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AIMJF COMPARATIVE AND COLLABORATIVE RESEARCH ON CHILD PARTICIPATION AS VICTIMS AND WITNESSES IN CRIMINAL CASES

Recherche comparative et collaborative de l'AIMJF sur la participation des enfants en tant que victimes ou témoins dans des affaires pénales

Investigación comparativa y colaborativa de l'AIMJF sobre la participación de niños como víctimas o testigos en causas penales

Eduardo Rezende Melo¹

Abstract: The paper analyzes comparatively 45 national reports on child participation as victims or witnesses in criminal cases collected from members and collaborators of the International Association of Youth and Family Judges and Magistrates. After a short exposition of the aims of the research and some methodological considerations, applicable international and regional standards are highlighted to introduce and guide specific analysis of 1) the right to be heard; 2) coordination between the Justice system and other role players; 3) preparation for the child participation; 4) protection and support provided for children; 5) environment – where the child is heard; 6) specific legal guarantees for children; 7) interviewing structure and procedure; 8) alleged offender's right during or after the interview; 9) coordination within the Justice System regarding parallel proceedings; 10) training provided for the Justice system and 11) reforms in progress. Final conclusions and recommendations for the future intend to stimulate further international judicial dialogue and experience sharing.

Résumé: Le document analyse en comparaison de 45 rapports nationaux sur la participation des enfants en tant que victimes ou témoins dans les affaires pénales recueillies auprès des membres et collaborateurs de l'Association internationale des juges et magistrats de la jeunesse et de la famille. Après une brève présentation des objectifs de la recherche et de quelques considérations méthodologiques, les normes internationales et régionales applicables sont mises en évidence pour introduire et guider une analyse spécifique de 1) le droit d'être entendu ; 2) la coordination entre le système judiciaire et les autres acteurs; 3) la préparation à la participation de l'enfant; 4) la protection et le soutien fournis aux enfants; 5) l'environnement – où l'enfant est entendu; 6) garanties juridiques spécifiques pour les enfants; 7) la structure et la procédure de l'entretien; 8) le droit du présumé délinquant pendant ou après l'entrevue; 9)

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la coordination au sein du système judiciaire en ce qui concerne les procédures parallèles; 10) la formation dispensée au système de justice et 11) les réformes en cours. Les conclusions finales et les recommandations pour l'avenir visent à stimuler le dialogue judiciaire international et le partage d'expériences.

Resumen: En el documento se analizan comparativamente 45 informes nacionales sobre la participación de los niños como víctimas o testigos en causas penales recopilado de miembros y colaboradores de la Asociación Internacional de Jueces y Magistrados de la Juventud y la Familia. Después de una breve exposición de los objetivos de la investigación y algunas consideraciones metodológicas, se destacan los estándares internacionales y regionales aplicables para introducir y guiar un análisis específico de 1) el derecho a ser escuchado; 2) la coordinación entre el sistema de justicia y otros actores; 3) la preparación para la participación de la infancia; 4) la protección y el apoyo a los niños; 5) entorno donde se escucha al niño; 6) garantías legales específicas para los niños; 7) estructura y procedimiento de entrevista; 8) derecho del presunto delincuente durante o después de la entrevista; 9) la coordinación dentro del Sistema de Justicia en materia de procesos paralelos; 10) la capacitación impartida al sistema de justicia y 11) las reformas en curso. Las conclusiones finales y las recomendaciones para el futuro tienen por objeto estimular un mayor diálogo judicial internacional y el intercambio de experiencias.

INTRODUCTION. THE RESEARCH AIMS IN THE CONTEXT OF AIMJF'S ACTIONS FOR THE IMPROVEMENT OF JUSTICE AND CHILDREN'S RIGHTS

The International Association of Youth and Family Judges and Magistrates (IAYFJM or AIMJF, in the French and Spanish acronym) is an NGO (Non-Governmental Organisation) with consultative status at the Council of Europe and associated with UNO's Department of Public Information (DPI).

It represents worldwide efforts to establish links between judges from different countries but also with other international associations working in the sector of the protection of youth and family.

Founded in 1928, AIMJF has a longstanding commitment towards the improvement of the Justice System in order to provide better conditions for a qualified attention to children based in a human rights approach in various areas and, therefore, is a key player in promoting transnational judicial dialogue.

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Transnational judicial dialogue is not only based on a shared history or legal tradition, nor on a formal treaty-based organizational structure or hierarchy, such as the Convention on the Rights of the Child, but as part of a common enterprise of a world judicial community, recognizing that not only comparative law, but also foreign judicial decisions and organizational structures are important resources for deliberations in domestic courts (WATERS 2005). Judicial dialogue “allows judges to be more conscious about the environment in which they operate, making them aware that they belong to an international legal community in which everyone contributes to the development of a global normative system in benefit of the human person” (FERRER MAC-GREGOR 2017).

The horizontal dialogue between courts of the same status is therefore important to elucidate issues at hand and to suggest new approaches to similar problems. If cultural and legal particularities about controversial legal questions or judicial structures may cause uncertainty among judges, international legal standards and *pro personae* principle (with more protective criteria than the international standard) (FERRER MAC-GREGOR 2017) are important tools to promote norm convergence in response to a perceived need for a single international legal norm on a particular issue (WATERS 2005).

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

The main focus, and probably the specificity of this research, are the efforts adopted by the justice system to balance three main challenges: providing protective measures for children to avoid revictimization, improving their legal status and legal guarantees in criminal cases; and preserving and respecting the alleged offender legal and procedural guarantees. At stake are the strategies adopted to balance (opposing and conflicting) needs and rights and what kind of transformations are introduced in the system to respect them.

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With this initiative AIMJF aims as well to collaborate to collect and analyze relevant data and information for appropriate assessment and future improvement and reform of juvenile justice system's administration, especially in a moment where the Committee on the Rights of the Child discusses a General Comment on Access to Justice by children. This initiative also tries to put in practice what the justice system is also challenged by General Comment 13 on violence against children, promoting an improvement in communication, cooperation and individual exchange within and between professional associations civil society groups.

A guiding questionnaire (Attachment 1) has been prepared and shared with our members and partners, who have submitted a national report, explaining how child participation occurs in their country in the criminal case². Each of these national reports is published in this edition and have its own value for bringing into public a description of the justice system organization, its procedure and how the participation of children occur in their country.

Two important institutions have collaborated in contacting judges and magistrates in countries where AIMJF has not yet members: Penal Reform International, especially among some Arabic speaking countries, and the Commonwealth Magistrates and Judge's Association. We thank both of these partners for their support to this initiative. We also thank Dr. Ursina Weidkuhn for inviting several other countries to join this research.

Forty-five countries have participated in this collaborative research, from all continents except the South Pacific or Oceania, representing 23,43% of all countries in the world and more than half of the global population.

Africa	Americas	Asia (and Middle-East)	Europe	South Pacific/Oceania
Angola	Argentina	China	Armenia	
Benin	Bolivia	East-Timor	Bosnia and Herzegovina	

² We thank Dr. Ursina Weidkuhn for the special assistance in preparing and reviewing the questionnaire, as much as our members who have given inputs to improve it.

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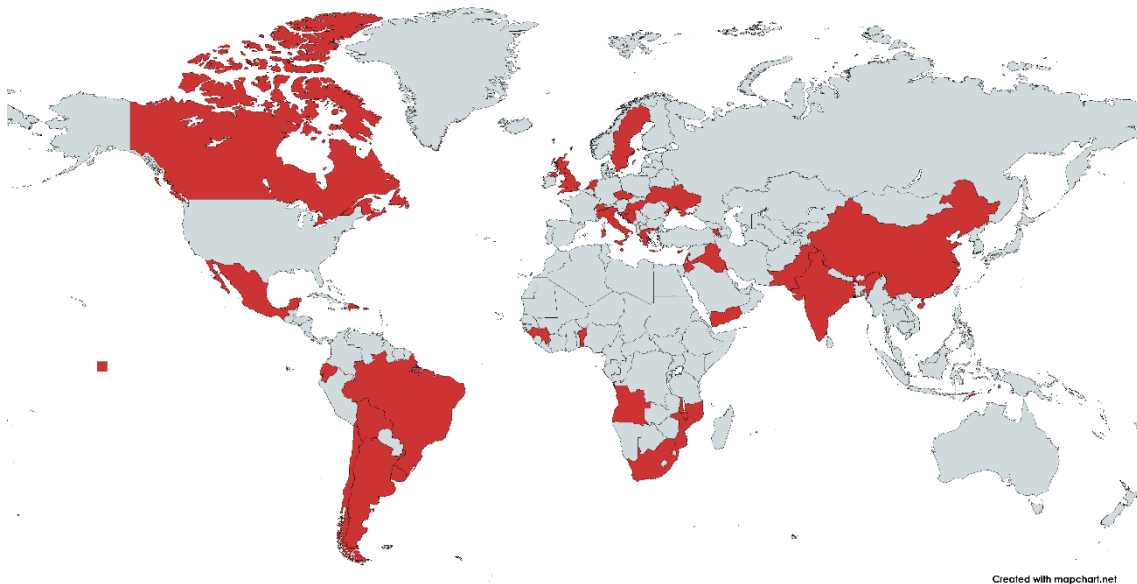


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Cape Verde	Brazil	India	Croatia	
Egypt	Canada – Québec	Iraq – (Kurdistan)	Cyprus	
Guinea	Chile	Jordan	Czech Republic	
Malawi	Colombia	Lebanon	England	
Mauritius	Dominican Republic	Pakistan	Greece	
Mozambique	Ecuador	Palestine	Hungary	
South Africa	Mexico	Yemen	Italy	
	Puerto Rico		Luxembourg	
	Trinidad and Tobago		Malta	
	Uruguay		Netherlands	
			Sweden	
			Switzerland	
			Ukraine	



This analysis is structured with the following elements:

1. Some initial methodological remarks on how the data are analyzed, considering the diversity of countries represented;

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2. A brief presentation of international and regional legal standards that will guide the analysis;
3. A brief contextualization on how the right of the child to be heard is observed in the countries, emphasizing the restrictions imposed by law and the right of the child to refuse to participate, if he or she wants so.
4. A broad perspective on the existence of a specific legal framework and procedure, focusing, firstly, on coordination procedures between the justice system and different role players, secondly, on the moments in which the child is heard in this whole procedure, and thirdly, the powers acknowledged to the child to initiate, suspend or terminate the criminal procedure;
5. An analysis on how the child is prepared to participate. Under this perspective, the research focuses initially on the tools used to provide information and who is responsible for sharing this information to children. As information should always be contextualized on the space where the child should participate, the research also asks about the possibility of visiting the facilities. Then, it is explored whether the child – and his/her parents - is assessed or not before, as a condition for the hearing/interview, for what purpose and the support provided based on them.
6. Protection and support for those who have already been exposed to an illegal act is a necessary condition for participation. In this section, risk assessment and the available measures are analyzed, including in cases of intrafamilial violence.
7. The environment is determinant on the child's willingness to participate, on comfort and security to share what they have experienced. The variety of institutions in which a child victim may be involved, the adaptations provided for the spaces where the child is heard, how they have been or not standardized in general guidelines and how the protective measures are translated into the organization of the space are some of the issues addressed in this section;
8. The special legal guarantees for children section aim to consider the legal support provided for children, the role of this professional and of their parents during the

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proceeding, the measures adopted to protect child's privacy and how children can enforce their rights, both pleading for cautionary measures or appealing any decision.

9. The specific moment of the child interview or hearing poses questions on who interacts with him/her, the specific training for this interaction and how other professionals take part of this moment, with a special concern on cross examination, appropriate communication and protection measures for an effective participation.
10. The alleged offender's rights during or after the interview are of special importance to understand how the justice system equates their rights with those of the children;
11. Three following sections address coordination within the justice system, regarding parallel proceedings in family or child protection matters, judicial training and reforms in progress.
12. We conclude the research with some general remarks and considerations for the future.

1. SOME METHODOLOGICAL CONSIDERATIONS

As stated in our previous research, human rights are historical, social constructs, born out of social circumstances, characterized by the struggle in defense of new freedoms and new life possibilities, when the emphasis lies on social, economic and cultural rights. As a consequence, differences in the implementation of international standards are to be expected among countries, which is symbolized by the debate on universalism and particularism.

In this scenario, comparative research should have limited aims, which we consider as threefold.

First, assuming a main focus on children's rights, we intend to understand how differences in organizational and procedural aspects may impact rights, according to the international and regional legal standards.

Second, the comparative study allows us to get more familiar with our own system, because it will give us a better response to its formation, the model that served as

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base for its inception, its reactions and social values (BLAGOJEVIC 1973). But also it is important as an exercise of otherness in relation to our practices, norms and institutions, helping us to denaturalize some aspects of youth justice practices, arrangements and institutions and allowing us to problematize them. When we make the familiar appear strange – and the strangeness comes from comparative analysis, it is possible to identify the rules shaping its operations (TAIT 2001).

Third, although there is not a presumption of linearity in this process, nor an aim to homogenize all practices, there is an intention in this project to enlarge the possibilities to dialogue about this fundamental aspect of juvenile justice system, the child participation. As much as all these countries are attached to the same international standards, it is also important to enlarge the possibilities of transnational judicial dialogue. Comparative studies within the Judiciary aim to help courts that consult the practice of foreign courts to bring its own decision in line with these foreign decisions. If one solution is suited to answer the same question in one country it may have a similar function in another one (FELDBRUGGE 1973).

In this context, the analysis of the most prominent differences and similarities will challenge us to recommend further discussions on some aspects and to continue this process of transnational judicial dialogue, involving, as much as possible, children themselves and other professionals.

In the context of this dialogue, it will be possible to go in deep into the collective realities in which and by which the specific rules and practices of some countries were formed, their presiding intentions and values and the analysis of the impact/effect that those norms and practices have produced (RECASÉNS-SICHES 1973).

2. THE INTERNATIONAL LEGAL STANDARDS ON CHILD PARTICIPATION AS VICTIMS OR WITNESSES IN CRIMINAL CASES

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2.1.GENERAL HISTORICAL CONTEXT ON THE NEED OF AND THE EMERGENCE OF SPECIFIC INTERNATIONAL LEGAL STANDARDS ON THE RIGHTS OF CHILD AS VICTIM AND WITNESS

Since the 1980s, questions about the participation of child victims in the justice system have emerged, particularly in relation to cases of sexual abuse. At that time, as a result of the greater visibility of the cases associated with the change in perspectives on the subject and the shift in intervention models, there was a wave of reports of child sexual abuse in the US and studies into the factors that led to the incorrect identification of these cases. With the increased visibility of sexual abuse cases in society and the possible emergence of panic situations, which can contaminate children's speech, it was realized that suggestive interviews had terrible consequences for the guarantee of children's rights, such as widespread distrust of the child victim's word and a lack of attention to cases in which abuse had actually taken place (MELO 2014).

This is why, since then, methodologies and technical recommendations have been developed for specialized training in forensic interviewing, which should include the types of suggestive techniques and the reasons for avoiding them. Another recommendation is the videotaping of interviews to create a detailed and objective record of the child's statement and to allow verification that this interview was not conducted in a suggestive manner, as well as the systematic verification by the interviewer of possible sources of contamination that may have affected the child's statement, among other procedures (WOOD et al. 2009, p. 81-98).

According to Zermatten (2008), it wasn't until the Stockholm World Congress on the Sexual Exploitation of Children and Adolescents in 1996 that an international movement for regulatory change opened the eyes of the international community to the issue of child and adolescent victims. A dialogue began between *experts*, NGOs and states to define a new legal framework, resulting in the decision to adopt an additional optional protocol to the Convention from a new angle, the criminal one. The perpetrators of these acts were then considered criminals, requiring states to legislate and adopt criminal rules

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to incriminate the sale, exploitation, prostitution and use of children in pornography. However, as it entered the criminal field, it was necessary to deal with children in relation to their testimonies, providing for a special status for them, i.e. both victims and witnesses (ZERMATTEN, 2008, p. 9-12).

Article 8 of the Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography enshrines this status and the attention that must be paid to children and adolescents in conjunction with Articles 3 (best interests) and 12 (participation) of the Convention. It should be borne in mind that this protocol, as Laucci (2008) rightly points out, adapts and extends to children the rights and care that had already been guaranteed to victims in general in 1985, with the United Nations Declaration on Fundamental Principles of Justice for Victims of Crime and Abuse of Power (LAUCCI, 2008, p.49). These norms are part of a struggle for specific recognition by victims in general, which dates back to the 1940s, when, according to Roberts (1990), research into victimization emerged in criminology, and more recently led to the creation of a new branch of study, victimology, and to the growing development of charters of rights issued with a great deal of involvement by prosecutors in providing information services and reshaping the police and the justice system (ROBERTS, 1990, p. 24-32).

With regard to children and adolescents, the emergence of this Optional Protocol was also dictated by the recognition of the impact of violence on them, evolving towards an increasingly comprehensive understanding, as Finkelhor (2008) points out, which, from a developmental perspective, indicates the need to take into account the way in which the child understands crime, the specific developmental tasks they have to face, their adjustment mechanisms and the environment in which they live, all factors that vary according to their age and cognitive development (FINKELHOR, 2008).

This leads to some basic needs of victims in their process of overcoming trauma: the need for compensation for their losses; the need for answers to their questions about the crime; the need for opportunities to express their emotions and validate them; the need for control and the opportunity to participate in the judicial process, regaining that feeling

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of power and security, including about the future, in the sense that the crime will not happen again; the need for the experience of justice as a fair and respectful process; the need for access to information during and after the process (GAL, 2011, p. 65). These needs are also present in children. Possible resources include discussion groups, support networks, reparations and treatment, which should be seen from a holistic perspective, combined with the guarantee of rights.

We therefore have a second large group of rights related to participation; the right to the opportunity to speak, to be heard and to have their say on aspects that directly affect the child or adolescent, including innovations in their legal representation and that of their relatives, with a more civil guarantor model in family proceedings, with new legal actors emerging, such as the *child advocate and guardian ad litem* (MORGAN; ZEDNER, 2003, p. 18-19), which began to take shape above all in the 1980s (MORGAN, ZEDNER, 2003, p. 6).

As Gal (2011) suggests, the fundamental principles of the Convention (participation, best interests, development and equality and non-discrimination) are joined by two basic objectives for child and adolescent victims: their protection and rehabilitation. Achieving these objectives necessarily involves considering a developmental victimology, a justice system with fair and respectful procedures, and which therefore takes children as partners and not as sources of evidence. In this way, it can promote their well-being (GAL, 2011, p. 84).

It is in this context of combining needs and rights that the problems suffered by child victims in the justice system are pointed out, causing the risk of re-victimization. Indeed, as Nordenstahl (2008) teaches, in addition to primary victimization, which results from the crime and reflects the victim's individual experience, with physical, economic, psychological and social impact, the doctrine indicates various other possibilities of victimization.

Examples of victimizing practices include repeated summonses, long waits in corridors, the need to wait in the same room as the offender, submission to excessive

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examinations and expertise, delays in completing the process, and lack of information about the process. These practices become even more acute in cases of violations of sexual integrity, especially when the victims are children and adolescents who have to undergo numerous examinations, many of which are unnecessary and carried out by different teams within the justice system, without coordinated work.

Such situations are responsible for one of the most obvious causes of the crime black spot. The dependence on the victim for the investigation is not expressed in caring actions, despite this being the primary objective of the institutions that deal with it, causing victims to adopt the attitude of not reporting.

To avoid this consequence, the doctrine points to the need to recognize the needs of victims, making them protagonists, enabling them to participate in the process and, above all, guaranteeing their needs and interests. To this end, it is essential to have victim assistance programs and trained professionals (NORDENSTAHL, 2008, p. 31-40). To this end, faster procedures, special waiting areas, reduced formalities, exemptions from the requirement to corroborate evidence in the case of children's testimony, the use of video cameras for initial interviews and closed-circuit TV for separate and private testimonies, a ban on cross-examination, support during testimony and special courts for cases of abuse have been suggested (GAL, 2011, p. 98).

This growing movement has resulted not only in another Protocol, the Palermo Protocol, aimed at preventing, repressing and punishing human trafficking, particularly of women and children (UNITED NATIONS 2000), but also, in 2005, in three important instruments regarding victims. Two of them are more general, adopted by UN General Assembly, but also applicable to children: the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (UNITED NATIONS 1985) and the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (UNITED NATIONS 2005a).

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More specifically, the Guidelines for Justice in Matters Involving Child Victims and Witnesses, consolidated by Resolution 20/2005 of the United Nations Economic and Social Council (UNITED NATIONS 2005b), are of great importance in establishing the framework to adapt procedures and measures to children.

