



CHILD PARTICIPATION AS VICTIMS OR WITNESSES IN CRIMINAL CASES IN SWITZERLAND

National Report for AIMJF's Comparative and Collaborative Research.

La participación de niños como víctimas o testigos en causas penales en Suiza

Informe nacional para la investigación comparativa y colaborativa de la AIMJF

La participation des enfants en tant que victimes ou témoins dans des affaires pénales en Suisse

Rapport national pour la recherche comparative et collaborative de l'AIMJF

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Abstract: The paper is part of a collaborative research organized by the International Association of Youth and Family Judges and Magistrates (AIMJF/IAYFJM) on child participation as victims or witnesses in criminal cases. The article explains the legal, institutional and procedural aspects of child participation in the Justice System in Switzerland

Resumen: El documento es parte de una investigación colaborativa organizada por la Asociación Internacional de Juventud y Familia (AIMJF) sobre la participación de niños, niñas y adolescentes como víctimas o testigos en causas penales. El artículo explica los aspectos legales, institucionales y procesales de la participación infantil en el sistema de justicia en Suiza

Résumé : Le document fait partie d'une recherche collaborative organisée par l'Association Internationale des Magistrats de la Jeunesse et de la Famille (AIMJF) sur la participation des enfants en tant que victimes ou témoins dans des affaires pénales. L'article explique des aspects légaux, institutionnels et procéduraux de la participation des enfants dans le système de justice en Suisse.

Introduction

The International Association of Youth and Family Judges and Magistrates (IAYFJM or AIMJF, in the French and Spanish acronym) represents worldwide efforts

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to establish links between judges from different countries, promoting transnational judicial dialogue, in order to provide better conditions for a qualified attention to children based in a human rights approach.

To do so, AIMJF organizes research on international problems facing the operation of the courts and various laws relating to youth and family and training programs.

The aims of this research are to identify similarities and discrepancies among countries and to develop a cartography of how child participation as victims and witnesses in criminal cases is organized worldwide.

This national report is based on a questionnaire prepared by AIMJF.

Questionnaire²

Preliminary remarks:

Federalism:

In Switzerland, the (26) Cantons are responsible for the organization of their courts, which comes along with considerable variety. In this document, only an overview of system(s) and practices can be presented.

Legal system:

Switzerland follows the civil law tradition, coming along with an inquisitorial approach, and - in the context of this paper - with a focus on investigative interviews rather than court hearings.

1. Right to be heard

1.1. Are children presumed to be capable witnesses (or presumed invalid/untrustworthy by reason of their age alone, or similar)?

Children are basically presumed to be capable witnesses. However, the federal law (Criminal Procedural Code)³ distinguishes between witnesses and informants: 1) Children with discernment above 15 years of age are interviewed/heard as **witnesses**, which comes along with a duty to tell the truth. 2) Children below 15, older children (and adults) with limited discernment, children (and adults) who are at risk of self-incrimination or who are accused in the same matter themselves, and children (and adults) who act as claimants are heard as **informants**, which implies that the duty to tell the truth does not apply.

1.2. Are there any restrictions to the right to be heard (minimum age, or other criteria)?

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³ See <https://www.fedlex.admin.ch/eli/cc/2010/267/en> which offers an English translation (no legal force as not an official Swiss language), next to the official texts in German, French, Italian and Romansh.



Federal level: See above 1.1. (in particular: no age restriction). Cantonal level: It is not possible to provide an overview of all Cantons, but in practice, children under the age of 4/5 years are generally not interviewed/heard in criminal proceedings.

1.3. Are children allowed to refuse to make a statement? If so, in which cases?

All *witnesses* (adults and children above 15 who are interviewed/heard as witness, see above 1.1.) are allowed to refuse to make a statement a) in case of risk of self-incrimination and b) in case the statement could incriminate a close family member, put them at severe protection risks or lead to other serious disadvantages that can't be mitigated by protection measures. In addition, *victims of sexual violence* are allowed to refuse to reply to questions concerning the intimate sphere (their privacy).

