the charges, the general progress of the investigation or proceedings, and their role therein as well as the outcome of their cases;
- (ii) ensuring, at least in cases where the victims and their families might be in danger, that they may be informed, if necessary, when the person prosecuted or convicted is released temporarily or definitively;
- (iii) protecting the privacy of child victims, their identity and their image and by taking measures in accordance with internal law to prevent the public dissemination of any information that could lead to their identification;
- (iv) providing for their safety, as well as that of their families and witnesses on their behalf, from intimidation, retaliation and repeat victimisation;
- (v) ensuring that contact between victims and perpetrators within court and law enforcement agency premises is avoided, unless the competent authorities establish otherwise in the best interests of the child or when the investigations or proceedings require such contact.

## Article 18

Solid national child protection and child friendly judicial systems constitute the very foundation of protecting children against the crimes governed by the Directive Proposal.<sup>7</sup> We therefore recommend that Directive Proposal should be amended to ensure that child protection systems and multi-disciplinary systems are put in place in each Member State.

The following amendments to article 18 of the Directive Proposal, inspired by the Lanzarote Convention as well as the Proposal for a Directive on preventing and combating trafficking in human beings, and protecting victims (COM(2010)95 final), would better ensure appropriate assistance and support to victims:

1. **[new]** Member States shall take the necessary measures to ensure that a child is provided with assistance and support as soon as the competent authorities have an indication that the child might have been subject to an offence referred to in articles 3 to 7.
2. **[new]** Member States shall take the necessary measures to ensure that a child has access to information about its rights, in particular in relation to assistance and support, as soon as competent authorities have an indication that the child might have been subject to an offence referred to in articles 3 to 7.
3. Member States shall take the necessary measures to ensure that the specific actions to assist and support victims in the short and long term, in their physical and psychosocial recovery, are undertaken following an individual assessment of the special circumstances of each particular child victim, taking due account of the child's views, needs and concerns.
4. **[new]** Member States shall take the necessary measures to establish effective child protection systems and multidisciplinary structures to ensure the necessary assistance and support to victims in the short and long term, whether through the provision of specially trained personnel within its public services or through recognition and funding of victim support organisations, including non-governmental organisations, other

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<sup>7</sup> Child protection systems are comprehensive approaches to the protection of children from abuse, neglect, exploitation and violence and to the fulfilment of children's rights to protection. The foundations of such systems are the state's human rights obligations to children that include:

- Preventing violence, abuse, exploitation and neglect, responding effectively when it occurs and providing necessary treatment, rehabilitation and compensation to child victims.
- Acquiring knowledge about the root causes of child protection failures and the extent of abuse, neglect, exploitation and violence against children in all settings.
- Developing appropriate policies and regulations, interventions for prevention and response, and ways to measure progress.
- Encouraging the participation of girls and boys, their parents, caregivers and community members, and international and national NGOs and civil society.

Crucially, child protection systems are systems - made up of a set of components that, when properly coordinated, work together to strengthen the protective environment around each child. These components include a strong legal and policy framework for child protection, adequate budget allocations, multi-sectoral coordination, child-friendly preventive and responsive services, a child protection workforce, oversight and regulation, robust data on child protection issues, etc.

relevant organisations or other elements of civil society engaged in assistance to victims.

5. Victims of any of the offences referred to in articles 3 to 7 shall be considered as particularly vulnerable victims pursuant to Article 2(2), Article 8 (4) and Article 14 (1) of Framework Decision 2001/220/JHA.
6. Member States shall take measures, where appropriate and possible, to provide assistance and support to the victim's family. In particular, Member States shall, where appropriate [**remove "and possible"**], apply article 4 of Council Framework Decision 2001/220/JHA to the family, regardless of whether a criminal investigation or proceedings have been instituted.

We welcome the reference to the Framework Decision on the standing of victims in criminal proceedings. In this context, we would like to emphasise that it is important that assistance and support is not exclusively linked to criminal proceedings (before, during and/or after). Protection and assistance must also include e.g. measures for victims who are *presumed* being abused or exploited. For instance, article 14.1 encourages initiatives to ensure suitable training for personnel involved in proceedings or *otherwise in contact with victims*.

#### Article 19

Based on our extensive experience working with child victims, we have identified a number of important appropriate measures to protect victims in criminal investigations and proceedings that are missing from article 19.

A provision should be added at the start of Article 19 stating that children shall be informed of their rights. Article 31(1) of the Lanzarote Convention provides a useful precedent.

We further recommend that a provision is included to ensure that the best interest of the child is a primary consideration in criminal investigations and proceedings. It is also important to ensure that investigations are conducted promptly and without unjustified delay.

The following amendments to article 19 will better ensure that victims are protected in criminal investigations and proceedings:

1. **[new]** Member States shall take the necessary measures to inform victims of their rights and the services at their disposal and, unless they do not wish to receive such information, the follow-up given to their complaint, the charges, the general progress of the investigation or proceedings, and their role therein as well as the outcome of their cases.
2. **[Previous 18.1]** Member States shall take the necessary measures to ensure that assistance and support are provided to victims before, during and for an appropriate time after criminal proceedings in order to enable them to exercise the rights set forth in Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings and in this Directive.
3. **[new]** Member States shall take the necessary measures to ensure that criminal investigations and proceedings are carried out in the best interest of the child.

4. **[new]** Member States shall take the necessary measures to ensure that investigations are conducted promptly and without unjustified delay.
5. **[new]** Member States shall take the necessary measures to ensure that investigations and criminal proceedings do not aggravate the trauma experienced by the child.
6. **[new drawing on article 13 of FD 2001/220/JHA]** Each Member State shall, in the context of investigations and proceedings, apply article 13.1 and 13.2 of Framework Decision 2001/220/JHA
7. **Article 19.2 – 19.5**

Should you wish to receive additional information on the on-going Save the Children initiatives on children in justice, please contact [riina.pilke@savethechildren.be](mailto:riina.pilke@savethechildren.be)