These rules are structured around the rights recognized for children and adolescents in these conditions, in order to avoid secondary re-victimization and guarantee greater protagonism for these victims.

The recognition of victim status and, consequently, the right to prosecute those responsible, are joined by rights to participation and representation, culminating in two other large groups of rights. On the one hand, the rights to protection from hardship during the process. On the other, the rights to rehabilitation and the promotion of their development.

The Resolution expresses this well by first focusing on the condition of the child victim, recognizing that they are capable of speaking and testifying, valuing their leading role and, consequently, the need to respect their rights:

- The right to be treated with dignity and compassion.
- The right to be protected from discrimination.

However, precisely as a result of the right to participation, the Resolution also clearly expresses the second group of rights:

- The right to be informed.
- The right to be heard and to express their views and opinions.
- The right to effective assistance (in relation to the representation aspect).

In relation to the process and seeking to avoid re-victimization, the Resolution details the following rights:

- The right to privacy.
- The right to be protected from hardship in the process.
- The right to security.

Finally, the Resolution establishes rights related to care:

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- The right to redress.
- The right to special preventive measures.
- The right to effective assistance (in relation to treatment).

It is therefore a two-pronged approach, based on a perspective of subjective rights on the part of the child and adolescent, but also of institutional improvement, understanding that this adaptation is a condition for the child to be heard in matters that concern them, regardless of their age or condition and, therefore, a mechanism for overcoming discriminatory or exclusionary attitudes (art. 15 ff. of ECOSOC Resolution).

These guidelines give the framework for embody the right of the child victim for a fair trial, as expressed both in the International Covenant on Civil and Political Rights, besides the Convention on the Rights of the Child. According to the UN Report on Access to justice for children, “under both instruments, States are required to ensure that their domestic legal framework is consistent with the rights and obligations provided, including the adoption of appropriate and effective legislative and administrative procedures and other appropriate measures that provide fair, effective and prompt access to justice. Article 2(3) of the International Covenant on Civil and Political Rights provides for the right to an effective remedy. Such remedies should be appropriately adapted so as to take account of the special vulnerability of certain categories of person, including in particular children.” (UN 2013)

In this regard, the Committee on the Rights of the Child has also published two important General Comments that must be considered when dealing with the rights of the child as victim and witness in criminal cases. General Comment No. 12 (UNITED NATIONS 2009), on the right of the child to be heard, and No. 13 (UNITED NATIONS 2011) on “The right of the child to freedom from all forms of violence”. Both are in line with the Guidelines, reinforcing principles and conditions for child participation in criminal cases.

It is also worth mentioning the Report of the United Nations High Commissioner for Human Rights on Access to justice for children (UNITED NATIONS 2013).

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The International Criminal Court's Rules of Procedure and Evidence are also an important legal standard. Those rules state that the a person under 18 years old is allowed to testify without a solemn undertaking (rule 66), the possibility of audio and video-link technology (rule 67), the possibility of using a prior recorded testimony in trial under some specific circumstances (rule 68). The Court has also special rules in case of sexual violence, stressing the importance of not inferring the victim's consent in such cases (rule 70), nor shall the Court admit evidence of prior or subsequent sexual conduct of a victim or witness (rule 71). Victims and witnesses can request protective measures, including the expunction of their name from the records (rule 87). Special measures can also be adopted in case of vulnerable or traumatized victims or witnesses to facilitate their testimony, such as the participation of a psychologist, to control the manner of questioning to avoid harassment or intimidation, with a special attention to cases of sexual violence (rule 88). Victims are entitled to have a legal representative (rule 91), request for reparation (rule 94 ff) (ICC 2013).

2.2.REGIONAL LEGAL STANDARDS

2.2.1. AFRICA

The African Charter on the rights and welfare of the child (AU 1990) has several provisions related, directly and indirectly related to the participation of children as victims and witnesses in criminal cases. Among others, it is worth mentioning article 14 on health and health services; article 15, on child labor; article 16 on protection against child abuse and torture; article 19, which focuses on the right of children to parental care; article 21 on harmful practices; article 27 on sexual exploitation; article 29 on sale, trafficking and abduction.

The African Committee of Experts on the rights and the welfare of the child (ACERWC) also highlights the importance of the Malabo Convention on cyber security

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and data protection, whose chapter 3 deals with promoting cyber security and combatting cybercrime and how to tackle the challenge of extraterritorial jurisdiction (AU 2014).

In this context, the African Committee has published Guidelines on child participation (ACERWC 2022a). On the same year, the same Committee has published General Comment No 7 on Article 27 of the ACERWC on “sexual exploitation“, which focuses in great measure most of the topics addressed in this research. (AERWC 2022b)

Together with the African Commission on Human and People’s Rights, two additional general comments in Africa are of special relevance: on ending child marriage (ACERWC 2018) and on female genital mutilation (ACERWC 2023).

In addition, two important guidelines should be mentioned in the continent.

The Guidelines on Action for Children in the Justice System in Africa (AFRICAN CHILD FORUM 2011), endorsed by the African Committee of Experts on the Rights and Welfare of the Child in 2012, and the Guidelines on ending violence against children in Africa³.

2.2.2. AMERICAS

The American Convention on Human Rights, held in San José, Costa Rica, has some applicable provisions on child victims, such as article 19 on the rights of the child and articles 24 and 25 on right to equal and judicial protection (OAS 1969).

The Protocol of San Salvador, on economic, social and cultural rights also provides on article 16 that “every child, whatever his parentage, has the right to the protection that his status as a minor requires from his family, society and the State. Every child has the right to grow under the protection and responsibility of his/her parents; save in exceptional, judicially-recognized circumstances, a child of young age ought not to be separated from his/her mother. Every child has the right to free and compulsory education,

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at least in the elementary phase, and to continue his training at higher levels of the educational system” (OAS 1988).

The Inter-American convention on international traffic in minors, adopted in Mexico in 1994, has also some protection mechanisms for the victims in article 16, besides the main focus on judicial cooperation (OAS 1994a).

The Belem do Pará Convention, regarding prevention, punishment and eradication of violence against women, is commonly referred in the continent as an important rule related also to children in response to violence. Besides providing about rights and State obligation to change cultural patterns of violence, the Convention focusses on protective measures, also applied to children, according to its article 9 (OAS 1994b).

The Plan of Action adopted in Québec in 2001 emphasizes the need for Member States to consider, signing and ratifying, ratifying, or acceding to, international conventions and protocols, to integrate fully their obligations into national legislation, policy and practice and to identify, share and promote best practices and approaches, particularly community based approaches aimed at supporting families, meeting the needs of children and adolescents at risk and protecting them from physical or mental abuse, injury or violence, discrimination, neglect, maltreatment, and exploitation, including sexual abuse, commercial exploitation and the worst forms of child labor (OAS 2001).

The same emphasis on strengthening the institutions that work with children, and improving their linkages to the inter-American system, and in particular the system for the promotion and protection of human rights, as appropriate was reaffirmed in the Declaration of Commitment of Port of Spain, 2009 (OAS 2009).

The Interamerican Court of Human Rights has issued an Advisory Opinion on the legal status and human rights of the child in 2002 indicating that State Parties are under the obligation to adopt all positive measures to ensure protection of children against mistreatment, whether in their relations with public authorities or private individuals or with nongovernmental entities (ICHR 2002).

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The report of the Inter-American Commission on Human Rights on “Access to justice for women victims of sexual violence: education and health”, from 2011 concludes its general recommendations reminding States that when adopting legislation, public policy, programs and judicial protection systems to remedy acts of sexual violence, special attention must be devoted to those sectors that are particularly at risk of having their human rights violated – such as children, indigenous women, women with disabilities, and women living in conflict-affected areas – in the adoption of legislation, public policies, programs, and judicial protection mechanisms to remedy sexual violence acts, and to create spaces of participation and incidence for these groups in the design of policies to confront this problem (IIN 2011)

The Interamerican Court on Human Rights has important case law on the right of the child to be heard, in general, as Case Atala Riffo y niñas Vs. Chile. ruling on February the 24th 2012, Serie C No. 239; case Furlán y familiares Vs. Argentina (2012); and case Familia Pacheco Tineo Vs. Bolivia. (ICHR 2021)⁴ .

Regarding child victims, the Interamerican Court has also addressed children’s rights in case V.R.P., V.P.C. y otros Vs. Nicaragua (2018. Serie C No. 350), stating that child participation should not be considered only as a source of evidence, but rather as an acknowledgment of his/her condition of subject of rights, to be legitimated to act in his/her own interest as a participant in the process, emphasizing State obligations to grant rights, adapting procedures and measures and providing services. This important ruling has also addressed many rights of the child during the procedure, which will be highlighted in the analysis of the data collected in this research. In the same line, it is worth mentioning Case Guzmán Albarracín y otras Vs. Ecuador (2020. Serie C No. 405)⁵.

Finally, it is also worth mentioning the Santiago guidelines for the protection of victims and witnesses by the Inter-American Association of Public Prosecutor’s Offices

⁴ https://www.corteidh.or.cr/sitios/libros/todos/docs/cuadernillo5_2021.pdf, p. 103 ss.

⁵ https://www.corteidh.or.cr/sitios/libros/todos/docs/cuadernillo5_2021.pdf, p. 124 ss.

(AIAMP 2020) and to remember the Mercorsur Association of Youth Judges' guidelines on a child friendly justice (AIMJIJ 2012).

2.2.3. EUROPE

In Europe, two general principles of the Convention on the Rights of the Child were incorporated in the European Charter for Fundamental Rights, in its article 24: the best interest of the child and child participation, both applicable to any kind of proceedings. To embody these principles in the protection of the rights of children as victims and witnesses, four important Conventions should be mentioned:

1. The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, also known as “the Lanzarote Convention”, requires criminalization of all kinds of sexual offences against children. It sets out that states in Europe and beyond shall adopt specific legislation and take measures to prevent sexual violence, to protect child victims and to prosecute perpetrators. (COUNCIL OF EUROPE 2007)
2. The Istanbul Convention requires States Parties to prevent violence against women and children, protect victims and prosecute the perpetrators. The convention introduces a number of criminal offences for physical, sexual and psychological violence for which harsher sentences are required when the offence is committed against or in the presence of a child (COUNCIL OF EUROPE 2011a).
3. The Council of Europe Convention on Action against Trafficking in Human Beings aims to prevent trafficking in human beings, protect victims of trafficking, prosecute traffickers and promote co-ordination of national actions and international co-operation. The Convention provides for special measures and procedures for children in the context of victim identification and requires that assistance provided to child victims be adapted to their special needs (COUNCIL OF EUROPE 2005).
4. The Cybercrime Convention (Budapest Convention) establishes a common approach to the criminalization of offences related to computer systems and aims to make criminal investigations concerning such offences more effective. According to this convention, all conduct relating to

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child pornography must be established as a criminal offence in the state parties (COUNCIL OF EUROPE 2001).

It is also worth mentioning the European Social Charter and its article 7 on the obligation to protect children from economic exploitation and article 17, obliging States to take all appropriate measures to ensure care, assistance and education for children (COUNCIL OF EUROPE 1996).

Besides these Conventions, it should be mentioned the Directives adopted at regional level, such as:

1. the Directive 2011/93 intending to harmonize minimum criminal sanctions for various child sexual abuse offences between Member States, reflecting Lanzarote Convention (EUROPEAN PARLIAMENT/COUNCIL 2011a);
2. the Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (EUROPEAN PARLIAMENT/COUNCIL 2012);
3. The Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims (COUNCIL OF THE EUROPEAN UNION 2004);
4. The Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (EUROPEAN PARLIAMENT/COUNCIL 2011b);
5. Resolution of the Council on a roadmap for strengthening the rights and protection of victims, in particular in criminal proceedings, adopted in June 2011 (COUNCIL OF THE EUROPEAN UNION 2011);
6. Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (EUROPEAN PARLIAMENT/COUNCIL 2017).

It is also worth referring the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions EU Strategy on victims' rights (2020-2025) (EUROPEAN COMMISSION 2020) and the

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Council of Europe's Committee of Minister's Recommendation on integrated national strategies for the protection of children from violence (COUNCIL OF EUROPE 2009).

Probably as much influential as the UN Guidelines for Justice in Matters Involving Child Victims and Witnesses, the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (COUNCIL OF EUROPE 2010) have had an important impact in the whole world, focusing on principles and rights of the child prior, during and after judicial proceedings, with a focus, *inter alia*, in child victims. Strengthening this approach, the Strategy for the Right of the Child (2022-2027) includes child-friendly justice as its six key priorities (COUNCIL OF EUROPE 2022).

The European Court on Human Rights has several cases on domestic violence affecting children, ruling on their condition during the procedures (ECHR 2024).

Specific provisions of these standards will be referred to in detail during the analysis of the data collected in this research.

2.2.4. SOUTH ASIA

The South Asian Association for Regional Cooperation (SAARC) has several conventions that directly or indirectly apply to child victims' rights. In its Social Charter, article 7 addresses the promotion of the rights and well-being of the child, stating the obligation to protect the child against all forms of abuse and exploitation prejudicial to any aspects of the child's well-being (SAARC 2004).

The Convention on Regional Arrangements on the Promotion of Child Welfare Social provides in article IV that States Parties shall ensure that appropriate legal and administrative mechanisms and social safety nets and defenses are always in place to ensure that their national laws protect the child from any form of discrimination, abuse, neglect, exploitation, torture or degrading treatment, trafficking and violence. It also recognizes the evolving capacities of the child, providing that States Parties shall encourage and support administrative and judicial institutions to arrange for suitable mechanisms at appropriate levels and in accordance with local customs and traditions, to provide opportunities and access for the child to: a) Seek and receive information; b)

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Express views, directly or through a representative, and receive due weight and consideration for them, in accordance with age and maturity, in all matters affecting them;

c) Participate fully and without hindrance or discrimination in the school, family and community life (SAARC 2002a).

Charter Regional Convention on Combating the Crime of Trafficking in Women and Children for Prostitution (SAARC 2002b) emphasizes that State Parties to the Convention shall ensure that their courts having jurisdiction over the offences committed under this Convention, can take into account factual circumstances which make the commission of such offences particularly grave, viz. the victimization or trafficking of children (article 4) and that judicial authorities in Member States shall ensure that the confidentiality of the child and women victims is maintained and that they are provided appropriate counselling and legal assistance (article 5).

Although not specific to child victims, SAARC Convention on Mutual Assistance in Criminal Matters (SAARC 2008) provides measures for assistance in giving evidence.

2.2.5. LEAGUE OF ARAB STATES

The Arab Charter on Human Rights (adopted 1994, revised 2005 entered into force in 2008) states in its article 33 that “2.The State and society shall ensure the protection of the family, the strengthening of family ties, the protection of its members and the prohibition of all forms of violence or abuse in the relations among its members, and particularly against women and children. They shall also ensure the necessary protection and care for mothers, children, older persons and persons with special needs and shall provide adolescents and young persons with the best opportunities for physical and mental development. 3. The States parties shall take all necessary legislative, administrative and judicial measures to guarantee the protection, survival, development and well-being of the child in an atmosphere of freedom and dignity and shall ensure, in all cases, that the child’s best interests are the basic criterion for all measures taken in his

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regard, whether the child is at risk of delinquency or is a juvenile offender” (LEAGUE OF ARAB STATES 2004).

2.3.AIMJF’S GUIDELINES ON CHILDREN IN CONTACT WITH THE JUSTICE SYSTEM

AIMJF has also developed its own Guidelines on Children in Contact with the Justice System, following the same linear perspective adopted in the European Guidelines (AIMJF 2017).

AIMJF’s guidelines prefer the term child focused justice instead of child-friendly justice, which would be appropriate in matters such as civil, child protection, immigration and various other fields, but not in criminal matters, where it is likely to strengthen the unfair and unfounded stereotype that judges who hear cases of children in conflict with the law are too friendly and soft on crime.

The guidelines also emphasize the right of children to participate, provided with all necessary information. When decisions or rulings are made, they should be explained to the children in a language that they can understand, particularly when they conflict with their expressed wishes or views. The context in which children exercise their right to participate has to be enabling and encouraging, so that they can be sure that the adults who are responsible for the proceedings are willing to listen and seriously consider the views that they wish to express.

Regarding child victims, the guidelines recommend that their testimonies must not be presumed invalid or untrustworthy simply on the basis of their age, and also suggest special measures and procedures, besides protective measures in case of intimidation (section 4.2).

We will consider its recommendations more in detail during the analysis of the data collected herein.

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3. THE RIGHT TO BE HEARD

The right to be heard is a fundamental principle and right enshrined on article 12 of the Convention on the Rights of the Child (UN 1989).

According to General Comment 12 of the Committee on the Rights of the Child, this provision applies to any context, and also in cases of violence (paras. 118 ff) (UN 2009).

In the General Comment n. 13, on violence against children, the Committee also emphasizes the right to be heard, pointing out how child participation promotes protection and child protection is key to participation. The child's right to be heard commences already with very young children who are particularly vulnerable to violence. Children's views must be invited and given due weight as a mandatory step at every point in a child protection process. The Committee also stresses how the child's right to be heard has particular relevance in situations of violence (UN 2011).

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

The first question proposed in this research concerns both the understanding of which children are allowed to give testimony, but also the conditions of this participation.

If undertaking is a regular measure of victims and witnesses in the procedures, the issue at stake is about the impact of minority in the value of a child's testimony.

According to the Guidelines on Justice in matters involving child victims and witnesses of crime (UN 2005), "age should not be a barrier to a child's right to participate fully in the justice process. Every child should be treated as a capable witness, subject to examination, and his or her testimony should not be presumed invalid or untrustworthy by reason of the child's age alone, as long as his or her age and maturity allow the giving

of intelligible and credible testimony, with or without communication aids and other assistance”.

The same understanding is exposed in the Guidelines for Action for Children in the justice system in Africa on paras. 64, (n) (AFRICAN CHILD FORUM 2011).

The Interamerican Court of Human Rights, in *Case Atala Riffo y niñas Vs. Chile*, ruling on February the 24th 2012, Serie C No. 239, states as well that, according to article 12 of the Convention, (i) "it cannot be assumed that a child is incapable of expressing his or her own opinions".

The European Court on Human Rights, in case *R.B. v. Estonia*, has declared a State violation to international rules for not advising a 4-year old child of her duty to tell the truth and her right not to testify against her father, leading to exclusion of her testimony and father’s acquittal of sexual abuse (ECHR 2021). According to the Court, “for the effective protection of children’s rights in line with international standards, it was essential to safeguard their testimony both during the pre-trial investigation and trial. Estonian law, as regards the warnings to be given to witnesses, did not make a distinction between witnesses according to their age, and thus did not provide for exceptions or adaptations for child witnesses. According to the Council of Europe Committee of Ministers’ Guidelines on child-friendly justice, where less strict rules on giving evidence or other child-friendly measures applied, such measures should not in themselves diminish the value given to a child’s testimony or evidence, without prejudice to the rights of the defence. However, in the present case the applicant’s testimony had been found to be inadmissible precisely because of the strict application of procedural rules which had made no distinction between adults and children”.

AIMJF guidelines endorse this understanding as well (AIMJF 2017, 4.2.1).

The large majority of countries participating in this research have responded that children are normally heard and presumed capable, which is in line with international standards and the literature.

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However, it is important to note that among the 40 countries that informed that children are presumed capable, 8 of them informed a legal distinction between informants and witnesses, emphasizing the importance of oath to increase the weight of this testimony as legal evidence.

Four countries have stated that there is no legal presumption, conditioning child participation to a previous assessment of the capacity.

Interestingly no country has mentioned that a child’s testimony is presumed invalid or untrustworthy.

Presumed capable	Testimony presumed invalid or untrustworthy	No legal presumption
Angola		Chile (assessment is necessary)
Argentina		Cyprus (assessment is necessary)
Armenia (but rights exercised by parents)		East Timor
Benin (oath required for children over 16 y.o.)		Malawi (testimony allowed under judicial discretion)
Bolivia		
Bosnia and Herzegovina		
Brazil		
Canada		
Cape Verde		
China		
Colombia		
Croatia		
Czech R.		



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Dominican R.		
Ecuador		
England & Wales		
Greece (but in practice validity and credibility often challenged in court)		
Guinea (although no oath is required, as a regular witness, devaluating the testimony)		
Hungary (considered as persons requiring special treatment)		
India		
Iraq		
Italy		
Jordan		
Lebanon (only for information purposes)		
Luxembourg		
Malta		
Mauritius		
Mexico		
Mozambique		
Netherlands		
Pakistan		
Palestine		
Puerto Rico (no oath under 14 y.o.)		
Slovenia		
South Africa		
Sweden		
Switzerland (but differences between witnesses (above 15 y.o.), under oath), and informants (under 15 y.o., no oath)		

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Trinidad and Tobago (but competency test for children under 14 or 10 y.o.)		
Ukraine		
Uruguay		
Yemen (above 10 y.o.)		