Children who are interviewed/heard as *informants* can refuse to make a statement without indicating any reasons.

2. Broad perspective of the legal framework and procedure

2.1. Is there a specific legal framework that defines how to treat child victims/witnesses of crime (e.g. special norms in the criminal procedural code, special child code, special victims code, etc)?

Yes. Firstly, the (non child-specific) **Swiss Criminal Procedure Code** contains a specific provision on “protection measures” for child victims of crime,⁴ which applies in addition to general protection measures.⁵ The provision requires, in particular, that

- A first investigative interview should take place as soon as possible;
- The child can be accompanied by a person of trust who can be excluded if there is a risk that the person could influence the child;
- If it is evident that the investigative interview or the confrontation with the accused could seriously affect the child's psychological health, the following applies:
 - There shall be no confrontation interview/hearing with the suspect/accused unless the child explicitly requires so, or fair trial rights can not be granted otherwise (e.g. by participation of the lawyer of the accused on their behalf);
 - The child shall be interviewed/heard not more than twice in the whole procedure;
 - A second interview shall be conducted only if fair trial rights were not granted in the first interview, or if the interests of the investigation or the child demand so;
 - If there is a second interview, it shall be conducted by the same interviewer who conducted the first interview;
 - Interviews must be conducted by interviewers who are specially trained for this purpose, and in the presence of an expert (who observes the well-being of the child);
 - Interview must be audio-video recorded if there is no confrontation interview/hearing with the accused;
 - The interviewer is the only person who addresses the child (the parties exercise their rights through the interviewer).
 - Interviewer and expert shall record their special observations in a report.

The aim of this special approach involving specially trained interviewers and adapted procedures, including audio-video recording (and adapted environments, see below), is to secure best possible evidence (maximizing the quality and quantity of information obtained by children), whilst minimizing the risk of harm (in particular avoiding the stressful experience of testifying in court). In practice, child victims of crime who underwent such investigative interviews will – at least in the Cantons the authors are familiar with - rarely testify in court (the court will use the AV-recording instead).

Secondly, with the enactment of the (non child-specific) **Victims Support Code**,⁶ victim support centers where established throughout the country. These centres offer counselling and support (immediate and

⁴ See Art 154 Swiss Criminal Procedure Code.

⁵ See below 5.5.

⁶ Not available in English, but in the 4 national languages under <https://www.fedlex.admin.ch/eli/cc/2008/232/fr>.



longer-term) to victims of crime and/or contribute to the support provided by others (including legal, psycho-social, social, material/financial or medical support), and they support victims in requests for compensation/reparations. In some Cantons (e.g. Basel), the centre has a separate unit for children.

2.2. Is there any coordination between different role players (such as the police, education, social services, health system) to initiate legal proceedings and coordinate response (evidence collection and intervention), including avoiding multiple interviews of the child? Is there any flowchart in your country to coordinate these interventions? If so, could you please share it?

In Switzerland, the (26) Cantons are widely responsible for the organization of their police force and courts, and their education, social service and health system, which comes along with much variety. However, inter-disciplinary cooperation mechanisms (e.g. roundtables) were introduced in some places, and memorandums of understanding were drafted which guide the coordination between the various services and role-players involved, including police, victims support centres, investigation/prosecution office etc. With regard to initiating proceedings, some coordination is provided at federal level with rules on mandatory reporting when the wellbeing of the child is at risk.⁷ In some places, specialized protection units attached to children's hospitals offer specialized/standardized child interviews for children if there are indications of child abuse and no authority has been involved yet.⁸ See also 9.3.

2.3. Can you briefly explain what are the major steps of the legal procedure in criminal cases (felonies) with child victims or witnesses involved?

The police receives reports/claims and takes first statements. In case of felonies, the police immediately informs the Office of the Public Prosecutor. From that moment on, a prosecutor leads the investigation, and decides on further steps (e.g. which statements shall be taken, or which coercive measures like house search or arrest warrant need to be ordered). Once the investigation is completed, a magistrate will either issue a summary penalty order (less serious cases) or bring the case to court (indictment).

