



## Procedural rights of juveniles suspected or accused in criminal proceedings in the EU

### WEBINAR SUMMARY

8 March 2017

#### I. Experts:

**Nenad Matejić** is a Regional Project Coordinator at the Terre des hommes Regional Office for Central and South-East Europe, responsible for coordinating projects dealing with the children on the move and juvenile justice. Mr. Matejić gained extensive experience in migration related issues while working at the International Organization for Migration (IOM), where he developed and implemented national and regional projects dealing with the voluntary return and reintegration of migrants, unaccompanied minors, assistance to victims of trafficking and family tracing.

**Asmita Naik** has been working in the field of international development and human rights for over 20 years. Ms. Naik started her career working for United Nations agencies in Geneva on human rights and refugee issues. Since becoming a consultant in 2002, she has carried out numerous assignments for a wide range of organisations, covering all regions of the world, particularly in the field of child protection and migration-related issues.

#### II. Content:

The project has been implemented in 5 countries (France, Belgium, Netherlands, Hungary and Spain) in the period from September 2015 until February 2017. The main premise was that children involved in criminal cases generally do not have enough knowledge, ability or independence to seek justice and ensure their rights are respected, for example to demand a competent lawyer, a fair trial or trial in their native language. This in turn, can contribute to endangering their defence and access to justice.

The aim of the project was to ensure that foreign children involved in criminal activities, accused or suspected, get the procedural benefits. First, research on national level was carried out in all five countries exploring to what extent foreign children involved in criminal proceedings can effectively exercise their rights. National reports were produced based on the outcome of this research, summarizing the main findings and recommendations. The next step was composing the Regional Comparative Report, with the aim to identify the most common points from the five national reports. Next, a Handbook of Legal Practitioners was produced to operationalize the recommendations collected in the Regional Comparative Report. The project outcomes and the results of the research were presented on the National Dissemination Forum, where relevant national actors were gathered (judiciaries, law enforcement officers, legal practitioners). Furthermore, an exchange visit was held in Paris, where all relevant practitioners from the five countries gathered together to discuss the identified recommendations and good practices.

#### Research findings

Questions researched during the project were linked to children's access to the right to interpretation, right to information, and right to lawyer. The common conclusion is that all three rights exist in theory, but the implementation of those rights in practice is often followed by many challenges. On the other side, right to contact at least one third party and the consular authorities has been respected and applied in practice in all countries.



In the case of the right to interpretation, particularly vulnerable are children who have some problems with hearing, especially in foreign country. Methods for determining whether the interpreter is needed differ from country to country and are not standardized. While the technology can be part of the solution, the research showed that only one country uses a phone interpreter. Furthermore, even though based on the EU directive written translations have to be included as part of the documentation, in most countries the translation is provided only verbally.

In addition, the quality of translation can suffer due to limited budget for this purpose, insufficient qualifications of the translators and unethical conduct. Children interviewed said interpreters were often judgemental, biased and interfering. The challenge to preserve neutrality was also expressed among interviewed professionals, who confirmed they had difficulties to remain objective, often unable to keep emotional distance or provide the same treatment to all children, regardless of their religion, gender or ethnicity.

When it comes to the right to information, this right exists in theory, but it is often not adapted to the circumstances, not understandable and lacks consideration of children's age or culture. Even though the EU directive requires those rights to be provided in the written form as well, in most of the countries it is provided only verbally. Moreover, only 2 of 5 researched counties provide information in native language of the accused person.

In relation to the right to a lawyer, big challenge is to find suitable lawyer. In some countries role of the lawyer is restricted and often several lawyers are included in one case. Confidentiality is a key problem here as well, especially in cases of foreign children. Conversation between children and lawyers should be very private and presence of the translator could jeopardize the needed level of privacy.

Based on the results of the research, key recommendations formulated are to:

- Set up the system of quality control of the interpretation
- Strengthen the official registers of interpreters
- Require interpreters to sign the ethical code
- Establish protocols for using the intermediate language in interpretation
- Standardize the procedures for determining the need of interpretation
- Provide written and translated letter of rights
- Use the technology
- Provide trainings for professionals involved in criminal justice system
- Increase the data collection on the scale on characteristics of the characteristics of the phenomenon
- Encourage coordination between professionals
- Ensure better coordination between parts of the government
- Encourage cross-border cooperation and sharing tools and methods.