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

The Committee on the Rights of the Child on its General Comment # 12, emphasizes in its paras 21: that article 12 imposes no age limit on the right of the child to express her or his views, and discourages States parties from introducing age limits, either in law or in practice, which would restrict the child’s right to be heard in all matters affecting her or him. The Committee also stresses that “research shows that the child is able to form views from the youngest age, even when she or he may be unable to express them verbally. Consequently, full implementation of article 12 requires recognition of, and respect for, non-verbal forms of communication including play, body language, facial expressions, and drawing and painting, through which very young children demonstrate understanding, choices and preferences.” The Committee also points out that States parties must be aware of the potential negative consequences of an inconsiderate practice of this right, particularly in cases involving very young children, or in instances where the child has been a victim of a criminal offence, sexual abuse, violence, or other forms of mistreatment. States parties must undertake all necessary measures to ensure that the right to be heard is exercised ensuring full protection of the child (UN 2009).

In General Comment #13, the Committee reinforce this understanding, stressing that, because “the experience of violence is inherently disempowering, sensitive measures are needed to ensure that child protection interventions do not further disempower



children but rather contribute positively to their recovery and reintegration via carefully facilitated participation. The Committee notes that barriers to participation are faced by particularly marginalized and/or discriminated groups. Addressing these barriers is especially relevant for child protection, as such children are often among those most affected by violence” (paras 63) (UN 2011).

The Interamerican Court of Human Rights has expressed the same understanding in *Case Atala Riffo y niñas Vs. Chil* (ICHR 2012).

In spite of these standards, the majority of the States participating in this research have restrictions in their legal framework: 24 countries. Most of them concern age, both as a minimum to be considered able to convey a message and as a minimum age to undertake an oath, creating a legal difference between a formal testimony and an information.

No restrictions	Restrictions concerning age or capacity to express by him/herself	Restrictions concerning maturity and best interest	No clear regulation
Argentina	Armenia (minimum age of ten 10 y.o.)	Benin	Angola (in principle, no restriction, but could be considered either 10 or 7 y.o.)
Bosnia and Herzegovina	Canada (below the age of 14 y.o., no oath, just a promise of telling the truth)	Bolivia	East-Timor
Brazil	Czech R. (3 y.o.)	Cape Verde	
Chile (normally over 3 y.o.)	Dominican R.	China	

Colombia	Ecuador (3/4 y.o.)	Croatia (but other means can be used to collect evidence of children with no capacity of understanding)	
Greece	England & Wales	Cyprus	
India	Guinea (children below 16 y.o. do not make an oath)	Pakistan (but rationality test applied)	
Mexico	Hungary		
Slovenia	Iraq (11y.o.)		
Sweden	Italy (under 14 y.o., assessment, if needed, on reliability)		
Ukraine	Jordan (no oath below the age of 15 y.o.)		
Uruguay	Lebanon (no oath below the age of 18 y.o., heard only for information purpose)		
	Luxembourg (no restrictions, but no oath for children below the age of 15 y.o.)		
	Malawi (concerning competency to testify and ability to understand)		
	Malta (capability to convey a message)		
	Mauritius (under 14 y.o., competency test by the court)		
	Mozambique		
	Netherlands (psychological assessment)		
	Palestine (over 15 y.o., testimony taken under legal oath; under this		

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	age, depending on assessment of ability and readiness to testify		
	Puerto Rico (no oath under 14 y.o. and capacity assessment)		
	South Africa (competency to be a witness)		
	Switzerland (generally children below the age of 4 not heard; differences between witness and informant regarding oath (age level: 15 y.o.)		
	Trinidad and Tobago (competency, age: 10 y.o.)		
	Yemen (above 10 y.o.)		

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

Child participation should not be compulsory according to General Comment #12, where the Committee on the Rights of the Child emphasizes that “expressing views is a choice for the child, not an obligation. States parties have to ensure that the child receives all necessary information and advice to make a decision in favor of her or his best interests” (UN 2009, paras 16).

This understanding was adopted by the Interamerican Court of Human Rights, in the *Case Atala Riffo y niñas Vs. Chile* (IACHR 2012), stating that the child can express his or her views without pressure and can choose whether or not to exercise his or her right to be heard.

As already mentioned, the European Court on Human Rights, in case *R.B. v. Estonia*, has addressed State violation in advising a 4-year old child of her duty to tell the

truth and her right not to testify against her father, leading to exclusion of her testimony and father’s acquittal of sexual abuse (ECHR 2021).

However, it is also to highlight another recommendation from the African Committee, who emphasizes that “where a child exercising the right to participate retracts a complaint during the investigative or prosecution stage of the criminal justice process, the reasons for that should be carefully explored. Whilst prosecutors are *dominis litis*, it remains that exposing a child to undesired criminal justice processes can be harmful and cause harmful and long-lasting secondary victimization and trauma, and therefore imperil a child’s best interests. If the retraction appears to be the results of undue influence or coercion, addition protective measures might be required (...) In any event, the reasons for the child’s retraction should be recorded in writing and kept on file.” (ACERWC 2021, p. 31).

In this research, 20 countries informed that children are allowed to refuse to make a statement.

However, in a considerable proportion, 11 countries deny this right to the child and 12 have conditioned the possibility to refuse making a statement in case of family relationship with the party or on privileged communications. In total, it is possible to conclude that the majority of the participants do not allow completely the right of the child to refuse making a statement.

Children are allowed to refuse to make a statement	Children are not allowed to refuse to make a statement	Children are allowed to refuse to make a statement under certain circumstances	No clear regulation
Argentina	Benin (although allowed not to answer to some questions)	Angola (as a witness, in case of family relationship with the party)	Mauritius
Armenia	Canada (as a witness)	Cape Verde (as a witness, in case of family	

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		relationship with the party)	
Bolivia	China	Czech R. (as a witness, in case of family relationship with the party)	
Bosnia and Herzegovina	Colombia (if over 12 y.o., otherwise allowed if contrary to his/her best interest)	East-Timor (as a witness, in case of family relationship with the party)	
Brazil	Croatia	Hungary (as a witness, in case of family relationship with the party)	
Chile	Cyprus	Jordan (as a witness, in case of family relationship with the party)	
Dominican R.	Greece	Malawi (in case of self incrimination or if it may cause undue harm)	
Ecuador	Italy (but no warning below the age of 14 y.o.)	Malta (as a witness, in case of family relationship with the party)	
England & Wales	Malta (as victims)	Pakistan (on privileged communications)	
Guinea	Netherlands	Slovenia (in case of family relationship with the party)	
Irak (in family matters and disputes between parents)	Sweden	Switzerland (below the age of 15 y.o., always; above, on private matters and in case of incrimination of relatives)	
Lebanon		Ukraine (the same applied to adults)	

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Luxembourg			
Mexico			
Mozambique			
Palestine			
South Africa			
Trinidad and Tobago			
Uruguay			
Yemen			

4. BROAD PERSPECTIVE OF THE LEGAL FRAMEWORK AND PROCEDURE

4.1. 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)?

International and regional legal standards need to be incorporated in the national legal framework to provide guarantees, security and assistance. In its General Comment #13, the Committee on the Rights of the Child emphasizes that “authorities at all levels of the State responsible for the protection of children from all forms of violence may directly and indirectly cause harm by lacking effective means of implementation of obligations under the Convention. Such omissions include the failure to adopt or revise legislation and other provisions, inadequate implementation of laws and other regulations and insufficient provision of material, technical and human resources and capacities to identify, prevent and react to violence against children. It is also an omission when measures and programmes are not equipped with sufficient means to assess, monitor and evaluate progress or shortcomings of the activities to end violence against children. Also,

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in the commission of certain acts, professionals may abuse children’s right to freedom from violence, for example, when they execute their responsibilities in a way that disregards the best interests, the views and the developmental objectives of the child. (UN 2011, paras 32). When interpreting article 19 of the Convention, the Committee also emphasizes that the obligation to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of violence, “the term “appropriate” refers to the broad range of measures cutting across all sectors of Government, which must be used and be effective in order to prevent and respond to all forms of violence. “Appropriate” cannot be interpreted to mean acceptance of some forms of violence. An integrated, cohesive, interdisciplinary and coordinated system is required, which incorporates the full range of measures identified in article 19, paragraph 1, across the full range of interventions listed in paragraph 2. Isolated programmes and activities which are not integrated into sustainable and coordinated government policy and infrastructures will have limited effects. Child participation is essential in the development, monitoring and evaluation of the measures outlined here.” (UN 2011, paras 39).

However, there is a general concern on the ideological aspects related to the prevention of violence. The same Committee warns State Members about “the impact on children, in particular adolescents, of high-handed or “zero tolerance” State policies in response to child violence” for being “highly destructive as it is a punitive approach victimizing children by reacting to violence with more violence. Such policies are often shaped by public concerns over citizens’ security and by the high profile given to these issues by mass media. State policies on public security must carefully consider the root causes of children’s offences in order to provide a way out of a vicious circle of retaliating violence with violence” (UN 2011, paras 15). The same concern is expressed by the African Committee, emphasizing that legal framework should not only focus on punitive measures but also in restorative and preventive approaches (ACERWC 2023, p.11).

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Notwithstanding, according to European Directive 2012/29, restorative justice services should be used only if they are in the interest of the victim, subject to any safety considerations, and are based on the victim's free and informed consent, which may be withdrawn at any time (article 12) (EUROPEAN PARLIAMENT/COUNCIL 2012). as reminded by the Guidelines for Action for Children in the justice system in Africa, there are “particular risks that extra judicial settlements, including those negotiated between families,...to child victims and to rights of the girl child in particular where marriage is proposed as the settlement, and actors in affected justice systems should refuse to countenance private arrangements insofar as these do not promote the rights of the child victim” (AFRICAN CHILD FORUM 2011, paras 68).

In this context, there is a broad understanding that there is a lack of implementation in all continents.

The European Commission, in its Communication to the European Parliament and Council, recognizes that, despite international legal instruments, there is still a lack of transposition or incorrect transposition into national laws, which is one of the main challenges for victims for access to justice (EUROPEAN COMMISSION 2020, p. 2) .

The African Committee also recognizes a lack of a consistent, comprehensive and agreed legal framework that specifically addresses all of the issues concerning violence against children, with a limited focus on prevention on the continent and lack of social support services (ACERWC, 2021 p. 6).

In the Americas, both the Québec Plan of Action (OAS 2001) and the Declaration of Commitment of Port of Spain (OAS 2009) acknowledge the same challenge in the continent.

In this research, each country has presented in its national reports the national legal framework adopted, which can allow a general comprehension of its terms.

By focusing on child participation, this research has emphasized some variables to be analyzed in the following questions.

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However, by asking if there is a specific legal framework, it is possible to understand how the countries have incorporated international standards in local practices.

The majority of the countries have mentioned that, yes, there is a specific legal framework for child victims, although many have made remarks on its capacity to cover all rights and needs of the children. Only four have stated that there is no specific domestic legal framework and two allude to practical guidance or directions, but not a specific framework.

Existence of specific legal framework on child victims	No specific domestic legal framework on child victims	Practice directions, but no legal framework
Angola (no special testimony)	Benin (no special testimony)	Malawi
Argentina	East-Timor (no special testimony)	Sweden (with Child Houses)
Armenia	India	
Bolivia	Lebanon	
Bosnia and Herzegovina		
Brazil		
Canada		
Cape Verde (no special testimony)		
Chile		
China		
Colombia		
Croatia		
Cyprus		
Czech R.		
Dominican R.		
Ecuador		
England & Wales		
Greece		

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Guinea		
Hungary		
Iraq (but not implemented)		
Italy		
Jordan		
Luxembourg (with ongoing reform discussions)		
Malta		
Mauritius		
Mexico		
Mozambique		
Netherlands		
Pakistan		
Palestine		
Puerto Rico		
Slovenia		
South Africa		
Switzerland		
Trinidad and Tobago		
Ukraine		
Uruguay		
Yemen		

4.2. 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?

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The prevention of revictimization of children within the justice system is dependent on a broad readjustment of inter-institutional flows that effectively allow the reduction of the number of interviews and grant a more appropriate and child-sensitive approach, on a rights-based conception.

The Committee on the Rights of the Child emphasizes the role of the Justice System in promoting a coordinated and integrated approach across sectors, supporting and facilitating other professionals to work with children, caregivers, families and communities, and facilitating access to the full range of child caregiving and protection services available (UN 2011, paras 54,c). Based on a Recommendation of the World Report on Violence against Children (UN 2007), the Committee proposes a “coordinating framework on violence against children” for all child rights-based measures to protect children from violence in all its forms and to support a protective environment, providing a common frame of reference and a mechanism for communication among Government ministries and also for State and civil society actors at all levels with regard to needed measures, across the range of measures and at each stage of intervention identified in article 19. (UN 2011, paras 68-69).

Among others, elements to be mainstreamed into national coordinating frameworks across the measures (legislative, administrative, social and educational) and stages of intervention (from prevention to recovery and reintegration) should be based on:

- (a) *Child rights approach.*
- (b) *The gender dimensions of violence against children.*
- (c) *Primary (general) prevention.*
- (d) *The primary position of families in child caregiving and protection strategies.*
- (e) *Resilience and protective factors.*
- (f) *Risk factors.*
- (g) *Children in potentially vulnerable situations.*

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- (h) *Resource allocation.*
- (i) *Coordination mechanisms.*
- (j) *Accountability.*(UN 2011, paras 72)

For this purpose, according to the Guidelines on Justice in matters involving child victims and witnesses of crime, “professionals should make every effort to adopt an interdisciplinary and cooperative approach in aiding children by familiarizing themselves with the wide array of available services, such as victim support, advocacy, economic assistance, counselling, education, health, legal and social services. This approach may include protocols for the different stages of the justice process to encourage cooperation among entities that provide services to child victims and witnesses, as well as other forms of multidisciplinary work that includes police, prosecutor, medical, social services and psychological personnel working in the same location. (UNITED NATIONS 2005b, article 43.

In this context, administrative measures should be adopted, such as establishing a government focal point to coordinate child protection strategies and services; defining the roles, responsibilities and relationships between stakeholders on inter-agency steering committees with a view to their effectively managing, monitoring and holding accountable the implementing bodies at national and subnational levels; ensuring that the process of decentralizing services safeguards their quality, accountability and equitable distribution; developing and implementing (through participatory processes which encourage ownership and sustainability): intra and inter-agency child protection policies and also professional ethics codes, protocols, memoranda of understanding and standards of care for all childcare services and settings (including daycare centres, schools, hospitals, sport clubs and residential institutions etc.) (UN 2011, paras 42).

At regional level, The European Commission, in its Communication to the European Parliament and Council, also emphasizes the importance of coordination and cooperation, including the judiciary (EUROPEAN COMMISSION 2020). The African

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Committee also points out the need of inter-agency coordination, as well as collaboration between state actors and non-state actors in the child protection architecture, with a stronger link between justice and child protection systems, requiring close collaboration (ACERWC 2023, p. 29). And the Interamerican court on Human Rights *in case* V.R.P., V.P.C. y otros Vs. Nicaragua (2018. Serie C No. 350), has also ruled that it is necessary a multidisciplinary and coordinated action of the State agencies for psychosocial protection and support, investigation and prosecution, including the Public Prosecutor's Office, the judicial authorities, health professionals, social and legal services, the national police, among others, from the moment the State becomes aware of the violation of their rights and on an uninterrupted basis, until such time as these services are no longer necessary, in order to prevent their participation in the criminal process from causing them new damages and additional traumas, revictimizing them (ICHR 2018).

In this research, the majority of the countries affirmed the existence of coordination procedures in place, with the exception of six. However, among those who have expressed a positive response, many have remarked a lack of full implementation or a challenging situation in this regards.

Coordination procedures in place	No coordination in place
Angola	Armenia
Argentina (defined at local level)	Colombia
Benin	East-Timor
Bolivia	Greece
Bosnia and Herzegovina	India
Brazil	Italy (not in criminal procedure code)
Canada	
Cape Verde	
Chile	
China	
Croatia	

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Cyprus	
Czech R.	
Dominican R.	
Ecuador (but not very effective)	
England & Wales	
Guinea	
Hungary	
Iraq	
Jordan	
Lebanon	
Luxembourg	
Malawi	
Malta	
Mauritius (protocols)	
Mexico (national protocol)	
Mozambique	
Netherlands (some experiences in place, following Barnahus model)	
Pakistan	
Palestine	
Puerto Rico	
Slovenia (Barnahus model)	
South Africa	
Sweden (Barnahus model)	
Switzerland	
Trinidad and Tobago	
Ukraine (Barnahus in implementation phase)	
Uruguay	
Yemen (Technical committee for child justice)	

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

Research participants were invited to explain the major steps of the legal procedure.

The variety of frameworks makes it difficult to systematize the data based on this explanation. However, this context is extremely important to understand many of the issues raised in the research and are explored more in detail during the analysis of other data.

For more detailed information from each country, every national report can present the situation of this procedure.

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

The main challenge in a coordinated approach to prevent institutional violence against children consists in avoiding multiple interviews, which is expressed, in the Guidelines on Justice in matters involving child as victims and witnesses as a right to be protected against hardship during the justice process. One of the main measures to be adopted is the limitation of the number of interviews and the adoption of special procedures for collection of evidence from child victims and witnesses in order to reduce the number of interviews, statements, hearings and, specifically, unnecessary contact with the justice process, such as through use of video recording (UNITED NATIONS 2005, articles 29 and 31,b).

However, this is still a main challenge in many countries. Thirteen countries mentioned that children may be heard at several moments during the procedure, even if protective measures are taken to avoid multiple interviews. Among the remaining countries, several of them mention as well the possibility of children being heard both by investigative officers or prosecution and in court.

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The lack of a common approach on the better moment and institution to listen the child and respect rights, specially of the alleged offender, is also highlighted in FRA research on the experience of children, 44% of them were heard by police officers, 29% by judges and 15% by psychologist or social worker (FRA 2017, p. 16)

By officers/prosecution	investigative	In court	At several moments
Armenia		Argentina	Angola (at the police and In court)
Bosnia and Herzegovina		Bosnia and Herzegovina	Benin (police, prosecutor, judge in correctional procedures for felonies; police, prosecutor, instructional judge and trial for crimes)
Chile		Brazil	Bolivia (at investigative phase by prosecution and In court)
China		Cape Verde	Canada (preliminary inquiry and during trial)
Colombia		Chile	Cyprus (initial reporting, pre-trial and trial)
Czech R. (social and legal protection services)		Croatia	East-Timor (at preliminary phase and during trial)
Greece		Dominican R. (preliminary inquiry)	Ecuador
Hungary		Hungary	England & Wales (interviews and in court)
India		India	Guinea
Iraq		Iraq	Malawi (police, pre-trial, trial and sentencing)
Italy (occasionally)		Italy (normally)	Puerto Rico (preliminary, pre-trial and trial)
Jordan		Jordan	Trinidad and Tobago

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Lebanon (no special procedure)	Malta	Yemen
Luxembourg	Mauritius	
Malta	Mozambique	
Netherlands (by the police)	Pakistan	
Pakistan	Palestine (when necessary)	
Palestine (by prosecution)	Slovenia (Child at Children's house)	
Sweden (Barnahus model, at investigation phase)	South Africa	
Switzerland (at any stage, but usually at investigation phase)	Ukraine (necessary during trial)	
Ukraine	Uruguay	
Uruguay		

4.5. 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 UN Report on Access to Justice for Children emphasizes that right of children to take legal action or invoke administrative proceedings to protect their rights differs in various countries and is a main challenge in many countries, specially to recognize the legal standing of children to lodge complaints before judicial and other authorities, which limits the possibility of the child to take action, except with the support of their parents or legal representatives (UN 2013).

The Committee on the Rights of the Child strongly recommends that all States parties develop safe, well-publicized, confidential and accessible support mechanisms for children, their representatives and others to report violence against children, including through the use of 24-hour toll-free hotlines and other ICTs. (UN 2011, paras 49).

Besides that, and as already mentioned regarding the right of the child to refuse making a statement, the African Committee emphasizes that “where a child exercising

the right to participate retracts a complaint during the investigative or prosecution stage of the criminal justice process, the reasons for that should be carefully explored. Whilst prosecutors are *dominis litis*, it remains that exposing a child to undesired criminal justice processes can be harmful and cause harmful and long-lasting secondary victimization and trauma, and therefore imperil a child’s best interests. If the retraction appears to be the results of undue influence or coercion, additional protective measures might be required (...) In any event, the reasons for the child’s retraction should be recorded in writing and kept on file.” (ACERWC 2021, p. 31).