2.4. In which moment(s) can a child be heard in this procedure?

The child can basically be heard at any stage of the procedure. However, the law provides that an investigative interview should be conducted as soon as possible, and that not more than two interviews should be conducted in the whole process if an interview could seriously affect the child's psychological health (see 2.1. above). Where an investigative interview is audio-video recorded and fair trial rights were granted during the investigation, the recording will usually replace a court hearing.

2.5. Does the child have the power to initiate, suspend or terminate the criminal procedure (such as giving consent for the complaint or the possibility to refuse consent or revoke consent)? If so in which cases?

The child with discernment and the child's legal representative, or the legal representative acting on behalf of the child without discernment, can report any offence; and terminate proceedings which don't require an investigation/prosecution ex officio.

3. Preparation for the child participation

3.1. Is there in your country specific child-friendly information material for children as victims or witnesses (e.g. brochure, video etc)? If so can you please share them?

Such information can be found, in particular, on the webpages of Victim Support Centers of the different cantons (see e.g. online help platform with information in various languages under <https://opferhilfe->

⁷ See Art 314d Swiss Civil Code under https://www.fedlex.admin.ch/eli/cc/24/233_245_233/en. As English is not an official Swiss language, the English translation has no legal force. Official translations on this webpage available in German, French, Italian and Romansh.

⁸ See e.g. <https://kinderklinik.insel.ch/de/unser-angebot/kinderschutz> (German), and flyer https://kinderklinik.insel.ch/fileadmin/Kinderklinik/Dokumente/PDFs/Kinderschutz_Psych/Infoflyer_Videobefragung_franzoesisch_2023_definitive_Version.pdf (German and French).



beiderbasel.ch/en/children-and-young-people, or a short information video in various languages under <https://www.opferhilfe-schweiz.ch/en/what-is-victim-support/short-film-about-victims-help/>).

In addition, the police sometimes offer their own child-friendly information material, which are used and distributed e.g. in the context of prevention classes at schools. See also the flyer of a paediatric clinic under https://kinderklinik.insel.ch/fileadmin/Kinderklinik/Dokumente/PDFs/Kinderschutz_Psych/Infolyer_Videobefragung_franzoesisch_2023_definitive_Version.pdf.

3.2. How do children have access to these materials? (e.g. brochure available at police station/court; brochure sent to the child together with summon; witness preparation conducted in court with support of a video, or with support of a special professional; investigator/judge orally explaining in child-friendly language before interview/hearing, or any other?) How long before the interview/hearing does this happen?

In particular via Victims Support Centres. A child and/or the child's legal representative can contact these centres at any moment, including before a case is reported, and independently on whether or not they want to report a case to the police. See also 3.1. above.

If a crime against children is reported to the police, the police has to inform the child and the child's legal representative about their rights, and about the Victims Support Centers. The police will ask the child and the child's legal representative whether they want to be contacted by the Victims Support Center, or whether they want to contact them on their own, and are provided with the contact information of the Center.

3.3. Is there any assessment of the child conducted before a child is interviewed/heard? If so, what is assessed / for what purpose (e.g. background and circumstances of child; whether the child would be able to speak freely; capacity of child to express him/herself; capacity to participate, if uncertain; capacity to handle interview and possible effects; potential vulnerabilities and special needs, etc)? If so, what is the legal background of their professional conducting this assessment? To which institution does this professional belong? Is there any kind of report produced?

The "assessment" is conducted by the person who will interview the child, as part of the interview planning process. This person usually gets in contact with parent(s)/legal representative(s) to inform them about the proceedings and the time/location of the interview, asks if the child has special needs, and inquires about the ability of the child to express him/herself, etc. Based on the information received, special arrangements can be made as required (e.g. presence of parents in the interview room at the beginning of the interview, participation of a specialized psychologist etc.).

3.4. Is there any kind of contact or evaluation with the parents or legal guardians?

See 3.3. above.