In this research, the majority of the countries (26) affirmed that the child is not entitled to initiate, suspend or terminate a criminal procedure. Four countries informed that children have the right to suspend or terminate a criminal procedure in the case of offences in which the alleged perpetrator is prosecuted by motion or private action. Twelve have referred that children are entitled to initiate, but not to suspend or terminate a criminal procedure. Some reports were not clear if reporting an offense was considered a way of initiating a procedure or if other measures were also necessary, such as formally pleading in court.

The child has the power to initiate, suspend or terminate a criminal procedure	The child is not entitled to initiate, suspend or terminate a criminal procedure	The child is entitled to initiate, but not to suspend or terminate a criminal procedure
Slovenia (for children over 16 y.o., in the case of offences for which the perpetrator is prosecuted by motion or private action)	Angola	Armenia
Switzerland (children can report any offence and terminate proceedings not requiring <i>ex</i>	Argentina	Benin (the child can terminate civil, but not criminal pleas)

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<i>officio</i> investigation/prosecution)		
Ukraine (depending on the nature of the crime and particularities of the case)	Bosnia and Herzegovina	Cape Verde
Yemen	Brazil	Chile
	Canada	China
	Colombia	Greece
	Croatia	Guinea
	Cyprus	Iraq
	Czech R.	Lebanon (through guardian or legal representative)
	Dominican R.	Luxembourg (children can report)
	East-Timor	Mozambique
	Ecuador (normally the prosecution initiates)	Sweden (the child can contact the police, but parental/guardian consent is needed)
	England & Wales	
	Hungary	
	India	
	Italy	
	Malawi	
	Malta (the alleged aggressor/accused is a parent or is entrusted with the care of the child. In cases of domestic violence, it is possible to withdraw the consent)	
	Mauritius	
	Netherlands (children can make a report, but not initiate, nor terminate procedures)	

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	Pakistan	
	Palestine (but all child participation should be voluntary)	
	Puerto Rico	
	South Africa	
	Trinidad and Tobago	
	Uruguay	

5. PREPARATION FOR THE CHILD PARTICIPATION

According to the Committee on the Rights of the Child, the realization of the right of the child to express her or his views requires that the child be informed about the matters, options and possible decisions to be taken and their consequences by those who are responsible for hearing the child, and by the child’s parents or guardian. The child must also be informed about the conditions under which she or he will be asked to express her or his views. This right to information is essential, because it is the precondition of the child’s clarified decisions (UN 2009, paras 25).

The European Commission, in its Communication to the European Parliament and Council, recognizes that one of the main challenges for victims for access to justice is the lack of information, lack of specialized personnel to communicate with children when in their first contact to report a crime and emphasizes the need of appropriate communication methods, specially prepared for children (EUROPEAN COMMISSION 2020, p. 2-4), which should be made in simple and accessible language, orally or in writing (EUROPEAN PARLIAMENT/COUNCIL 2012, article 3), age appropriate and child sensitive (ACERWC 2021, p. 45). This information should also address the parents and should be provided by the justice system or other competent authorities (such as the police, immigration, or educational, social or health-care services) (UN 2011, paras 54).

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Therefore the research has tried to focus on the preparation for child's participation considering the following aspects:

- 5.1. 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?

In the report on Access to justice for children, it is emphasized that “the complexity of justice systems makes them difficult for children to understand. Children are often unaware of their rights and the existence of services, lacking information about where to go and whom to call to benefit from advice and assistance. Moreover, legislation and procedures concerning the treatment and participation of children in proceedings, including criminal, administrative and civil proceedings, are often not adapted to children's rights and needs or may even be discriminatory towards children based on their age and gender” (UN 2013).

In this regard, the same report points out that “Children's access to information about their rights and ways of promoting their safeguard and implementation, as well as ensuring their informed consent to decisions in line with their evolving capacities, is a crucial dimension of access to justice. Most countries that contributed information to the present report indicated that dedicated arrangements for the dissemination of adequate information to children are in place. These arrangements include, *inter alia*, (a) information on websites and online counselling services; (b) initiatives to raise awareness, such as human rights education, discussions and presentations in schools, organization of court visits and moot courts; (c) the publication and dissemination of brochures, leaflets, posters in child-sensitive language and adapted to children's age in police stations, courts, and victim support services; (d) the establishment of help-lines that provide free, private and confidential 24-hour telephone counselling for children, as well as other creative

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initiatives. For instance, in Belarus, writing and art competitions aiming at enhancing knowledge about children's rights are carried out" (UN 2013).

According to the Guidelines on Justice in matters involving child victims and witnesses of crime "Child victims and witnesses, their parents or guardians and legal representatives, from their first contact with the justice process and throughout that process, should be promptly and adequately informed, to the extent feasible and appropriate, of, *inter alia*: (a) The availability of health, psychological, social and other relevant services as well as the means of accessing such services along with legal or other advice or representation, compensation and emergency financial support, where applicable; (b) The procedures for the adult and juvenile criminal justice process, including the role of child victims and witnesses, the importance, timing and manner of testimony, and ways in which "questioning" will be conducted during the investigation and trial; (c) The existing support mechanisms for the child when making a complaint and participating in the investigation and court proceedings; (d) The specific places and times of hearings and other relevant events; (e) The availability of protective measures; (f) The existing mechanisms for review of decisions affecting child victims and witnesses; (g) The relevant rights for child victims and witnesses pursuant to the Convention on the Rights of the Child and the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (UN 2005, article 19).

European Directive 2012/29 establishes a similar list of information provisions, including "how and under what conditions they are entitled to interpretation and translation; if they are resident in a Member State other than that where the criminal offence was committed, any special measures, procedures or arrangements, which are available to protect their interests in the Member State where the first contact with the competent authority is made; the contact details for communications about their case; the available restorative justice services; how and under what conditions expenses incurred as a result of their participation in the criminal proceedings can be reimbursed". (EUROPEAN PARLIAMENT/COUNCIL 2012, article 4)

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The Santiago Guidelines for Latin American Prosecution Officers recommend a list of issues to be informed to all victims, in consonance with the above prescription, as an obligation of those officers (AIAMP 2020, article 16 and 17).

In case of non-provision of this information, the European Court on Human Rights, in case R.B. v. Estonia, has addressed State violation in lack of advising a 4-year old child of her duty to tell the truth and her right not to testify against her father, leading to exclusion of her testimony and father’s acquittal of sexual abuse (ECHR 2021).

The reality presented in this research shows that 17 countries do not have child-friendly material to provide information for children, another one has material on the rights of the child, but not specific for child victims, and another one has material on the rights of victims in general, but not specifically made for children.

The remaining countries, 24, have referred to child-friendly material, as a general measure or just as some local experiences, showing that, in general, even in these cases, the right to information is not properly granted. Indeed, when analyzing some samples shared by the participants and included in the Annex, it is possible to check that several do not include all the items referred to in the above guidelines.

Non-existence of child-friendly material	Existence of child-friendly material	Existence of material on rights of the child, in a broad approach, not specific for this topic	Existence of material on the rights of victims in general, including children
Angola (although some local experiences begin to be developed)	Argentina (made at local level by each institution)	Bolivia	Mexico
Armenia	Benin		
Canada	Bosnia and Herzegovina		
Cape Verde (but some campaigns at place)	Brazil		
Colombia	Chile		

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Dominican R.	China		
Ecuador	Croatia		
Greece	Cyprus		
Guinea	East-Timor		
Iraq	England & Wales		
Italy	Hungary		
Malta	India		
Mauritius	Jordan		
Puerto Rico	Lebanon		
South Africa	Luxembourg		
Uruguay	Malawi (from institutions outside the Justice System)		
Yemen	Mozambique		
	Netherlands (some practices in place)		
	Palestine		
	Slovenia		
	Sweden		
	Switzerland		
	Trinidad and Tobago		
	Ukraine (isolated experiences)		

5.2. 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?

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When questioned about access conditions to the material, paying attention to more proactive initiatives to grant children easier ways to reach information, 25 countries informed that material was available either on the internet or in the institutions. This situation assumes the need of a personal contact by the children with the institutions. Three countries alluded to sending the material to children when they are summoned/invited to participate in the proceedings, as a sort of mediation between the displacement of children from home and their first contact with the institution itself.

In a research involving the contact of children with the Justice system, the friendliness of the proceedings is a disputable matter (FRA 2017) and it would be highly important to check with children themselves the best practices to grant access to information.

Non applicable (no material)	Material available in institutions	Material sent to the child with summons
Angola	Argentina (in place, but also accessible from their home, through internet)	Brazil
Armenia (but information is provided by the psychologist)	Benin (police, court, social services, local points of the National Institute for Women, in several neighborhoods)	Croatia
Canada	Bolivia (at schools)	Hungary
Cape Verde	Bosnia and Herzegovina	
Colombia	Brazil (in half of the States)	
Dominican R.	Chile	
Ecuador	China	
Greece	Croatia	
Guinea	Cyprus	

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Iraq	East-Timor (material available at local organizations and police)	
Italy	England & Wales	
Malta	Hungary (during all contact with the child)	
Mauritius	India	
Puerto Rico	Jordan	
South Africa	Lebanon (in court, with the support of a social worker)	
Sweden	Luxembourg (material online)	
Uruguay	Malawi (on TV and institutions such schools and medical centers)	
Yemen (guidance provided by a specialist)	Mexico (prosecution office)	
	Mozambique	
	Netherlands (website and brochure)	
	Palestine	
	Slovenia (material on the internet)	
	Switzerland (internet, victims support center and police)	
	Trinidad and Tobago	
	Ukraine	

5.3. 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,

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what is the legal background of the professional conducting this assessment? To which institution does this professional belong? Is there any kind of report produced?

According to the Guidelines on Justice in matters involving child victims and witnesses of crime, when making every effort to enable child victims and witnesses to express their views and concerns related to their involvement in the justice process, they should ensure that they are enabled to express freely and in their own manner their views and concerns regarding their involvement in the justice process, their concerns regarding safety in relation to the accused, the manner in which they prefer to provide testimony and their feelings about the conclusions of the process, as much as giving due regard to the child's views and concerns and, if they are unable to accommodate them, explain the reasons to the child.(UN 2005, article 21)

In this regard, UNODC-UNICEF model law suggests as a rule that “a child is deemed to be a capable witness unless proved otherwise through a competency examination administered by the court in accordance with article 21 of this [Law] [Act], and his or her testimony shall not be presumed invalid or untrustworthy by reason of his or her age alone provided that his or her age and maturity allow the giving of intelligible and credible testimony.” In addition, it suggests that “a competency examination of a child may be conducted only if the court determines that there are compelling reasons to do so. The reasons for such a decision shall be recorded by the court. In deciding whether or not to carry out a competency examination, the best interest of the child shall be a primary consideration. The competency examination is aimed at determining whether or not the child is able to understand questions that are put to him or her in a language that a child understands, as well as the importance of telling the truth. The child's age alone is not a compelling reason for requesting a competency examination. (UNODC/UNICEF 2010, articles 20 and 21)

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The Committee on the Rights of the Child emphasizes as well that, to give due weight to the child’s views, the assessment of the capacity of the child, in a case-by-case analysis, could be done in order to indicate if **that the** child is capable of forming her or his own views. In consequence, professionals should consider the views of the child in conformity with this weight as a significant factor in the settlement of the issue, as much as assuming the duty to inform the child of the outcome of the process and explain how her or his views were considered (UN 2009, paras 44-45).

Besides that, still according to the Committee, in certain situations, expression of views may involve risks. Adults have a responsibility towards the children with whom they work and must take every precaution to minimize the risk to children of violence, exploitation or any other negative consequence of their participation. Children must be aware of their right to be protected from harm and know where to go for help if needed (UN 2009, paras 134 h).

In this research, 26 countries mentioned the possibility or the regular practice of assessing the child’s capacity to provide testimony.

Besides that, in a lesser proportion 16 countries alluded to an additional assessment on the need of protective measures.

However, 8 countries mentioned that no assessment is made.

Assessment of child’s capacity to provide testimony	Assessment on the need of protective measures	No assessment
Argentina (an interview by specialized team: if the child is able to testify, capacity to express him/herself, necessary support to be provided. If the child has no conditions to testify, alternative assessment is made, such as diagnosis games)	Brazil	Angola

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Armenia (by the psychologist, during the interview, who prepares a report to the investigator afterwards)	Chile	Benin (a social worker might assess the child's personal circumstances, but not his/her capacity to give statement)
Bosnia and Herzegovina	China	Bolivia
Brazil (in the majority of the States)	Colombia	Guinea
Canada	Croatia	Hungary (except exceptionally)
Cape Verde (in some cases, depending on judicial discretion and professional availability)	Cyprus	Iraq (no assessment prior to interviewing)
Chile (as part of the interview)	Czech R.	Luxembourg
China	Greece	Sweden
Colombia	Lebanon (social inquiry)	
Cyprus	Malawi (social inquiry)	
Dominican R.	Mozambique (by social services)	
East-Timor (by the judge)	Netherlands	
Ecuador (with no report, just a psychological assessment before the interview)	Palestine (by prosecution office)	
England & Wales	South Africa	
Greece	Trinidad and Tobago	
Italy (if the child is below 14 y.o. and there is a request by the parties or a judicial order)	Uruguay	
Jordan		
Malta		
Mauritius (competency test by the court)		
Mozambique (by social services)		
Pakistan (by police officer or prosecution)		
Palestine (by prosecution office)		

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Slovenia		
Switzerland		
Ukraine		
Yemen		

5.4. Is there any kind of contact or evaluation/assessment with the parents or legal guardians?

According to the Guidelines on Justice in matters involving child victims and witnesses of crime, as an expression to the right of the child to effective assistance, besides the child, also family members should have access to assistance provided by professionals. This may include assistance and support services such as financial, legal, counselling, health, social and educational services, physical and psychological recovery services and other services necessary for the child’s reintegration. All such assistance should address the child’s needs and enable him or her to participate effectively at all stages of the justice process (UN 2005, article 22).

Besides assistance, if there is the possibility for the child to suffer any kind of risk due to his or her participation, an assessment on how protective his or her personal environment is might be important.

For this reason, the research examined what kind of activity the justice system develops with the parents or legal representative.

In 29 countries, parents or legal representative are just contacted and informed about the procedure.

In 10 countries, there is some kind of assessment of their protective behavior as a regular basis, and in 2 other countries this assessment is made occasionally.

Parents are contacted and informed	Parents are assessed	Occasional assessment
Angola	Brazil (in half of the States, about protective behavior)	Benin

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Argentina (contact with the parents, both by special assistant and specialized team)	Croatia	Greece (in some cases, about protective behavior)
Armenia	Cyprus (detailed information about the child's background and family circumstances to better understand the context and support needed)	
Bolivia (parents accompany)	Iraq (attention and care for the child)	
Bosnia and Herzegovina	Italy	
Canada (but they can accompany the child)	Lebanon (in case of risk)	
Cape Verde	Mozambique	
Chile (contacted to speak about the child, his/her capacity)	Palestine (protective aspects)	
China	South Africa	
Colombia	Trinidad and Tobago	
East-Timor		
Ecuador		
England & Wales		
Guinea		
Hungary (summoned)		
India		
Luxembourg		
Malawi		
Malta (to accompany the child)		
Mauritius (parents accompany the child)		
Mexico		
Netherlands		
Pakistan		
Slovenia (children under 16 y.o.)		

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Sweden		
Switzerland		
Ukraine		
Uruguay		
Yemen		

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

As acknowledged by the UN Report on Access to Justice for Children, the justice system is often intimidating for children (UN 2013). The formality of the spaces, the traditional grandeur of judicial buildings, with its ‘palaces’, with a traditional approach based on institutionalization, hierarchy, the ideal of submission to the law inherent to adjudication (COMMAILLE 2000; 2013) reveals that there are many non-verbal social and psychological messages in the Justice spaces as a whole.

According to Mulcahy, “public buildings can both inspire and degrade those within them, they can calm or oppress. The spatial configurations of the courthouse and courtroom can confer prestige or dignity to those who use them or serve to undermine their credibility. Legal architecture can associate law with tradition and conservatism or can equally well symbolise a commitment to change and innovation. Courthouses can act as memorials to the past as well as reflecting aspirations for the future” (MULCAHY 2011).

To minimize this impact, as much as it occurs in family cases according to AIMJF’s research on child participation in family matters (MELO 2021), visit to courts is a procedure to familiarize children to this environment and minimize the stress.

Indeed, the Guidelines on Action for Children in the Justice System in Africa, recommend Court preparation programmes to familiarize children with court environment should be implemented where possible (AFRICAN CHILD FORUM 2011, §64, d’). The same is recommended by AIMJF guidelines (AIMJF 2017, 4.2.2(2) c).

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In this research, in 25 countries children are allowed to visit the facilities where the child testimony will be given. In 12, they are not allowed to visit the facilities or this is not a practice adopted in the country, while in 4 it depends on the circumstances.

In one country, this is not done because children are normally heard at home or other known places for the child.

Children allowed to visit the facilities	Children not allowed to visit the facilities/not a practice	It depends on the circumstances	Children are heard at home or other known and safe places for them
Argentina (visit is part of the specialized team procedure previous to the interview)	Angola	Armenia (allowed when interviewed in Barnahus facilities, not in the investigative committee)	China
Benin (with the support of a social worker)	East-Timor	Cape Verde (not on a regular basis, but normally there is an effort to familiarize the child with the facilities)	
Bolivia	Greece	Pakistan (some isolated experiences)	
Bosnia and Herzegovina	Guinea	Switzerland (if parents deem important, but not usual)	
Canada	Hungary		
Chile	Iraq		
Colombia	Italy		
Croatia	Malawi		
Cyprus	Mozambique		
Czech R.	South Africa		
Dominican R.	Sweden		

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Ecuador (but this is not a practice)	Uruguay		
England & Wales (but not always possible)			
India			
Lebanon (not a practice, children should take the initiative to do it)			
Luxembourg			
Malta			
Mauritius (with the support of a psychologist)			
Mexico (if the child requests. Child-friendly rooms created to avoid contact with the court)			
Netherlands			
Palestine			
Slovenia			
Trinidad and Tobago			
Ukraine			
Yemen			

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

According to European Directive 2012/29, support services to victims should provide: (a) information, advice and support relevant to the rights of victims including on accessing national compensation schemes for criminal injuries, and on their role in criminal proceedings including preparation for attendance at the trial; (b) information about or direct referral to any relevant specialist support services in place; (c) emotional

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and, where available, psychological support; (d) advice relating to financial and practical issues arising from the crime; (e) unless otherwise provided by other public or private services, advice relating to the risk and prevention of secondary and repeat victimization, of intimidation and of retaliation (article 9). Member States shall take measures to establish free of charge and confidential specialist support services in addition to, or as an integrated part of, general victim support services (EUROPEAN PARLIAMENT/COUNCIL 2012, article 8,3).

In 40 countries, children receive previous support, while 2 have mentioned that this is not provided. In one, support is under preparation and in 2 support is provided only after the interview, which raises the question about priorities, mutual interferences between interview and support, and coordinated approaches.

More detailed information about what kind of support children receive will be presented in the following section.

Children receive previous support	Children do not receive previous support	Support under preparation (ongoing changes in the national policy)	Support provided after the interview
Angola	Iraq	Armenia (not in legislation, but introduction of Barnahus model underway)	Chile
Argentina (special assistant is appointed to the child and is responsible to check what kind of support is needed, before and after the interview)	Italy		Greece (in most cases)

Benin (social worker. If needed, psychological and medical support as well)			
Bolivia (by the psychologist who carries on the interview)			
Bosnia and Herzegovina			
Brazil			
Canada			
Cape Verde			
China			
Colombia			
Croatia			
Cyprus			
Czech R.			
Dominican R.			
East-Timor			
Ecuador			
England & Wales			
Guinea			
Hungary			
India			
Jordan			
Lebanon			
Luxembourg (legal support, except in case of urgency, when medical, social and psychological support is provided)			
Malawi			
Malta			
Mauritius (by a psychologist in court)			

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Mexico			
Mozambique			
Netherlands			
Pakistan			
Palestine			
Puerto Rico			
Slovenia			
South Africa			
Sweden			
Switzerland (by victim support center)			
Trinidad and Tobago			
Ukraine (Barnahus)			
Uruguay			
Yemen			

6. PROTECTION AND SUPPORT

6.1. 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?

As already mentioned, still according to the Committee, in certain situations, expression of views may involve risks. Adults have a responsibility towards the children with whom they work and must take every precaution to minimize the risk to children of violence, exploitation or any other negative consequence of their participation. Children must be aware of their right to be protected from harm and know where to go for help if needed (UN 2009, paras 134 h).

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For this purpose, the Committee recommends the adoption of risks identification by qualified professionals aware of risk factors and indicators of all forms of violence, and willingness and ability to take appropriate action (including the provision of emergency protection)(UN 2011, paras 48).

This procedure is also recommended at regional level. The Guidelines for Action for Children in the justice system in Africa emphasizes that “States should endeavor to develop common risk assessment tools for application in a multidisciplinary way in responding to child victimization. These tools should have immediate child protection strategies and collection of the best evidence as their goals, and training on the use of the tools should be provided to all actors, including health and medical personnel, police and members of the social workforce dealing with child victims” (AFRICAN CHILD FORUM 2011, paras 65).

The European Directive 2012/29 also prescribes that “Member States shall ensure that victims receive a timely and individual assessment, in accordance with national procedures, to identify specific protection needs and to determine whether and to what extent they would benefit from special measures in the course of criminal proceedings. The individual assessment shall, in particular, take into account: (a) the personal characteristics of the victim; (b) the type or nature of the crime; and (c) the circumstances of the crime. Child victims shall be presumed to have specific protection needs due to their vulnerability to secondary and repeat victimization, to intimidation and to retaliation. To determine whether and to what extent they would benefit from special measures, child victims shall be subject to an individual assessment” (EUROPEAN PARLIAMENT/COUNCIL 2012, article 22).

The Santiago Guidelines for Latin American Prosecution Officers recommend the adoption of coordinated assessment mechanisms for the protection of victims (AIAMP 2020, article 14).

In this research, 35 countries assess risks, while in 2 this is made only in certain circumstances. In 8 no risk assessment is made.

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Risk assessment made	Risk assessment made in specific cases	No risk assessment made
Armenia	Argentina (in case of gender violence, not specific for children)	Angola (some judges refer to an informal risk assessment by those who have contact with the child)
Benin (by social worker)	Lebanon (if the judge deems necessary)	Canada
Bolivia (by social worker and psychologist)		Cape Verde
Bosnia and Herzegovina		Guinea
Brazil (in 40% of the States)		Hungary
Chile (during complaint)		Iraq
China (by procuratore)		Italy
Colombia		Jordan
Croatia		
Cyprus		
Czech R.		
Dominican R. (by psychologist at prosecution office)		
East-Timor (new law not still implemented, but determines to have an assessment)		
Ecuador		
England & Wales		
Greece		
India		
Luxembourg (by social services or voluntary work)		
Malawi (by social services)		
Malta (by the police, in case of domestic violence)		

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Mauritius (for children in need of care and protection, by supervising officer)		
Mexico (by prosecution office)		
Mozambique (by the police and prosecution office)		
Netherlands (by investigating office)		
Pakistan (by social welfare, focusing on the level of risk to the child's safety)		
Palestine (by prosecution office)		
Puerto Rico		
Slovenia		
South Africa		
Sweden		
Switzerland (child protection agency)		
Trinidad and Tobago (by Children's Authority)		
Ukraine (Barnahus)		
Uruguay		
Yemen		

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

According to the Guidelines on Justice in matters involving child victims and witnesses of crime, where child victims and witnesses may be the subject of intimidation, threats or harm, appropriate conditions should be put in place to ensure the safety of the child (UN 2005, article 35).

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The Guidelines for Action for Children in the justice system in Africa, recommend that “due consideration should be given to measures, including interim measures, that remove an alleged perpetrator from the immediate environment of an alleged child victim where the safety of the child is at immediate risk. Removal of the child should be considered a last resort” (AFRICAN CHILD FORUM 2011, paras 70). AIMJF guidelines also have recommendations in the same line (AIMJF 2017, 4.2.3).

Thirty-three countries informed that various measures can be adopted, which will be specified below.

However, 5 countries have mentioned alternative care as a measure regularly adopted, contrary to what is prescribed above, due to an additional victimization impact on the child.

One country referred to inexistence of measures in this context.

Five countries have not properly answered the questionnaire on this issue.

No detailed information	Alternative care	Various measures	No measures
Canada (child protection services would intervene)	Armenia	Angola	Iraq
China (interview procedures suspended until adjustments are made)	Cape Verde	Argentina	
Czech R.	Hungary	Benin	
Ecuador (attention will be provided by social services)	Malawi	Bolivia	
Mozambique	Yemen	Bosnia and Herzegovina	

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		Brazil	
		Chile	
		Colombia	
		Croatia	
		Cyprus	
		Czech R.	
		East-Timor	
		England & Wales	
		Greece	
		Guinea	
		India	
		Jordan	
		Lebanon	
		Luxembourg	
		Malta	
		Mauritius	
		Mexico	
		Netherlands	
		Pakistan	
		Palestine	
		Puerto Rico	
		Slovenia	
		South Africa	
		Sweden	
		Switzerland	
		Trinidad and Tobago	
		Ukraine	
		Uruguay	

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

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The Committee on the Rights of the Child emphasizes that developmental and behavioural consequences of violence “(such as school non-attendance and aggressive, antisocial, self-destructive and interpersonal destructive behaviours) can lead, inter alia, to deterioration of relationships, exclusion from school and coming into conflict with the law. There is evidence that exposure to violence increases a child’s risk of further victimization and an accumulation of violent experiences, including later intimate partner violence” (UN 2011, paras 15).

For this reason, the Guidelines on Justice in matters involving child victims and witnesses of crime list some assistance and support services possibly necessary for the child’s reintegration, such as financial, legal, counselling, health, social and educational services, physical and psychological recovery services, among other services. This assistance should both address the child’s needs and enable him or her to participate effectively at all stages of the justice process. However, the Guidelines warn that efforts should be in place to coordinate this support so that the child is not subjected to excessive interventions (UN 2005, article 22 and 23).

This support should also have in mind the needs of families and other caregivers, offering them “community-based mutual-help groups to address psychosocial and economic challenges (for example parenting and micro-credit groups); welfare programmes to support families’ standard of living, including direct allowances to children at a certain age; counselling support to caregivers having difficulties with employment, housing and/or child-rearing; therapeutic programmes (including mutual help groups) to assist caregivers with challenges related to domestic violence, addictions to alcohol or drugs or with other mental health needs” (UN 2011, paras 43b).

At regional level, the Interamerican court on Human Rights *in case* V.R.P., V.P.C. y otros Vs. Nicaragua (2018. Serie C No. 350), determines provision of immediate and professional assistance, both medical, psychological and/or psychiatric, by a professional

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specifically trained in the care of victims of this type of crime and with a gender and child perspective.

The Santiago Guidelines for Latin American Prosecution Officers state that victims are entitled to integral attention (article 15) and not only direct, but also indirect victims should also be entitled to protection (article 13) (AIAMP 2020, p. 23).

Importantly, European Directive 2011/92 states in its article 19.2, that Member States shall ensure that assistance and support for a child victim are not made conditional on the child victim’s willingness to cooperate in the criminal investigation, prosecution and trial.

According to FRA’s research on European children’s experience, legal support is provided only for 6% of them, psychological support for 23%, social support for 18%, alternative care for 2% (FRA 2017, p. 17).

In this research, 37 countries referred to psychological and social support, 34 mentioned medical support and 29, legal support. A minority of 4 countries alluded to financial support and 4 have not provided detailed information on the issue.

No detailed information provided	Psychological and social support	Legal Support	Medical support	Financial support
Armenia	Angola	Argentina	Argentina	China
Canada (intervention of CAVAC - Centre d'aide aux victimes d'actes criminels Network Crime Victims Assistance Centres)	Argentina	Benin	Benin	Mauritius (by the offender, in case of domestic violence)
Iraq (no support)	Benin	Bolivia	Bolivia	Puerto Rico
Malta (various measures, provided by social services)	Bolivia	Bosnia and Herzegovina	Bosnia and Herzegovina	Sweden

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	Bosnia and Herzegovina	Brazil	Brazil	
	Brazil	Chile	Chile	
	Cape Verde	China	China	
	Chile	Colombia	Colombia	
	China	Croatia	Cyprus	
	Colombia	Cyprus	Czech R.	
	Cyprus	Czech R.	Dominican R.	
	Czech R.	Guinea	East-Timor	
	Dominican R	India	Greece	
	East-Timor	Italy	Guinea	
	Greece (just for the interview)	Luxembourg	Hungary	
	Guinea	Malawi	India	
	Hungary (forensic psychologist)	Mauritius	Italy	
	India	Mexico	Lebanon	
	Italy	Mozambique	Luxembourg	
	Jordan	Pakistan	Malawi	
	Lebanon	Palestine	Mauritius	
	Luxembourg	Puerto Rico	Mexico	
	Malawi	Slovenia	Mozambique	
	Mauritius	South Africa	Netherlands	
	Mexico	Sweden	Pakistan	
	Mozambique	Trinidad and Tobago	Palestine	
	Netherlands	Ukraine	Puerto Rico	
	Pakistan	Uruguay	Slovenia	
	Palestine	Yemen	South Africa	
	Puerto Rico		Sweden	
	Slovenia		Trinidad and Tobago	

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	South Africa		Ukraine	
	Sweden		Uruguay	
	Trinidad and Tobago		Yemen	
	Ukraine			
	Uruguay			
	Yemen			

6.4. 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?

According to the “World Report on Violence against Children”, although families are defined widely recognized as holding the greatest potential for protecting children from all forms of violence, and also to empower children to protect themselves, they can be dangerous places for children and in particular for babies and young children. The prevalence of violence against children by parents and other close family members – physical, sexual and psychological violence, as well as deliberate neglect – has only begun to be acknowledged and documented. Challenging violence against children is most difficult in the context of the family in all its forms. There is a reluctance to intervene in what is still perceived in most societies as a ‘private’ sphere. Besides that, everywhere that sexual violence has been studied, it is increasingly acknowledged that a substantial proportion of children are sexually harassed and violated by the people closest to them (UN 2007, p. 47).

In consonance to the Guidelines on Justice in matters involving child victims and witnesses of crime, where child victims and witnesses may be the subject of intimidation, threats or harm, appropriate conditions should be put in place to ensure the safety of the child. Such safeguards could include: (a) Avoiding direct contact between child victims and witnesses and the alleged perpetrators at any point in the justice process; (b) Using court-ordered restraining orders supported by a registry system; (c) Ordering pre-trial



detention of the accused and setting special “no contact” bail conditions; (d) Placing the accused under house arrest; (e) Wherever possible and appropriate, giving child victims and witnesses protection by the police or other relevant agencies and safeguarding their whereabouts from disclosure (UN 2005, article 35).

AIMJF guidelines also have recommendations in the same line (AIMJF 2017, 4.2.3).

In this research, although 4 countries have not shared specific information on this issue, restraining orders against the alleged perpetrator is the prevalent measure adopted, by 29 countries. After that, 27 countries alluded to alternative care, which should be put in place as a last resort, according to the Guidelines for the alternative of children (UN 2009b). Twenty-three countries mentioned the removal of the offender from the house.

Financial support for the family is only referred by 6 countries.

No specific information provided	Removal of the offender from the house	Restraining measures (contact, proximity etc)	Psychological support for the family	Financial support for the family	Alternative care for children
Armenia	Bosnia and Herzegovina	Argentina	Argentina	Benin	Angola
Canada	Brazil	Brazil	Benin	China	Argentina
Iraq (no specific support)	Chile	Cape Verde	Bolivia	Ecuador	Benin
Yemen (penalties imposed in case of)	China	Canada	Brazil	Italy	Bosnia and Herzegovina

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domestic violence)					
	Croatia	Chile	China	Mauritius (by the offender)	Brazil
	Czech R.	China	Cyprus	Netherlands	Cape Verde
	East-Timor	Croatia	Czech R.		Chile
	Ecuador	Cyprus	East-Timor		China
	Greece	Czech R.	Jordan		Cyprus
	Hungary	East-Timor	Luxembourg		Czech R.
	Italy	Ecuador	Mexico		Dominican R.
	Lebanon	Greece	Netherlands (parenting support programs)		East-Timor
	Luxembourg	Hungary	Pakistan		Greece
	Malta	Italy	Trinidad and Tobago		India
	Mauritius	Jordan	Uruguay		Luxembourg
	Mexico	Lebanon			Malawi
	Netherlands	Luxembourg			Malta
	Pakistan	Malawi			Mauritius
	South Africa	Malta			Mexico
	Sweden	Mauritius			Mozambique
	Switzerland	Mexico			Netherlands
	Trinidad and Tobago	Netherlands (safety plans and supervision orders)			Pakistan
	Uruguay	Pakistan			South Africa
		Puerto Rico			Sweden
		South Africa			Switzerland

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		Sweden			Trinidad and Tobago
		Switzerland			Ukraine
		Trinidad and Tobago			
		Uruguay			

6.4.1. Are there any specific measures in case of child abduction or child kidnapping?

The Permanent Bureau of the Hague Conference drew up Guide to Good Practice concerning protective measures for children in case of abduction. These involve proactive measures in order to create a legal environment which reduced the risk of abduction and reactive measures to respond to credible risk of abduction. Together, they would provide conditions to the development of a prevention strategy regarding abduction (HC 2005).

In this research, 19 countries confirmed the existence of specific procedures, and three of them mentioned the adoption of the Amber Alert program.

Seven countries do not have specific procedures.

The majority of the countries have not provided specific information on the matters.

Existence of specific procedures	Non-existence of specific procedures
Argentina	Cape Verde
Bolivia	Chile
Bosnia and Herzegovina	Croatia
Brazil – amber alert	Greece
Canada – Amber alert	Iraq
China	Lebanon
Cyprus	Uruguay

Dominican R.	
Ecuador	
Hungary	
Malawi	
Malta	
Mauritius	
Mexico	
Mozambique	
Netherlands (Amber alert system + International centre for child abduction)	
Pakistan	
Switzerland	
Yemen (penalties)	

7. ENVIRONMENT

According to the Committee on the Rights of the Child, “a child cannot be heard effectively where the environment is intimidating, hostile, insensitive or inappropriate for her or his age”. Particular attention needs to be paid, among others, to the design of court rooms, clothing of judges and lawyers, sight screens, and separate waiting rooms (UN 2009, paras 34).

As mentioned in our previous research (MELO 2021), according to Garapon, the first approach to Justice is neither intellectual nor moral, but architectural and symbolic (GARAPON 2010). There is an increasing interest on the correlation between the spaces of Justice and access to Justice. An adequate protection and promotion of access to rights, liberties and procedural safeguards are dependent on the nature and quality of the judicial spaces. Both internal and external appropriateness of these spaces, regarding both citizen participation and the practice of legal professionals, reflect power relationships conditioning accessibility, participation, and inclusion of the most vulnerable persons of

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a given society. The spaces of Justice are a form of communication: the monumentality (AFHJ 1992) or simplicity of the buildings; the geographical distance or proximity to the communities; the recognition and identification of diversity; the structural organization of the internal spaces, inviting to consent or to hierarchical adjudication, all these situations express modalities of authority and of power, based on participation or coercion and subjection (BRANCO 2015). Therefore, a law and a justice aiming to promote citizenship, substantial equality, humanity in a new democratic project, based on an ethics of care or of empowerment should take in special consideration the spaces of justice for all citizens, but especially for children and other vulnerable groups (BRANCO 2013).

For this reason, the Guidelines on Justice in matters involving child victims and witnesses of crime states that “all interactions described in these Guidelines should be conducted in a child-sensitive manner in a suitable environment that accommodates the special needs of the child, according to his or her abilities, age, intellectual maturity and evolving capacity (UN 2005, article 14).

The Interamerican court on Human Rights *in case V.R.P., V.P.C. y otros Vs. Nicaragua* (2018. Serie C No. 350) also emphasizes that process should take place in an environment that is not intimidating, hostile, insensitive or inappropriate to the age of the child or adolescent and that the personnel in charge of receiving the report are duly trained in the matter, so that the child or adolescent feels respected and safe when expressing his or her opinion in a physical environment, adequate psychic and emotional (ICHR 2018).

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

The regional guidelines from Africa, the Americas and Europe recommend that the child interview should take place out of judicial settings.

The African Committee also includes one-stop centers as an important multisectoral and system approach when addressing violence against children (ACERWC

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2023, p. 24), including collection of forensic evidence, criminal investigation, provision of psychosocial support, as well as provision of legal advice and support.

The Interamerican Institute on the Rights of the Child, in its technical institutional orientation on revictimization of children and adolescents in administrative and judicial procedures, recommends that States should consider dejudicializing the participation of child victims of sexual abuse to the minimum possible and, even in the case of appearing in court, apply a special procedure to avoid their revictimization (IIN 2008).

The European Guidelines on child-friendly justice also encourage Members to Set up child-friendly, multi-agency and interdisciplinary centres for child victims and witnesses where children could be interviewed and medically examined for forensic purposes, comprehensively assessed and receive all relevant therapeutic services from appropriate professionals. COUNCIL OF EUROPE 2011b, V.j.)

The European Directive 2012/29, in its article 22, 1, determine as well that “interviews with the victim should be carried out in premises designed or adapted for that purpose; (b) interviews with the victim being carried out by or through professionals trained for that purpose; (c) all interviews with the victim being conducted by the same persons unless this is contrary to the good administration of justice; (d) all interviews with victims of sexual violence, gender-based violence or violence in close relationships, unless conducted by a prosecutor or a judge, being conducted by a person of the same sex as the victim, if the victim so wishes, provided that the course of the criminal proceedings will not be prejudiced” (EUROPEAN PARLIAMENT/COUNCIL 2012).

The research shows that in 31 countries children are heard in the Court; in 24 by police, in 11 by prosecution offices, in 7 in integrated centers such as Barnahus, in 3 social services and in 3 the children are heard at home.

The outcome shows the challenge to balance the rights of the child and the rights of the alleged offender, which can also be preserved in the Barnahus model.

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police	Prosecution	Social services	Judiciary	Integrated center (Barnahus)	others
Angola	Bolivia	Benin	Angola (no special testimony)	Armenia (but with an ongoing implementation process of Barnahus model)	China (children heard at home)
Armenia (but with an ongoing implementation process of Barnahus model)	Bosnia and Herzegovina	India	Argentina	Croatia	Czech R. (eventually at home, schools)
Benin	Chile	Malawi	Bolivia	Cyprus (during pre-trial and trial phases)	Malta (at home, eventually, by police officers)
Bosnia and Herzegovina	East-Timor		Brazil	Greece (Child Houses)-just in the capital operating	
Czech R.	Guinea		Canada (no special testimony)	Slovenia	
East-Timor	Jordan		Cape Verde	Sweden	
England & Wales	Mexico		Chile	Ukraine	
Greece (where there is no Child House)	Mozambique		Colombia		
Guinea	Palestine		Croatia		
Hungary	Switzerland (federal state with different		Dominican R.		

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	local arrangements)				
India	Uruguay		East-Timor (no special testimony)		
Iraq			Ecuador		
Jordan			England & Wales		
Lebanon			Hungary		
Luxembourg			Iraq		
Malawi			Italy		
Malta			Jordan		
Mauritius			Lebanon		
Netherlands (childfriendly studio used only for under 12 y.o. children)			Malawi		
Pakistan			Mauritius		
Switzerland (federal state with different local arrangements)			Mexico		
Trinidad and Tobago			Mozambique		
Ukraine			Pakistan (child protection courts)		
Yemen (juvenile police center)			Palestine (if necessary)		
			Puerto Rico		
			South Africa		

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			Switzerland (federal state with different local arrangements)		
			Trinidad and Tobago		
			Ukraine		
			Uruguay		
			Yemen		

7.2. 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)

Three main differences were exposed in the research. Countries with no specific adaptation of the environment where children are heard: three countries, but one of them has a Gessel chamber. Thirty-five countries have adapted rooms or facilities for children within the institution where they are interviewed, although some of them have referred that this is not the situation in the whole country, just in parts of the country.