3.5. Is the child allowed/invited to visit the facilities where he or she will be heard prior to the interview/hearing?

This is possible if the parents/legal representative think this would be helpful. In practice, they rarely express such a desire. It is a good practice to ask children themselves if they wish such a familiarization; however, it seems somewhat less urgent for an investigative interview which is conducted in an informal and protected environment (as usually done in Switzerland) than for a hearing in a more formal and more intimidating court environment.

3.6. Does the child receive any kind of support prior to the interview/hearing (psychological, social, medical, legal)?

See 2.1. above (Access to / support by victims support centre).

4. Protection and Support



4.1. Is there any risk assessment conducted for the child victim/witness after a crime has been reported? If so, who conducts it? Is there any specific tool? If so, can you share it please?

If there are indication of risks (e.g. a parent/caregiver might be the perpetrator), the criminal authority can order the required measures, like reporting the case/child to the child protection agency, and/or order witness protection measures (very rarely).

4.2. In case of identification of risks, what kind of protective measures are available in your country?

Prohibition of contact, witness protection measures (in very severe cases up to providing a new identity for the witness). If the risk lies with the legal representative of the child, the child protection agency can appoint another legal representative for the child if that seems required.

4.3. What kind of support measures are available for child victims / witnesses of crime (psychosocial, medical, legal) before, during, after the judicial process?

See 2.1. above (Access to and support by victims support centre who provide information, advice, counselling, or refer to other services as required).

4.4. In case of intrafamilial violence, which measures can be / are usually adopted to grant the child's security? Is there any/which kind of support offered to the remaining members of the family? Are there any specific measures in case of child abduction or child kidnapping?

Prohibition of contact; involvement of the child protection agency (in particular if siblings are at risk, too); involvement of federal authority and international social service in cases of international child abduction (who offers e.g. international family mediation, see <https://www.bj.admin.ch/bj/en/home/gesellschaft/kindesentfuehrung.html>).

5. Environment

5.1. In which institution/what kind of environment is the child interviewed/heard in pre-trial/trial phase?

This varies depending on the cantonal organization. Examples known to the authors include: police station, juvenile prosecution office, juvenile court, non child-specific court building hosting prosecution and court under one roof. The environment should be child-friendly, but this is not explicitly required by law, and there is no common definition of what this implies. Criminal justice professionals who are specially trained to conduct such interviews in these special environments include currently in particular the following professions, depending on the cantonal organization: police officers, (child) prosecutors and social workers.

5.2 Is there any specificity in this environment to adapt it for children? (e.g. separate 'building' specifically for children; non child-specific building, but separate entrance for children; separate interview/hearing room for children)

Child-friendly environments with audio-video recording facilities have been established for child victims and witnesses of crime in the past decades in various Cantons, and in various locations (see also above 5.1.). The degree of separation from environments for adults may vary from one region/interview environment to the other. At least in some Cantons/places, these environments are fully separated from facilities where adults are heard (separate building, separate entrance, separate waiting area, separate toilet, separate interview room etc).

5.3. Are there guidelines for the environment where the child is interviewed/heard? (architecture, setting)? If so can you please share it? Can you share a photo of this space?

Not at federal level. In practice, many Cantons established adapted environments with audio-video recording, see above and pictures below.

Pictures below:

Two examples of child-friendly interview rooms with audio-video recording in Child Prosecution Offices which provide full separation from adults.



5.4. Is there a specific waiting area for the child?

Not able to answer for all Cantons, but some do (see also 5.2. above), and it is assumed that such is usually granted.

5.5. Are there protection measures to avoid direct contact (including visual) between the child and the alleged offender? if so what kind? (e.g. separate entrance, separate waiting area, separate interview/hearing rooms, use of video link, voice or image distortion etc)

Yes, see in particular the child-specific legal provision described under 2.1 above which aim at avoiding direct contact; and for separate environments see above 5.2. In addition, general (non child-specific) protection measures provided for by the law include closed hearings; non-disclosure of personal details or other parts of the file; image or voice distortion; shield the victim from the views of others (e.g. by hearing the child in a room other than the court room with video link to the court room); and ensuring anonymity.⁹

Furthermore, practical measure include - where the accused is participating to grant fair trial rights - inviting victim and accused at different times to different locations (next to letting them wait in and participate from different rooms).