In 9 countries, all of them in Europe, exposed that Barnahus model has been adopted or is under implementation. According to a mapping study developed by the Council of Europe, this model has been implemented in 16 countries in the continent, in another 10 some sort of Barnahus-type services are in place (COUNCIL OF EUROPE 2023, p. 40)

Barnahus model	Places adapted for children at facilities	No specific adaptation
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Armenia (two Barnahus centers operating in the country)	Argentina	Angola
Croatia (in the capital)	Benin	Mozambique (except informal clothes)
Cyprus	Bolivia	Uruguay (but Gessel chamber)
Czech R.	Bosnia and Herzegovina	
Greece	Brazil	
Netherlands (some rare similar experience in place)	Canada	
Slovenia	Cape Verde (just in the capital)	
Sweden	Chile	
Ukraine (although still heard in court)	China (children heard at home. If heard at the procuratore, special room)	
	Colombia (Gessel chamber)	
	Croatia (in other cities)	
	Dominican R. (Centros Entrevistas para Personas en Condición de Vulnerabilidad Víctimas o Testigos)	
	East-Timor	
	Ecuador (for victims, not for witness)	
	England & Wales	
	Guinea	
	Hungary	
	India	
	Iraq (juvenile police in some places)	
	Italy (for children below the age of 14 y.o.)	
	Jordan	
	Lebanon (in some courts)	

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	Luxembourg	
	Malawi	
	Malta (when not heard at home)	
	Mauritius	
	Mexico	
	Netherlands	
	Pakistan	
	Palestine	
	Puerto Rico	
	South Africa (private testifying room)	
	Switzerland (federal state with different local arrangements)	
	Trinidad and Tobago	
	Yemen	

7.3. 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?

Acknowledging that the environment may raise security and protective issues for the child, as seen in the previous questions, the research was interested in understanding how seriously the matter is assumed by each country, developing specific guidelines to improve and adapt the space where the child is interviewed to grant their rights.

Twenty-six countries informed that there are specific guidelines at national or local level on the matter, while in 13 there are not such kind of provisions. In four no specific information was provided.

No specific information provided	Existence of specific guidelines	Non-existence of specific guidelines
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Armenia	Argentina (at local level)	Angola
Benin	Bosnia and Herzegovina	Bolivia (new buildings under construction)
Malta (non-applicable, heard at home)	Brazil	Canada
Pakistan	Chile	Cape Verde
	China	Colombia
	Cyprus	Croatia
	Czech R.	East-Timor
	Ecuador	Iraq (but some ongoing experiences with support of UNICEF)
	England & Wales	Lebanon (but in preparation)
	Greece	Mauritius
	Guinea	Mozambique (but some courts have adapted chambers)
	Hungary	Uruguay
	India	Yemen
	Jordan	
	Luxembourg	
	Malawi	
	Mexico	
	Netherlands	
	Palestine	
	Puerto Rico	
	Slovenia	
	South Africa	
	Sweden	
	Switzerland	
	Trinidad and Tobago	
	Ukraine	

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

Specific waiting areas are a very important strategy to avoid contact with the alleged offender and to create a child-friendly environment for children.

At regional level, the Guidelines on Action for Children in the Justice System in Africa, recommend that, as far as possible, interview and waiting rooms should be adopted to create a child friendly environment (AFRICAN CHILD FORUM 2011, paras 64). The European Directive 2012/29 establishes at article 19 that Member States shall ensure that new court premises have separate waiting areas for victims in order to avoid contact with the offender (EUROPEAN PARLIAMENT/COUNCIL 2012). The same is provided by the Santiago Guidelines for Latin American Prosecution Officers in their own premises (article 18, 2, b) (AIAMP 2020, p. 28).

Thirty-four countries have specific waiting area for children, while 9 do not have it. Three have not provided specific information on the subject.

Specific waiting area	No specific waiting area	No specific information provided
Argentina	Angola	Czech R
Armenia	England & Wales	Malawi
Benin	Guinea	Malta (non-applicable)
Bolivia	Hungary (it depends on each building)	
Bosnia and Herzegovina	Lebanon (in preparation)	
Brazil	Mozambique	
Canada	Ukraine (in courts)	
Cape Verde	Uruguay	
Chile	Yemen	
China		
Colombia		
Croatia		

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Cyprus		
Dominican R.		
East-Timor (at the police, not in court)		
Ecuador		
Greece (in the child houses)		
India		
Iraq		
Italy		
Jordan		
Luxembourg		
Mauritius		
Mexico		
Netherlands		
Pakistan		
Palestine		
Puerto Rico		
Slovenia		
South Africa		
Sweden		
Switzerland (usually)		
Trinidad and Tobago		
Ukraine (in Barnahus)		

7.5. 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)

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Besides a specific waiting area, the research was concerned in understanding what other measures were in place to grant safety for the child, avoiding direct contact with the alleged offender.

The European Directive 2012/29 states in its article 19 that Member States shall establish the necessary conditions to enable avoidance of contact between victims and their family members, where necessary, and the offender within premises where criminal proceedings are conducted, unless the criminal proceedings require such contact, In its article 23, geared to victims with special needs, children among others, it states that during court proceedings Member States should adopt: (a) measures to avoid visual contact between victims and offenders, including during the giving of evidence, by appropriate means, including the use of communication technology; (b) measures to ensure that the victim may be heard in the courtroom without being present, in particular through the use of appropriate communication technology; (c) measures to avoid unnecessary questioning concerning the victim's private life not related to the criminal offence; and (d) measures allowing a hearing to take place without the presence of the public.

The Santiago Guidelines for Latin American Prosecution Officers recommend protection measures to avoid direct contact between the victim and the alleged offender, both during the proceeding as while waiting (article 18).

AIMJF guidelines also have recommendations in the same line (AIMJF 2017, 4.2.2.(2)f).

In 37 countries some sort of measures are adopted.

In 3 countries no protection measures are adopted, while other 3 alluded to the adoption of these measures if considered necessary, and not as a regular basis.

Protection measures in place	No protection measures	Some protection measures if considered necessary
Argentina (virtual hearing)	Angola	Benin

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Armenia (with Barnahus model)	East-Timor	Lebanon (when the judges deem necessary)
Bolivia (virtual hearing)	Iraq	Yemen (child is observed and in case of fear, contact is avoided)
Bosnia and Herzegovina		
Brazil		
Canada		
Cape Verde		
Chile		
China		
Colombia		
Croatia		
Cyprus		
Czech R.		
Dominican R.		
Ecuador		
England & Wales		
Greece (only in the child house)		
Guinea		
Hungary		
India		
Italy		
Luxembourg (child heard at the police, suspect not in place)		
Malawi (CCTV/mirror)		
Malta (children do not meet the offender)		
Mauritius (video link)		
Mexico (various measures)		
Mozambique (removal of the alleged offender)		

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Netherlands (children heard at the police, no presence of the alleged offender. In case of need to give testimony in court, separate room, although no separate entrance)		
Pakistan (videolink)		
Palestine		
Puerto Rico		
Slovenia		
South Africa		
Sweden		
Trinidad and Tobago		
Ukraine		
Uruguay (separate entrances)		

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

A particular challenging situation when considering the measures to avoid direct contact with the alleged offender, without violating the legal and procedural guarantees of due process and a fair trial regards the procedure of identification of the person accused of having committed a crime against the child.

Fifteen countries have no specific guidelines on the subject or have not provided a specific information on how they balance the protective measures for the child and the respect of the rights of the alleged offender.

In 12 countries, the identification is made with the use of photography, without exposing the child to any kind of contact in person with the alleged offender.

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In 11 countries, glass-window is used to limit the contact between the child and the alleged offender, and in 10 countries the identification is made virtually, with no personal contact between them.

No specific guidelines on the subject/No specific information	Photography	Glass-window	Virtual identification with no personal contact
Argentina (if necessary, it would be made via link)	Cape Verde	Angola (suspected person behind a mirror, beside other people)	Bolivia
Armenia	Chile (in a tablet)	Bosnia and Herzegovina	Brazil
Czech R.	China	Croatia	Canada
East-Timor	Dominican R.	Cyprus	Cyprus
Italy	England & Wales	Ecuador	Hungary
Jordan	Greece	England & Wales	India
Lebanon (joint meeting)	Luxembourg	Guinea	Malta
Mauritius (identification in court)	Malawi	Palestine	Mexico
Pakistan (identification parade, no explanation about protective measures for the child)	Mexico	Switzerland	Netherlands
Puerto Rico	Palestine	Trinidad and Tobago	Trinidad and Tobago
Slovenia (the alleged offender prevented from seeing the child, not explained how)	Switzerland	Uruguay	
South Africa (identification rules exposed, but not	Trinidad and Tobago		

regarding how to protect children)			
Sweden (identification at the police station)			
Ukraine			
Yemen (personal identification)			

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

The sociological and political analysis of the territories of the Justice System in intimately interconnected with the reflection on access to Justice, including for child victims. Decentralization of justice and remote hearings have been studied (COMMAILLE 2000), among other strategies such as itinerancy, like the one developed in Brazil where a bus owned by the Judiciary reaches distant communities⁶, are examples of measures adopted to improve the environment for children.

The European Directive 2012/29 has considered this situation when dealing with children living in different countries. It determines that Member States shall ensure that their competent authorities can take appropriate measures to minimise the difficulties faced where the victim is a resident of a Member State other than that where the criminal offence was committed, particularly with regard to the organisation of the proceedings. For this purpose, the authorities of the Member State where the criminal offence was committed shall, in particular, be in a position: (a) to take a statement from the victim immediately after the complaint with regard to the criminal offence is made to the competent authority; (b) to have recourse to the extent possible to the provisions on video

⁶ <https://www.cnj.jus.br/depoimento-especial-ganha-onibus-para-ouvir-criancas-em-pernambuco/>



conferencing and telephone conference calls (EUROPEAN PARLIAMENT/COUNCIL 2012, article 17).

According to the responses collected in this research, the majority of the countries provide conditions for the child to be heard in the city where he or she lives, without any kind of displacement to the place where the proceeding is tried.

In 9 countries, the child must travel in any situation. In one country, the child may be heard in the city where he or she lives during the investigation phase, but, during trial, it is necessary to travel, except in some special circumstances, when the court can displace the trial to another court. Seven countries have not provided specific information on the subject.

The child might be heard in the city where he/she lives	The child must travel to the city where the proceeding is tried	At the initial phase, the child might be heard at his/her city, but, during judicial trial, in the city where the proceeding is tried	The court can displace the trial to another court, closer to the child	No specific information provided
Angola	Canada, except if authorized by the judge to be heard virtually	Benin	Benin (in special circumstances)	Czech R,
Argentina (if there is adequate structure)	Chile			Italy
Bolivia (heard with the support of a local psychologist)	Croatia			Jordan

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Bosnia and Herzegovina	East-Timor			Mauritius (non-applicable, small jurisdiction)
Brazil	England & Wales			Netherlands
Cape Verde	Iraq			Uruguay
China (the investigators travel to the child's city)	South Africa			Yemen (rare situation)
Colombia	Sweden			
Cyprus	Switzerland			
Dominican R.				
Greece				
Guinea				
Hungary				
India				
Lebanon				
Luxembourg				
Malawi				
Malta				
Mexico				
Mozambique				
Pakistan (videolink)				
Palestine				
Puerto Rico				
Slovenia				
Trinidad and Tobago				
Ukraine				

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7.8. Is it possible in your country that the interview be conducted virtually (the child and the interviewer are in different places)? In which circumstances? Which special security measures, if any, -are adopted?

During the COVID-pandemics much have been discussed about the convenience and appropriateness of a tele-forensic interview, with guidelines on the subject⁷, although considered for many as an exceptional practice due to limitations in providing safety and care for children.

In this context, the research aimed to understand how much of this practice was still in use after this exceptional period.

In 30 countries it is still possible to conduct the interview virtually, while in 12 countries this must be conducted in person.

Important to register, however, that some of the countries that mentioned the possibility of conducting a virtual interview are referring to a virtual judicial hearing and not a forensic interview conducted by intermediaries.

Interview may be conducted virtually in special circumstances	Interview must be conducted in person	No specific information provided
Angola (but not available everywhere)	Benin	Czech R.
Argentina (as an extraordinary measure, accompanied by special protective measures)	Canada (except if authorized by the judge to be heard virtually)	Jordan
Armenia (due to the health condition or being in another place, or when there is a need to ensure the safety of the person or	Chile	

⁷ <https://learn.nationalchildrensalliance.org/telefi>

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to protect the legal interests of a minor victim or witness, and this is required by the interest of justice)		
Bolivia	Croatia	
Bosnia and Herzegovina	Ecuador	
Brazil (in exceptional cases)	Greece	
Cape Verde (by the judge)	Iraq (one experience in a court of videoconferencing)	
China	Mauritius	
Colombia	Mozambique	
Cyprus	Netherlands	
Dominican R.	Sweden (at a children's house)	
East-Timor	Yemen	
England & Wales (in exceptional cases)		
Guinea		
Hungary		
India		
Italy		
Luxembourg		
Malawi (some practices in place)		
Malta		
Mexico		
Pakistan		
Palestine		
Puerto Rico (in case of domestic violence)		
Slovenia		
South Africa		
Switzerland (not recommended and rare)		

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Trinidad and Tobago		
Ukraine		
Uruguay		

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

According to the Guidelines on Justice in matters involving child as victims or witnesses of crime, professionals should implement measures to limit the number of interviews: special procedures for collection of evidence from child victims and witnesses should be implemented in order to reduce the number of interviews, statements, hearings and, specifically, unnecessary contact with the justice process, such as through use of video recording (UN 2005, article 31,a).

The European Directive 2012/29 determines that Member States shall ensure that where the victim is a child in criminal investigations, all interviews with the child victim may be audio-visually recorded and such recorded interviews may be used as evidence in criminal proceedings (EUROPEAN PARLIAMENT/COUNCIL 2012, article 24, 1, a).

The Santiago Guidelines for Latin-American prosecution officers also recommend in its 22, 4, g, that interviews should be limited as much as possible to avoid secondary victimization, through audio-visually recorded interviews in anticipation evidence procedures (AIAMP 2020).

In spite of these guidelines, the research reveals that it is equivalent the number of countries in which the child must appear in court, even in case of previous interview, in comparison with those countries where they are excused to attend the court once again because of a previous recorded interview: 20 countries in each situation. In five countries, children are mainly heard only in court, in special facilities, therefore the situation is not applicable.

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The child must appear in court	If interviews are recorded, children might not appear in court at further phases	Children are mainly heard in judicial proceeding, in special facilities, not in the courtroom
Angola	Bosnia and Herzegovina	Argentina
Armenia	China (do not appear)	Brazil
Benin	Cyprus (may not)	Croatia
Bolivia	Czech R. (may not)	Slovenia
Canada (but recording can be used)	Dominican R.	South Africa
Cape Verde	Ecuador	
Chile (except in case of death or supervening incapacity)	Greece (do not appear)	
Colombia (exceptionally, under a prosecution or defense request)	Guinea	
East-Timor	Hungary (may not, except in exceptional cases)	
England & Wales	Italy	
India	Jordan	
Iraq	Luxembourg	
Lebanon	Malawi (but if the party requests, and the court deems necessary, the child may be heard another time)	
Malta	Mauritius (except if any other party requests the child testimony, then new interview in court, through video link)	

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Mozambique (interviews are not recorded)	Mexico	
Puerto Rico	Netherlands	
Sweden (if the child is over 12 y.o.)	Pakistan (but the judge may require the presence of the child for a fair trial)	
Ukraine	Palestine (but the child may be heard in court once again, if necessary)	
Uruguay (but with special measures for the hearing)	Switzerland	
Yemen	Trinidad and Tobago	

8. SPECIFIC LEGAL GUARANTEES FOR THE CHILD

According to the Committee on the Rights of the Child, respect for the dignity, life, survival, well-being, health, development, participation and non-discrimination of the child, as a rights-bearing person, should be established and championed as the pre-eminent goal of States parties' policies concerning children. This is best realized by respecting, protecting and fulfilling all of the rights in the Convention (and its Optional Protocols). It requires a paradigm shift away from child protection approaches in which children are perceived and treated as "objects" in need of assistance rather than as rights holders entitled to non-negotiable rights to protection. A child rights approach is one which furthers the realization of the rights of all children as set out in the Convention by developing the capacity of duty bearers to meet their obligations to respect, protect and fulfil rights (art. 4) and the capacity of rights holders to claim their rights, guided at all

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times by the rights to non-discrimination (art. 2), consideration of the best interests of the child (art. 3, para. 1), life, survival and development (art. 6), and respect for the views of the child (art. 12). Children also have the right to be directed and guided in the exercise of their rights by caregivers, parents and community members, in line with children's evolving capacities (art. 5). This child rights approach is holistic and places emphasis on supporting the strengths and resources of the child him/herself and all social systems of which the child is a part: family, school, community, institutions, religious and cultural systems (UN 2011, paras 59). The child-rights based approach is specially important with regard to Judicial involvement, in order to have, at all times and in all cases, due process respected. The primary purpose of decision-making should consider the least intrusive intervention as warranted by the circumstances. (UN 2011, paras 54).

8.1. 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)?

Legal assistance is one of the main dimensions of the right of the child to effective assistance in consonance to the Guidelines on Justice in matters involving child as victims or witnesses of crime (UN 2005 article 22).

According to the Interamerican court of human rights, children are entitled to legal aid as a protection measure. The guarantee of legal assistance to child and adolescent victims in criminal proceedings should be considered as means of actively participation in judicial proceedings, with their own voice and legal assistance, in defense of their rights, according to their age and degree of maturity, with the intervention of a lawyer specialized in children and adolescents issues, with the power to act as a party in the proceedings, opposing judicial measures, appealing and performing any other procedural

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act aimed at defending their rights in the process, free of charge and provided by the State (ICHR 2021, paras 161).

The Santiago Guidelines for Latin American Prosecution Officers recommend that victims should have granted legal assistance, which is considered compatible with the protection role of the prosecution officer itself (article 17) (AIAMP 2020, p. 27)

In Africa, the guidelines on action for children in the justice system recommend that States must progressively ensure the availability of child rights-oriented legal representation for children in the justice system. Legal representatives dealing with children in the justice system should provide the child with all necessary information and guide the child as to the progress and conduct of any proceedings. (AFRICAN CHILD FORUM 2011, paras 38).

The European Directive 2012/29 determines that Member States shall ensure that where the victim is a child, he or she has the right to legal advice and representation, in his or her own name, in proceedings where there is, or there could be, a conflict of interest between the child victim and the holders of parental responsibility (EUROPEAN PARLIAMENT/COUNCIL 2012, article 24, 1c).

However, according to FRA's research, legal support is provided for only 6% of the children in Europe and the majority of them (86%) have an ambivalent or negative assessment of it (FRA 2017, p. 17).

In this research, 37 countries affirmed that legal assistance is provided for children. However, some of them explained some circumstances relativizing this guarantee, such as when the child is not able to exercise his or her rights, or that legal assistance is just provided in court, not in other institutions, or limited to civil matters, or limited availability.

Four countries informed that child victims do not frequently have legal representation on their own, in 1 country legal assistance is provided only for children without parental care and in another one prosecution officer should represent the interests of the child.

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Children do not frequently have legal representation on their own	Legal assistance provided for children	Legal assistance provided for children without parental care	Prosecution officer should represent the interests of the child
Canada	Argentina	Armenia (and for children below the age of 16 y.o.)	Angola (the family may hire a private lawyer)
Dominican R. (represented by parents)	Benin		
Italy	Bolivia		
Jordan (some initiatives in course)	Bosnia and Herzegovina (if the child is not able to exercise his/her rights)		
	Brazil		
	Cape Verde		
	Chile		
	China		
	Colombia		
	Croatia		
	Cyprus		
	Czech R.		
	East-Timor		
	Ecuador		
	England & Wales		
	Greece (in court)		
	Guinea		
	Hungary		
	India		
	Iraq		

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	Luxembourg		
	Malawi (although not always affordable)		
	Malta (normally provided by parents, otherwise by the state)		
	Mexico		
	Mozambique		
	Netherlands		
	Pakistan		
	Palestine		
	Puerto Rico (for civil matters)		
	Slovenia		
	South Africa		
	Sweden		
	Switzerland		
	Trinidad and Tobago		
	Ukraine		
	Uruguay		
	Yemen		

8.1.1. 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 etc)?

The way legal assistance is provided is intimately related to the conception of children as right holders, allowed to exercise their rights on their own, or dependent on protection measures considered necessary by adults. Liefwaard, recalling the UN High Commissioner for Human Rights, remembers that access to justice for children could be defined as “the ability to obtain a just and timely remedy for violation of rights in national and international norms and standards,

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including the CRC” with a clear correlation to the right to an effective remedy (LIEFAARD 2019). Granting the right to access to justice implies removing traditional barriers, such as procedural costs, location of and physical access to the courts, as well as empowering children to grant them legal capacity and legal assistance, including the right to initiate proceedings.

For the majority of the countries, 25, legal assistance is considered as a regular legal activity in courts, while in 11 countries legal intervention aims to focus the child’s best interest.

Information, orientation, expressing the child’s view and focusing on his/her best interest	Information, orientation, besides legal activity
Angola	Argentina
Benin	Armenia
Canada	Bolivia
Cape Verde	Bosnia and Herzegovina
East Timor	Brazil
Luxembourg	Chile
Malta	China
Mozambique (representing the best interest of the child)	Colombia
Pakistan	Croatia
Palestine	Cyprus
South Africa	Czech R.
	Ecuador
	England & Wales
	Greece
	Guinea
	India
	Iraq (limited to trial stage)

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	Mexico
	Netherlands
	Slovenia
	Sweden
	Switzerland
	Trinidad and Tobago
	Ukraine
	Yemen

8.2. 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?

The Guidelines on Action for Children in the Justice System in Africa recommends that child witnesses shall not be questioned by the police or any investigating official without the presence of their parents, a family relative or legal guardians, or where the latter are not traceable or where their presence is contrary to the best interests of the child, in the presence of a social worker (UN 2005, paras 64).

According to European Directive 2012/29, Member States shall allow victims to be accompanied by a person of their choice in the first contact with a competent authority where, due to the impact of the crime, the victim requires assistance to understand or to be understood (article 3,3), which should remain during criminal investigation, unless a reasoned decision has been made to the contrary (article 20).

The Santiago Guidelines for Latin American Prosecution Officers recommend also the right of the child to be accompanied by a person from his/her family or affective environment (article 22, §4º, e) (AIAMP 2020, 5).

In this research, the main difference between the countries was among those who allow a support person during the interview or hearing, the majority, 36, and those who allow a support person during the proceeding, but not during the interview (6 countries).

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One country explained that the child has the right to be accompanied only under some circumstances, depending on judicial approval.

The child has the right to be accompanied by a support person	The child has not the right to be accompanied by a support person	The child has the right to be accompanied under some circumstances
Angola (parents)	Argentina (as a rule, not during the interview, except in exceptional cases, but not allowed to speak)	Jordan (depending on judicial approval)
Armenia (has the right to participate in the interview, specially children under 14 y.o.)	Chile (not during the interview)	
Benin	Bolivia (not during the interview)	
Bosnia and Herzegovina	Brazil (not during the interview)	
Canada	Greece (not during the interview)	
Cape Verde	Italy	
China		
Colombia		
Croatia		
Cyprus		
Czech R.		
Dominican R. (parents)		
East-Timor		
Ecuador		
England & Wales		
Guinea		
Hungary		
India		
Iraq		

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Luxembourg (the person must remain in silence)		
Malawi		
Malta		
Mauritius		
Mexico		
Mozambique		
Netherlands		
Pakistan		
Palestine		
Puerto Rico		
Slovenia		
South Africa		
Sweden		
Switzerland		
Ukraine		
Uruguay		
Yemen		

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

Understanding the role of parents and legal representatives is of great importance to provide effective assistance to child victims and witnesses.

The UNODC/UNICEF model law on justice in matters involving child victims and witnesses of crime specifies the role of a support person. Although considered as a person with training and professional skills to communicate with and assist children (article 15), the functions assigned to this professional are correlated to the needs of the child and to his or her right to assistance and, in absence of this professional, should be granted either by the family or any other professional in the justice system. According to this document, the support person shall, *inter alia*:

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- “(a) Provide general emotional support to the child;
- (b) Provide assistance, in a child-sensitive manner, to the child during the entire justice process. Such assistance may include measures to alleviate the negative effects of the criminal offence on the child, measures to assist the child in carrying out his or her daily life and measures to assist the child in dealing with administrative matters arising from the circumstances of the case;
- (c) Advise whether therapy or counselling is necessary;
- (d) Liaise and communicate with the child’s parents or guardian, family, friends and lawyer, as appropriate;
- (e) Inform the child about the composition of the investigation team or court and all other issues as stated in article 9 of this [Law] [Act];
- (f) In coordination with the lawyer representing the child or in the absence of a lawyer representing the child, discuss with the court, the child and his or her parents or guardian the different options for giving evidence, such as, where available, video recording and other means to safeguard the best interests of the child;
- (g) In coordination with the lawyer representing the child or in the absence of a lawyer representing the child, discuss with the law enforcement agencies, the prosecutor and the court the advisability of ordering protective measures;
- (h) Request that protective measures be ordered, if necessary;
- (i) Request special assistance measures if the child’s circumstances warrant them” (UNODC/UNICEF 2010, article 17).

In general, the research participants have focused mainly in three activities: accompany and intermediate contact with the justice system (31 countries), be present with the child during the interview (9 countries) and legal participation in assistance to prosecution (1 country).

This is a field where improved legal standards should be developed, granting a more clear role to parents during the proceedings.

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To accompany and intermediate contact with the justice system	Be present with the child during the interview	Legal participation in assistance to prosecution	No specific information provided on the subject
Angola	Argentina (if requested and with no opposition from the child)	East-Timor	Armenia
Benin	China		
Bolivia	Croatia		
Bosnia and Herzegovina (including during the interview, if needed)	Cyprus		
Brazil (but not during the interview)	Czech R. (facultative)		
Canada	India		
Cape Verde	Mexico		
Chile	Slovenia		
Colombia	Switzerland		
Dominican R.			
Ecuador			
England & Wales			
Greece			
Guinea			
Hungary (if the child is a witness; otherwise, the same rights as the victim)			
Iraq			
Luxembourg (to assist the child)			
Malawi			
Malta			
Mozambique			
Netherlands			

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Pakistan			
Palestine			
Puerto Rico (parents cannot speak)			
South Africa			
Sweden			
Switzerland			
Trinidad and Tobago			
Ukraine			
Uruguay			
Yemen			

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

The research revealed that it is a regular procedure to exclude the parents in case of risk for children.

Many situations have been listed by the participants, such as harmful behavior against the child, when the parents are the offence’s perpetrators, in case of conflict of interests and when the parents are going to be heard.

It is not inferable from the responses that there is a strict possibility of exclusion and it is reasonable to conclude that all the situations are applicable to any country. Therefore it is not reasonable to quantify responses as if they would be considered exclusive.

Parents excluded in case of harmful behavior against the child	When parents are the offence’s perpetrators	In case of conflict of interests	In case the parents are going to be heard
---	--	---	--

Angola	Angola	Argentina	Jordan
Armenia	Armenia	Hungary	
Benin	Bolivia	India	
Bolivia	Bosnia and Herzegovina	Iraq	
Bosnia and Herzegovina	Brazil	Luxembourg (a lawyer is appointed as guardian)	
Brazil	Chile	Malawi	
Canada	Colombia	Mauritius	
Cape Verde	Cyprus	Mexico	
Croatia	East-Timor	Netherlands	
Cyprus	Ecuador	Ukraine	
Czech R.	England & Wales	Uruguay	
Dominican R.	Greece		
England & Wales	Guinea		
Iraq	India		
Mozambique	Malta		
Netherlands	Netherlands		
Pakistan	Slovenia		
Palestine	South Africa		
	Sweden		
	Switzerland		
	Trinidad and Tobago		
	Ukraine		
	Yemen		

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

The European Directive 2012/29 prescribes in its article 24 that Member States shall ensure in criminal investigations and proceedings, in accordance with the role of victims in the relevant criminal justice system, that competent authorities appoint a

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special representative for child victims, where, according to national law, the holders of parental responsibility are precluded from representing the child victim as a result of a conflict of interest between them and the child victim, or where the child victim is unaccompanied or separated from the family (EUROPEAN PARLIAMENT/COUNCIL 2012). The same rule is stated in article 20 of the European Directive 2011/92 (EUROPEAN PARLIAMENT/COUNCIL 2011b). This is a procedure commonly adopted in the majority of the countries, except three and in a fourth, where appointment would be made depending on the case.

Among the countries who appoints a guardian, in 14 this professional is appointed by the court, in 6 by local authorities or social services, in 3 by the prosecution office and in 2 by the defense office.

Guardianship appointed	Not necessarily, depend on the case	No appointment of guardianship
Angola (by the court)	Benin (if necessary, the court appoints)	Canada
Argentina (special assistant - asesor tutelar)		East-Timor (prosecution represents the interest of the child)
Armenia (employee of the competent guardianship and trusteeship body is involved as a legal representative)		South Africa (the prosecutor represents the child)
Bolivia (Defensoria de la Niñez)		
Bosnia and Herzegovina (by the court)		
Brazil (by the court)		
Cape Verde (by the court)		
Chile (by the court)		

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China		
Colombia (by the People Defense Office)		
Croatia		
Cyprus (by Director of Social Welfare Services)		
Czech R. (a person from social and legal services)		
Ecuador		
England & Wales (by the State)		
Greece (by prosecution)		
Guinea (by the judge)		
Hungary		
India (by the court)		
Iraq		
Jordan (social worker or prosecution)		
Luxembourg (by the court)		
Malawi		
Malta		
Mauritius (by the court)		
Mexico		
Mozambique (by the judge)		
Netherlands (by the judge)		
Pakistan (by the court)		
Palestine (by prosecution)		
Slovenia (by the court)		
Sweden		
Switzerland (by the child protection authority)		
Trinidad and Tobago (by the court)		

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Ukraine (by investigator, prosecutor or judge)		
Yemen (appointed by the court)		

8.4. 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 cannot be identified?)

The Guidelines on Justice in matters involving child victims and witnesses of crime state that child victims and witnesses should have their privacy protected as a matter of primary importance. For that purpose, information relating to a child’s involvement in the justice process should be protected through maintaining confidentiality and restricting disclosure of information that may lead to identification of a child who is a victim or witness in the justice process. Besides that, measures should be taken to protect children from undue exposure to the public by, for example, excluding the public and the media from the courtroom during the child’s testimony, where permitted by national law (UNITED NATIONS 2005, paras 26 ff.)

The African Committee recommends that hearings should not be public and must be conducted in child-friendly rooms and that the child’s identity should not be disclosed (ACERWC 2023, p. 29). In the same line, for the Guidelines on Action for Children in the Justice System in Africa, the child’s right to privacy shall be respected at all times and no information that could identify a child witness shall be published (AFRICAN CHILD FORUM 2011, paras 64, e).

The Inter-American Institute on the Rights of the Child has also recommended that States should ensure that the guarantees of the right to identity, privacy, and self-image are safeguarded in the procedures before, during, and after investigations and deduction of responsibility for sexual abuse of children (IIN 2018).

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The Santiago Guidelines for Prosecution Officers in Latin America also emphasizes the duty to grant protection of the victim’s personal data (article 5), with special emphasis on child victims (article 22, §4, b) (AIAMP 2020, p. 16 and 32).

Finally, the European Directive 2012/29 also prescribes that Member States shall ensure that competent authorities may take all lawful measures to prevent public dissemination of any information that could lead to the identification of a child victim (EUROPEAN PARLIAMENT/COUNCIL 2012, article 21).

In this research, 37 countries affirmed that hearings are held behind closed doors.

Twenty-seven countries explained that sharing information about the child is forbidden.

Ten countries alluded to anonymization procedures and 6 with the possibility of utilization of pseudonyms.

Hearings held behind closed doors	Sharing information about the child is forbidden	Utilization of Pseudonyms	Only initials of the name of the child in any procedure
Angola	Argentina	Cyprus	Brazil
Argentina	Bosnia and Herzegovina	East-Timor	Dominican R.
Armenia	Brazil	Guinea	Ecuador
Benin (for victims, not for witnesses)	Canada	India	Guinea
Bolivia	Cape Verde	Mauritius	Malawi (name of the child is concealed)
Bosnia and Herzegovina	Chile	Mexico	Mauritius
Brazil	China		Mexico
Canada	Colombia		Netherlands (anonymization)

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Cape Verde	Croatia		South Africa (identification prohibited)
Chile	Cyprus		Trinidad and Tobago (anonymization)
Colombia	Czech R.		
Croatia	East-Timor		
Cyprus	England & Wales		
Czech R.	Greece (but often leaks to the media)		
East-Timor	Guinea		
Ecuador	India		
England & Wales	Iraq		
Greece	Luxembourg		
Guinea	Malta		
Hungary	Mauritius		
India	Mexico		
Iraq	Mozambique		
Italy	Pakistan		
Jordan	Palestine		
Luxembourg	South Africa		
Malawi	Switzerland		
Malta	Ukraine		
Mauritius			
Mexico			
Mozambique			
Netherlands			
Pakistan			
Palestine (hearing at prosecution office, with no			

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participation of defense attorney nor of the public)			
Puerto Rico			
Slovenia			
South Africa			
Switzerland			
Trinidad and Tobago			
Ukraine			
Uruguay			
Yemen			

8.5. Is the child allowed to plead for cautionary measures?

In consonance with the above discussion on the role of legal representative, this question shows the impact of different perceptions on the possibility of the child to exercise his or her rights during the proceeding by him or herself or if its necessary to depend on external intervention, mainly their parents’.

According to the research, children are allowed to plead for protective measures by themselves in 20 countries, while in 12 they are dependent on their parents or legal representatives. In 10 either the protective measures are requested by social services or prosecution officers with no intervention by the child or their legal representatives.

Child allowed to plead for protective measures through legal representative	Child allowed to plead for protective measures by him/herself	Children not allowed to plea for protective measures
Argentina (special assistant is obliged to provide information about possible measures)	Benin	Angola (prosecution can plead)
Armenia	Brazil	Bosnia and Herzegovina

Bolivia	Canada	East-Timor (social services can apply)
Chile	Cape Verde	Iraq (determined by the court)
Cyprus	China	Italy
Dominican R.	Colombia (by his/her defense attorney)	Mozambique
England & Wales	Croatia	Palestine (prosecution pleads)
Greece	Czech R. (although usually the legal representatives plead in their name)	South Africa (prosecution can plead)
Guinea	Ecuador	Sweden (the police or the prosecutor pleads)
India	Hungary	Ukraine (only investigator or prosecutor)
Netherlands	Jordan (to the police or prosecution, who will plead to the court)	
Puerto Rico	Luxembourg	
	Malawi	
	Mexico	
	Pakistan	
	Slovenia	
	Switzerland (child with discernment)	
	Trinidad and Tobago (by attorney)	
	Uruguay	
	Yemen	

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

The same discussion is of relevance regarding the right to appeal.

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According to the Committee on the Rights of the Child, the child should be entitled to enforce law and judicial procedures in a child-friendly way, including remedies available to children when rights are violated (UNITED NATIONS 2011, paras 41).

In fact, in 28 countries children are entitled, by their own legal assistant to appeal, while in 12 the right to appeal should be exercised by their legal representative. In 6 countries, no right to appeal is granted, either to the child or to their parents.

By legal representative	By his/her own legal assistant /attorney	No right to appeal granted
Armenia	Argentina (by special assistant – asesor tutelar)	Angola (just prosecution can appeal)
Benin	Benin	Canada
Chile	Bolivia	Italy (but allowed to challenge some provisions)
Cyprus	Bosnia and Herzegovina	Jordan (the child can plead to the prosecution officer who will decide whether to appeal or not)
Dominican R.	Brazil	Netherlands
East-Timor	Cape Verde	South Africa (prosecution appeals)
England & Wales	China	
Hungary	Colombia	
Luxembourg	Croatia	
Malawi	Cyprus	
Mozambique	Czech R.	
Ukraine	Ecuador	
	Greece	
	Guinea	
	India	
	Iraq	
	Malta	
	Mauritius	

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	Mexico	
	Pakistan	
	Palestine	
	Puerto Rico	
	Slovenia	
	Sweden (at the age of 15 y.o.)	
	Switzerland (child with discernment)	
	Trinidad and Tobago	
	Uruguay	
	Yemen	

9. INTERVIEWING STRUCTURE AND PROCEDURE

The Guidelines on Justice in matters involving child victims and witnesses of crime recommends that professionals should implement “measures (a) To limit the number of interviews: special procedures for collection of evidence from child victims and witnesses should be implemented in order to reduce the number of interviews, statements, hearings and, specifically, unnecessary contact with the justice process, such as through use of video recording; (b) To ensure that child victims and witnesses are protected, if compatible with the legal system and with due respect for the rights of the defence, from being cross-examined by the alleged perpetrator: as necessary, child victims and witnesses should be interviewed and examined in court, out of sight of the alleged perpetrator, and separate courthouse waiting rooms and private interview areas should be provided; (c) To ensure that child victims and witnesses are questioned in a child-sensitive manner and allow for the exercise of supervision by judges, facilitate testimony and reduce potential intimidation, for example, by using testimonial aids or appointing psychological experts” (UNITED NATIONS 2005, paras 31).

Several of these aspects are addressed in the following questions.

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9.1. How often is a child usually heard in total (pre-trial and trial)? Does the law limit the total number of interviews/hearings conducted?

The Committee on the Rights of the Child emphasizes that a child should not be interviewed more often than necessary, in particular when harmful events are explored. The “hearing” of a child is a difficult process that can have a traumatic impact on the child (UNITED NATIONS 2009, paras 24).

The African Committee also recommends that multiple interviews should be avoided. Child testimony should be taken under condition of due process, outside the court room and be admissible as evidence in court (ACERWC 2021, p.30).

According to the Interamerican court on Human Rights *in case* V.R.P., V.P.C. y otros Vs. Nicaragua (2018. Serie C No. 350) if it is considered that the participation of the child or adolescent is necessary and can contribute to the collection of evidence, revictimization must be avoided at all times and will be limited to the proceedings and actions in which their participation is deemed strictly necessary and the presence and interaction of those with their aggressor in the proceedings ordered will be avoided (ICHR 2021, p. 127). For this reason, The Inter-American Institute on the Rights of the Child also recommends that States should apply a special procedure to avoid their revictimization. In the same line, the Santiago Guidelines for Latin American Prosecution Officers recommend that children’s hearing should be limited to a minimum premise of its exceptionality (article 22, §4, g) (AIAMP 2020, p. 32).

However, when asked about the frequency of hearing, only 17 countries informed that children are heard one time, most of them presenting the possibility of more hearings if deemed necessary.

Sixteen countries mentioned that children are heard twice.

In 6 countries children are heard three times and in 4 they may be heard more than three times.

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No clear information provided	One time	Twice	Three times	More than three times
Canada	Argentina (but the child may be heard more times if he/she wishes, as expression of his/her right to be heard)	Angola (at investigative phase and in court)	East-Timor (police, prosecution, judiciary)	Benin (normally 4 times: police officer, in presence of social worker and parents; judge)
South Africa	Brazil	Armenia (always by the same person, Barnahus model)	Guinea (police, youth court and court of appeal)	Ecuador (around 5 times)
	Cape Verde	Bolivia	India (police officer, child protection services and trial phase)	Iraq (no limits established)
	Chile	Bosnia and Herzegovina	Jordan (police, prosecution and court)	Uruguay (in court, just once)
	China	Colombia	Puerto Rico (declaration to initiate proceedings, pre-trial and trial)	
	Croatia	England & Wales (minimum, police and court)	Trinidad and Tobago (investigation, pre-trial and trial)	
	Cyprus (normally one, but testimony	Hungary (police and trial phase)		

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	might be necessary during trial)			
	Czech R.	Italy (in pre-trial, police and prosecutor; in trial, judge, but no legal limit)		
	Dominican R.	Mauritius (normally at the police, but may be heard in court. No clear regulation about limit of hearings)		
	Greece	Mexico (no clear limit, although the minimum should prevail, normally during investigation and trial)		
	Luxembourg	Mozambique (investigation and trial, although not legal limit, depending on the complexity of the case)		
	Malawi (in principle, by the police or one stop center, but the child may be heard in other phases, such	Pakistan		

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	as pre-trial and trial)			
	Malta (normally at the police or pre-trial, but, if needed, can be heard in court)	Sweden (for children over 12 y.o.)		
	Netherlands	Switzerland		
	Palestine (but, if needed, the court may hear the child again)	Ukraine (investigation and pre-trial)		
	Slovenia	Yemen (usually during pre-trial, by the police, prosecutor or social worker, and during trial. No legal limit imposed)		
	Sweden (for children under 12 y.o.)			

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

The Interamerican court on Human rights states that the interview must be carried out by a specialized psychologist or a professional from related disciplines duly trained in the taking of this type of statement (ICHR 2021, paras 168, p. 128).

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The European Directive 2012/29 prescribes as well that interviews with the victim should be carried out by or through professionals trained for that purpose; all interviews with the victim should be conducted by the same persons unless this is contrary to the good administration of justice and, unless conducted by a prosecutor or a judge, should be conducted by a person of the same sex as the victim, if the victim so wishes, provided that the course of the criminal proceedings will not be prejudiced (article 23).

Thirty-two countries informed that mandatory training is required for the professionals responsible for interviewing the children, while in 11 this is not required.