5.6. In case identification of the offender is needed, how is this conducted, and where?

Depends on case and child (police station or prosecution office; via photo presentation or veteran mirror) See also above 2.1.

⁹ See Article 149 Swiss Criminal Procedure Code.

5.7. If the child lives in a different city in relation to the city where the proceeding is tried, what are the specificities at stake?

Due to the fact that Switzerland is a very small country, the travel distance to the interview location is usually short. Special arrangements are therefore hardly needed. However, during the planning and preparation phase, the interviewer will discuss with the legal representative how the child will travel and who will accompany the child.

5.8. Is it possible in your country that the interview is conducted virtually (the child and the interviewer are in different places)? In which circumstances? Are any / which special security measures (are) adopted?

Virtual interviews are not common and are avoided in practice, as a personal contact is crucial for the rapport building process. However, it is not impossible to conduct virtual interviews, and there may be circumstances where such is required, e.g. during a pandemic, or if a child is unable to travel and the interviewer is not able to visit the child with a mobile camera at the child's location.

5.9. Must a child appear in court to be interviewed or are recorded investigative interviews admitted as evidence in court? If the child has to appear in court, which circumstances are determinant?

Recorded interviews are admitted as evidence in court and usually replacing a court hearing, unless fair trial rights can not be granted otherwise, and/or if a case is highly disputed. See also above 2.1.

6. Specific legal guarantees for the child

6.1. Does the child have the right to legal assistance? for free? Is this assistance specialized? At what moment does this assistance come in (e.g. already advising whether or not to report a case / during the first interview / only in court / other)

Child victims of crime have (as every victim) the right to free advice (including legal) from the *victims support centre*, see above 2.1. Such assistance is in some Cantons specialized for children. It is accessible already before a case is reported to the police and can e.g. inform/advise on the decision whether or not to report a case.

In addition, every victim has the right to *legal representation by a lawyer*, but such is neither mandatory nor automatically organized by the State, nor systematically specialized for children.

(Free) *Legal aid* may be granted to victims in need of such support in cases that do not appear to have no prospect of success.

6.1.1 What is the role of the legal assistant (representing views of child or best interests of child; advising the child; talking on behalf of the child; ...)?

Victims support center: Provide information and advise, accompany the child through the process, examine the file with the consent of the child/legal representative, support requests for compensation/reparation.

Legal representation by a lawyer: Generally the same role as for the representation of adults. The lawyer has to represent the views of the child, in the first place, but also to consider the best interests of the child.

6.2 Does the child have the right to be accompanied by a support person? If so, what is the role of this person? What is this person entitled to do in support of the child?

Yes, the child has the right to be accompanied to the interview/hearing by a person of trust. The role of this person is to provide emotional support to the child. The person of trust may be present during the interview/hearing, unless this person could influence the child, see 2.1. above, but may not intervene during the interview.



6.3. What is the role of parents/legal representative?

Parents/legal representative of the child can provide emotional support and act on behalf of the child as far as the child can not yet act on their own behalf and has no lawyer acting on their behalf. Parent/legal representative of the child have full procedural rights (like the right to information, participation or appeal) like the child, unless there is a conflict of interest (e.g. parent as alleged perpetrator).

6.3.1 When are parents/legal representative excluded (e.g. perpetrator, exploitative, intimidating/influencing, non-supportive, conflict of interests...)?

The legal framework does not explicitly define the reasons, but in practice, the following should be considered: parent/legal representative is the alleged perpetrator; seems not fit, able or willing to provide the required support; seems abusive or exploitative; seems to intimidate or to influence the child; conflict of interests; child seems to feel unease with this adult, etc.

6.3.2. If excluded, is there another legal representative appointed/ if so by whom?

If a child is left without a legal representative, the child protection authority has to appoint a guardian/legal representative for the child (and/or the magistrate/prosecutor can appoint a legal representative for a specific case).

6.4. What kind of measures are adopted to grant the right to privacy / confidentiality (public excluded / in all cases / in which cases? press statements so that child can not be identified?)

See above 2.1: Measures provided for in the legal framework include closed hearings; non-disclosure of personal details or other parts of the file; image or voice distortion; shield the victim from the views of others; ensuring anonymity; public/media informed in a way that does not lead to identification of victim.¹⁰

6.5. Is the child allowed to plea for cautionary measures?

Protection measures are ordered ex officio or on request. Children with discernment can act on their own behalf, otherwise via their legal representative.

6.6. Does the child have the right to appeal any decision?

Yes, both the child with discernment and the child's legal representative have a ('separate) right to appeal any decision.

7. Interviewing structure and procedure

7.1 Who hears the child victim/witness in the pre-trial phase / who in the trial phase? How often is a child usually heard in total (pre-trial and trial)? Does the law limit the total number of interviews/hearings conducted?

See above 2.1: The legal framework defines that a child should not be interviewed more than twice, and that such interviews must be conducted by a specially trained interviewer. Audio-video recorded investigative interviews conducted by specialized child interviewers as described above are admitted as evidence in court and usually replacing a court hearing (see above).

7.2. Is it mandatory that this professional has specific training for child interviews?

Yes for the investigative phase, see above 2.1 (legal requirement).

¹⁰ See Article 149; Art 70; Art 74 Swiss Criminal Procedure Code.



7.3. Is any kind of interview protocol adopted in your country (pre-trial and/or trial stage)? If so, which one? If so, could you please share it?

NICHD-based protocols are used in investigative interviews, with some differences between the French speaking and the German speaking areas.

7.4. Who is allowed to participate in the interview/hearing? Who is sitting in the same room as the child / who is sitting in another room, if any?

Parents/legal representatives basically have the right to sit with the child in the interview room, unless there is a reason for excluding them, see above; and the person of trust is allowed to accompany and sit with the child. However, best practice recommends that the child is alone with the interviewer during the interview,¹¹ which is also the preferred practice in Switzerland. If the interview is audio/video recorded, other parties to the case (including child expert, defendant's lawyer) can observe the interview from the monitoring room or remotely.

7.5. Who is addressing the child victim/witness: only the interviewer? cross examination allowed? if only the interviewer, how can other participants ask questions? How is the communication between those who follow the interview and the interviewer? What kind of communication tool is used?

Only the interviewer addresses the child, see above 2.1. No cross examination. Communication tools vary. Important that the interviewer is specially trained and applies a child-friendly language adapted to the age and development of the individual child.

7.6. Is the interviewer allowed not to ask the questions raised by others? Is the interviewer allowed to rephrase the questions raised by others?

The interviewer is allowed to rephrase questions raised by others. Questions that are relevant to the case should be asked.

7.7. Is the interviews audio and video recorded, if so for what purpose (accuracy of statement, use as evidence in court, use in other courts, other)?

In particular for ensuring accuracy of statement and for use as evidence in court. In addition, such recordings are an important requirement for conducting credibility assessments (specialized field of forensic psychology), where such is required.

7.7.1. In case the recording is admitted as evidence in court: what protection measures can be applied (e.g. image and voice distortion, child heard in a separate room etc)?

See above 5.5.

7.8. How is the quality of the recording? In case of failure in the recording, what are the measures adopted?

The technical equipment and the quality of the recording should be checked before and during the interview. In case of failure the interview would have to be redone (to avoid a personal appearance of the child in court).

7.9. If no audio/video recording: is the child allowed to review his or her statements and to correct them? Is the child/legal representative allowed to get a copy of written statement / recording?

In case of written statements the child has to review and correct the statement directly after the statement was taken. The statement has to be signed by the child with discernment. Where discernment is lacking,

¹¹ See Korkman et al, White Paper on Forensic Child Interviewing: Research-based recommendations by the European Association of Psychology and Law, 2023.



there will always be a audio/video recorded statement. Copies of statements are usually only shared with the lawyer of the child, for safety considerations (avoid that the statement could be shared unwisely).

7.10. If there is a special procedure for hearing child victims and witnesses, is it mandatory for the child to participate in such a way or has he/she the right to choose to be heard as any other victim or witness? Are there still adaptations in this case?

The protection measures as described under 2.1. above are basically mandatory where the relevant conditions are fulfilled. As far as protection measures are not mandatory, the child's views should be taken into consideration according to the child's age and development.¹² In some cases, the decision maker might decide against the wish of the child, based on a wider assessment of the best interests of the child.

8. Offender's right during or after the interview

8.1. Is the alleged offender allowed to participate in the interview of the child witness? Is his/her defence attorney allowed to participate? Is participation of either of the two mandatory?

See above 2.1: If such participation could harm the child, the alleged offender will only participate directly if child explicitly demands so, or if fair trial rights can not be granted otherwise. The defence attorney, on the other hand, is allowed to participate (if audio-video recording: from the monitoring room), and such participation must be granted, at some stage of the process, to grant fair trial rights.

8.2. If the offender is not present during the interview, how can he or she make additional questions to the child? How can he or she contradict the child's statements?

See above 2.1.: Via defence attorney.

9. Parallel proceedings – coordination

9.1. In case of parallel proceedings (such as in family or child protection procedures) based on the same facts, is it clear who has the priority to conduct the interview?

Children who are victims of crime are interviewed by specialized investigative interviewers (criminal justice system), as far as this is about collecting information on crimes against children. The recorded interview might be shared with the child protection authorities, if required. See also 9.3. below.

9.2. Is there any coordination procedure between different courts/authorities? How is the coordination procedure?

If criminal law, family law and/or child protection authorities become involved in a case at the same time and coordination is required, the different authorities should cooperate and coordinate their actions. The legal framework is widely silent on how this should be done, apart from some provisions regarding the exchange of information between the different authorities. In practice, round tables or common protocols have been established between different role-players in some areas, next to direct oral communication.

9.3. If another court/authority has not participated in the interview and needs additional information, is this court/authority allowed to interview the child again? And/or can interviews be shared (who can share with whom)?

There is little guidance by the federal legal framework on cooperation issues. However, the exchange of data is usually guided by law (e.g. provision that prosecution office has to inform the child protection authority where required).

¹² See Article 12 on the Convention on the Rights of the Child.



In some cantons the relevant authorities elaborated together a standard interview for abused children for cases where it is not clear yet whether the child wants to report a case to the criminal authorities. If the child wants to do so at a later stage, the recorded interview can be used as evidence in the criminal procedure. See also 2.2. above.

10. Training

10.1. Are judges and magistrates trained to deal with child victims? Child victims/witnesses of crime

As outlined in 2.1. above, the legal framework requires that if it is evident that the investigative interview or the confrontation with the accused could seriously burden the child, the investigative interview must be conducted by an interviewer who is specially trained for this purpose (and this specialized interviewer may be a magistrate/judge). Such training has been widely/fully established at the level of investigative interviews, but presumably not systematically at court level (they usually have no direct contact with the child, as children usually don't have to appear in court).

10.2. Is the content of the training interdisciplinary? Do other professionals also participate in the same training?

The training covers aspects of various disciplines (in particular law, developmental psychology, forensic psychology) and is offered to those who conduct investigative interviews. In probably most Cantons, such interviews are conducted by police officers. In others, the specialized interviewer is a juvenile prosecutor/magistrate/judge, or a social worker. These various professionals are trained together.

11. Reforms in progress

11.1. Are there reforms in progress in your country regarding child's victim rights, the procedure among others? What is the aim and the main subject of it?

New definition of sexual offences in force since 2024, aiming at updating the legislation and bringing it closer to the Istanbul Convention.