Mandatory training required	No mandatory training required	No specific information provided
Argentina	Angola	Pakistan
Benin (but implementation of training is not always granted)	Armenia (according to the law, it must be a psychologist. There is a proposal of legislative reform to require specific training)	
Bolivia (psychologist)	Canada	
Bosnia and Herzegovina	Cape Verde	
Brazil	East-Timor	
Chile	Ecuador	
China	Hungary (but training is attended)	
Colombia	Jordan (but professionals are trained)	
Croatia	Malta	
Cyprus	Mauritius	
Czech R.	Puerto Rico	
Dominican R.		
England & Wales		
Greece		
Guinea		

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India		
Iraq		
Italy		
Luxembourg		
Malawi		
Mexico		
Mozambique		
Netherlands		
Palestine		
Slovenia		
South Africa		
Sweden		
Switzerland		
Trinidad and Tobago		
Ukraine		
Uruguay (but in practice not very well trained)		
Yemen		

9.3. Is there 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?

As we have already mentioned when contextualizing the emergence of international legal standards on child victims, there have been historical disputes on how to deal with violence committed against children and the best ways to ascertain the facts.

Different models have been developed for assessing child sexual abuse with disputable evaluation on the certainty and reliability of its conclusions.

From a strict medical and clinical approach to parent-child interaction model, most used in mental health practice and in divorce cases, to a joint investigation model between child protection services and law enforcement agencies, or even a comprehensive



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assessment model (FALLER 2007), all encompassed a subjacent dispute on how to handle the cases, whether as a mental health or a criminal case (POOLE & LAMB 2007).

Child interview faced as well many disputes on the reliability of children's memory, based on studies on the development of attention, in conversational remembering, memory source monitoring and the understanding of truth and lies, all aspects affected by the time lapsed since the event and the exposure to misleading or suggestive information, including the way and the context the interview is developed (POOLE & LAMB 2007).

For this reason, various protocols have been developed to increase accuracy in child testimony, to provide transparency and safety concerning its outcomes, but also to assist professionals, providing guidance, when necessary, especially with difficult aspects of the interview, reducing anxiety and vulnerability for both professionals and children (FALLER 2007). Protocols are also evidence-based practice, subjected to continuous improvement and debate, with different models in use.

A cognitive interview approach is based on principles of memory and general cognition and also on principles of communication and social interaction, establishing a sequence for the interview, normally a five-staged structure: introduction, open-ender narration, probing stage, during which the interviewer guides the witness to exhaust the contents of memory, a review stage and closing (POOLE & LAMB 2007).

The most used protocol worldwide, translated in many languages, was developed by the National Institute of Child Health and Human Development (NICHD), giving children practice providing detailed accounts of experienced events before interviewers ask them about the issues under investigation (NICHD 2021). It also admonish the child to tell the truth and encourage her or him to correct the interviewer or say 'I don't know' when relevant (POOLE & LAMB 2007).

However, many other protocols are used worldwide, such as RATAC, which introduces anatomical dolls to allow the child to show and describe her or his victimization experiences (ANDERSON et al 2010); APSAC protocol, which includes

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presentation of physical evidence to the child (APSAC 2023); Sequential Interview model, which splits the interview in more than one session, specially with pre-school children (LANGBALLE & DAVIK 2017), the NCAC forensic interview structure (NCAC 2020), among others.

AIMJF guidelines recommend the adoption of interview protocols taking into account different stages of the child’s development (AIMJF 2017, 4.2.2. (2)a).

The research aimed to understand whether a protocol is used, which one and if some national experiences were developed.

Twenty-two countries mentioned the adoption of a protocol, but only 9 have specified which one is used. One country uses various instruments.

Eighteen countries do not have a specific protocol adopted.

Four countries have not answered the question.

Specific protocol adopted	No specific protocol adopted	Various instruments	No answer
Argentina (NICHD)	Angola	Bolivia (NICHD, cognitive interview, complementary strategies, such as drawings)	Czech R.
Armenia (NICHD - simplified version)	Benin		Iraq
Bosnia and Herzegovina (NICHD)	Canada		Malawi
Brazil (Brazilian version of NCAC, some other protocols used in some places)	Cape Verde		South Africa
Chile	China		
Colombia (+SATAC, MICHIGAN)	East-Timor		

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Croatia	Guinea		
Cyprus (protocol not specified)	Hungary		
Dominican R. (local rule on a protocol, apparently based on NICHHD, although no reference is made)	Jordan (the criminal procedural code is referred as a protocol)		
Ecuador (no reference to which protocol is adopted)	Malta		
England & Wales	Mauritius		
Greece (no specific information on which protocol is adopted)	Mexico (although the structure is according to NICHHD)		
India	Mozambique		
Italy	Pakistan		
Luxembourg	Palestine		
Netherlands	Ukraine		
Puerto Rico	Uruguay		
Slovenia (NICHHD)	Yemen		
Sweden (NICHHD)			
Switzerland (NICHHD)			
Trinidad and Tobago (based on NICHHD)			

9.4. Who is allowed to participate in the interview/hearing? Who is sitting in the same room as the child?

A protocol is not a tool per se, it is necessary to introduce and adapt its utilization in the legal framework, according to principles and practices of each system, which could be challenging in many places.

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The European Directive 2012/29 determines that State parties should adopt the following measures during court proceedings:

- “(a) interviews with the victim being carried out in premises designed or adapted for that purpose;
- (b) interviews with the victim being carried out by or through professionals trained for that purpose;
- (c) all interviews with the victim being conducted by the same persons, unless this is contrary to the good administration of justice;
- (d) all interviews with victims of sexual violence, gender-based violence or violence in close relationships, unless conducted by a prosecutor or a judge, being conducted by a person of the same sex as the victim, if the victim so wishes, provided that the course of the criminal proceedings will not be prejudiced.”

It also provides that the following measures should be available:

- “(a) measures to avoid visual contact between victims and offenders including during the giving of evidence, by appropriate means including the use of communication technology;
- (b) measures to ensure that the victim may be heard in the courtroom without being present, in particular through the use of appropriate communication technology;
- (c) measures to avoid unnecessary questioning concerning the victim's private life not related to the criminal offence; and
- (d) measures allowing a hearing to take place without the presence of the public” (EUROPEAN PARLIAMENT/COUNCIL 2012, article 23).

The Inter-American Court of Human Rights has also recommended separated interviews for children (ICHR 2021, paras 168).

The majority of the countries, 31, have adopted separate facilities for the child to be heard, while 15 countries still hear the child together with other professionals).

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Everyone in the same room	Children heard in a separate room
Angola	Argentina (Gessel)
Benin (with the presence of a social worker)	Armenia
Canada (during trial)	Bolivia
Cape Verde (during trial)	Bosnia and Herzegovina
East-Timor	Brazil
Ecuador (in investigative phase)	Chile
England & Wales (special measures allowed: giving evidence behind a screen or via video link, recording statement)	China
Guinea (child, parents, accused, legal professionals, social worker)	Colombia (gessel)
Iraq	Croatia
Malawi (police, social services and medical professionals at investigative phase. During pre-trial, with the magistrate as well)	Cyprus
Mozambique	Czech R.
Palestine	Dominican R. (Gessel)
Trinidad and Tobago (the child might be present in the courtroom, the alleged offender in a separate one)	Ecuador (Gessel Chamber In court)
Ukraine (Barnahus not yet fully implemented for hearing)	Greece (child house)
Yemen	Hungary (interviewed by investigative officer or the trial judge)
	India
	Italy (below the age of 14 y.o.)
	Jordan (in court, in case of need)
	Luxembourg
	Malta
	Mauritius (in court, via CCTV)

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	Mexico (video link and intervention of a psychologist)
	Netherlands
	Puerto Rico
	Slovenia (Barnahus)
	South Africa
	Sweden (Barnahus)
	Switzerland
	Trinidad and Tobago (the child might remain in a separate room)
	Ukraine (when Barnahus in place)
	Uruguay (Gessel)

9.4.1. In case of separate hearing, who is with the child?

In case of separate hearing, it is disputable whether the parents or any other person, except the interviewer, is allowed to be with the child. The child has the right to effective assistance and to be accompanied by a person of his or her choice, as we have seen in item 8.2.

In this research, in 16 countries the child is alone with the interviewer.

In 9, the legal representative is together with the child, while a team of professionals may also be present in three countries.

Only the child and the interviewer	+ legal representative	Team of professionals	No clear information
Argentina	Armenia	Cyprus (psychologist social worker, police officer)	Mauritius (the child is separate not to be exposed, via CCTV, but not clear if any

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			person is with him/her besides the parents)
Bolivia	Bolivia (exceptionally)	Czech R. (police officer + social and legal protection services)	Pakistan (video link in place, no specific information about who is with the child and in the other room)
Bosnia and Herzegovina	China	Puerto Rico (child with prosecution, defense attorney and management professionals)	
Brazil (a psychologist or social worker)	Croatia		
Chile	India (by the police officer or the magistrate during pre-trial phase and judge during trial) + legal representative		
Colombia (in investigative phase; In court, with the child's legal assistant)	Malta		
Dominican R.	Mexico		
Ecuador	Slovenia		
Greece	Switzerland		
Hungary (the court, the prosecution and the investigating authority, with the assistance of a forensic psychologist)	Uruguay		
Italy			

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Luxembourg			
Netherlands (exceptionally a support person can be present)			
South Africa			
Sweden (a police officer)			
Trinidad and Tobago (when the child is in a separate room, with an intermediary)			

9.4.2. Who is sitting in another room, if anybody?

If the child is separate in another room to be interviewed, the research aimed to understand if someone is following the interview and who this person is.

In 10 countries, besides legal professionals, the defendant is also present during the hearing.

In 8 countries just legal professionals were mentioned.

In 7 countries other professionals usually accompany the interview also.

in 2, police officer accompanies the interview.

In 1 country, no one follows the interview.

Legal professionals (judge, prosecutor, defense attorney)	Legal and other professionals, parents	Legal professionals and defendant	Police officer	No other person
Brazil	Argentina (experts appointed by the parties) +parents	Bosnia and Herzegovina	Armenia	Luxembourg (just the interviewer)
Colombia	Bolivia (social worker	Canada	Netherlands (reporting officer	

	exceptionally) + parents		and behavioral scientist)	
Cyprus (+parents)	England & Wales	Chile		
India (defense attorney)	Greece (prosecution, experts)	Croatia		
Italy	Iraq	Dominican R (+parents)		
Mexico (prosecution, magistrate)	Sweden (+ representative of health care)	Ecuador (+parents)		
Puerto Rico (judge, jury, defendant and public)	Switzerland (child expert and defence attorney)	Jordan (in court, during trial)		
Trinidad and Tobago (defendant can be allocated in a separate room)		Malta (when heard in court)		
Uruguay		Mauritius (when heard in court)		
		Slovenia		
		South Africa		

9.5. Who is addressing the child victim/witness: only the interviewer? Is 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?

The Guidelines on Justice in matters involving child victims and witnesses of crime recommend that professionals should “ensure that child victims and witnesses are

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protected, if compatible with the legal system and with due respect for the rights of the defence, from being cross-examined by the alleged perpetrator: as necessary, child victims and witnesses should be interviewed, and examined in court, out of sight of the alleged perpetrator, and separate courthouse waiting rooms and private interview areas should be provided; to ensure that child victims and witnesses are questioned in a child-sensitive manner and allow for the exercise of supervision by judges, facilitate testimony and reduce potential intimidation, for example by using testimonial aids or appointing psychological experts” (UNITED NATIONS 2005, article 31).

The Interamerican court on Human Rights *in case* V.R.P., V.P.C. y otros Vs. Nicaragua (2018. Serie C No. 350) also recommended that the interview must be carried out by a specialized psychologist or a professional from related disciplines duly trained in the taking of this type of statement, highlighting that several countries have adopted, as a good practice, the use of special devices such as the Gesell camera or closed circuit television (CCTV) that enable the authorities and the parties to follow the development of the child's or adolescent's statement from the outside, in order to minimize any revictimizing effect. (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Paraguay, Peru, and Uruguay). It is recommended that the statements of the child and adolescent victims be videotaped so as not to repeat the act. They) prevent the revictimization of the child or adolescent victim and the deterioration of evidence, but also guarantee the right of defense of the accused (ICHR 2021, paras 168).

According to the participants in this research, in 28 countries the judicial system is involved in the hearing. In 8 it remains in the investigative phase, restricted to police officers or prosecution), and in 8 there is no involvement of other professionals except those directly concerned with the interview either the police officer or the judge.

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Only the interviewer with no involvement of other professionals	Involvement of the investigator/prosecution	Involvement of judicial system + legal professionals
Angola (the police officer or the judge)	Armenia (before the interview, the investigator formulates and agrees with the psychologist about the questions to be asked to the minor. The investigator has the right to remove the questions or not to accept the proposals presented, but they must be included in the record. Changes proposed in a legislative amend)	Argentina (only the interviewer makes the questions, participation of legal professionals through ear hearing)
Benin (the police officer or the judge)	Bolivia (at investigative phase)	Bolivia (during trial)
Cape Verde (the prosecution or the judge)	England & Wales (at investigative phase)	Bosnia and Herzegovina
China (cross-examination not allowed)	Greece (prosecution)	Brazil
Colombia (in investigative phase)	Italy (during pre-trial)	Canada (lawyers)
Czech R.	Netherlands (involvement of the reporting officer)	Chile
Hungary (the court, the prosecution and the investigating authority, with the assistance of a forensic psychologist. Limited questions allowed)	Palestine (prosecution)	Colombia
Luxembourg (police officer)	Switzerland (only the interviewer asks the child, other participants intervene through communication tools)	Croatia

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		Cyprus
		Dominican R.
		Ecuador
		England & Wales (in court)
		Guinea
		India (the judge asks the questions, but receive those from defense attorney)
		Italy (during trial)
		Jordan (the judge asks the questions to the child)
		Malawi (cross-examination allowed)
		Malta (cross-examination allowed, without contact with the offender, the child remaining in a separate room)
		Mauritius (cross-examination allowed, without contact with the offender, the child remaining in a separate room)
		Mexico
		Mozambique (prosecution officer or judge hears the child)
		Puerto Rico (child is separated from defendant and public, remains with prosecution and defense attorney)
		Slovenia (in the other room, judge, prosecutor, defense attorney, defendant, police)

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		South Africa (cross-examination allowed through intermediate person)
		Sweden (questions discussed beforehand, cross-examination allowed. Children over 12 y.o. in trial)
		Trinidad and Tobago
		Ukraine
		Uruguay

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

The introduction of protocols and intermediaries poses challenges regarding the interaction with the justice system.

Protocols usually list questions that should not be considered acceptable, specially in cases of sexual abuse, such as “What did you feel when he/she did the act? Did you like what he did? Why didn't you seek help? If he did this to you, why did you look for him again? Why didn't you tell before? Why are you telling it now? Why do you think he did that to you?” (INTEBI 2008)

If judges are normally responsible for controlling the acceptability of questions and if the protocol aims to avoid traumatizing questions, but is no longer close to the child, due to the intermediation, there is a shared responsibility, both technical and legal, on avoiding institutional violence.

In 18 countries, the interviewer is not allowed to remove questions raised by others, while in 7 it is possible that the interviewer does not ask questions raised by others.

In 12 it is not applicable, because the judge asks directly the questions to the child.

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The interviewer is allowed not to ask questions raised by others	The interviewer is not allowed to remove questions raised by others	Not applicable
Argentina (not to repeat questions already answered)	Armenia	Angola (the judge asks directly the questions)
Croatia	Bolivia (interviewer allowed not to ask question at judicial discretion)	Benin (the judge asks the questions)
Cyprus	Bosnia and Herzegovina	Cape Verde (the judge asks the child and is entitled not to ask questions that could harm the child)
Ecuador (if intimidating)	Brazil (but institutional violence is recognized by law and should be avoided by every stakeholder)	China (the interviewer asks with no other person assisting)
England & Wales (depending on the question)	Canada	Czech R.(interview conducted by police officer)
Hungary	Chile (in investigative phase, no external interference; during trial, the interviewer can refuse questions attempting against the dignity of the child, raising the question to the judge, who will deliberate)	Guinea (hearing in court, judge might restrict questions already made or improper for children)
Sweden (to the police officer, but defence attorney can complain to the court)	Colombia	Iraq (the judge is the interviewer, who can reject questions raised by other participants)
	Dominican R.	Jordan (the judge is the interviewer, who can reject questions raised by other participants)
	Greece	Luxembourg (child heard by the police)

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	India (the magistrate or judge poses the questions and decides which are allowed or not. Children in a separate room)	Mozambique (the judge is the interviewer)
	Mauritius (the magistrate or judge poses the questions and decides which are allowed or not. Children in a separate room)	Palestine (the child is either interviewed by prosecution officer or in court)
	Mexico	Yemen (in court, by the judge)
	Slovenia (but can make considerations about inadequacy to the court)	
	South Africa	
	Sweden (questions are discussed beforehand)	
	Switzerland	
	Trinidad and Tobago	
	Uruguay	

The Guidelines on Justice in matters involving child as victim or witness of crime recommends that professionals should ensure that child victims and witnesses are questioned in a child-sensitive manner (UNITED NATIONS 2005, article 31,c).

Therefore, it is important to understand whether questions raised by any professional should be transmitted to children literally or if it would be possible to rephrase them in a child-sensitive manner.

Except in two countries where the interviewer asks directly the questions to the child and in three where rephrase is not allowed, all other countries informed that this is a possibility in their practice to adapt the interview to the child’s level of understanding.

Rephrase allowed	Rephrase not allowed	Not applicable (the interviewer asks directly the questions)
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Argentina	Armenia (deliberation about the questions previously)	Angola (the judge)
Benin	Canada	Luxembourg (the police officer)
Bolivia	Ecuador	
Bosnia and Herzegovina		
Brazil		
Chile		
China		
Colombia		
Croatia		
Cyprus		
Czech R.		
Dominican R.		
England & Wales		
Greece		
Guinea		
Hungary		
India		
Jordan (the judge can rephrase the questions made by the parties and asks the child)		
Malta		
Mauritius (the police officer, regarding questions made by the parents; or the judge in court)		
Mexico		
Mozambique (the judge is the interviewer)		
Palestine (by the judge, in court, when heard)		
Slovenia		
South Africa		

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Sweden		
Switzerland		
Trinidad and Tobago		
Ukraine		
Uruguay		

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

The Guidelines on Justice in matters involving child as victim or witness of crime recommends that professionals; in order to reduce the number of interviews, statements, hearings of the child and, specifically, unnecessary contact with the justice process, should use video recording (UNITED NATIONS 2005, article 31,a).

The European Directive 2012/29 states in its article 24 that in criminal investigations, all interviews with the child victim may be audio-visually recorded and such recorded interviews may be used as evidence in criminal proceedings.

The African Committee also emphasizes the importance of video-recorded testimonies (ACERWC 2023, p. 29) and the Guidelines for Action for Children in the justice system in Africa §64, (h) Video-recorded pre-trial interviews with child witnesses should be presented in lieu of live testimony where resources and facilities permit; the development of such facilities should be encouraged.

The same recommendation is made by the Inter-American Court of Human Rights (ICHR 2021, paras 168). AIMJF guidelines also have recommendations in the same line (AIMJF 2017, 4.2.2.(2)h) .

The purpose of video-recording is various: to register non-verbal communication of the child (JONES, 2004, p. 53 et seq.), which is also a way of granting participation, according to the Committee on the Rights of the Child (UNITED NATIONS 2009, paras

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21). It may also grant more accuracy of the evidence and allow a permanent register of the testimony.

In 32 countries, child testimony is audio and video-recorded, while in 9 it is not.

Interviews audio and video recorded	Interviews not audio and video recorded
Argentina	Angola
Bolivia	Armenia (exceptionally, in case of need to ensure the safety of the person or to protect the legal interests of a minor victim or witness, and this is required by the interest of justice, investigative action can be performed using technical means of video communication)
Bosnia and Herzegovina	Benin
Brazil	Iraq (considered an offense against the child)
Cape Verde	Mozambique
Chile	Pakistan
China	South Africa
Colombia	Ukraine (not always)
Croatia	Yemen
Cyprus	
Czech R.	
Dominican R.	
Ecuador	
England & Wales	
Greece	
Guinea	
Hungary	
India	
Italy	

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Jordan (the child is in a separate room to be protected and the image is transmitted to the courtroom, but not recorded)	
Luxembourg	
Malawi (in one specific court)	
Malta	
Mauritius (but also transcribed)	
Mexico	
Netherlands	
Palestine	
Slovenia	
Sweden	
Switzerland	
Trinidad and Tobago	
Uruguay	

9.7.1. 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)?

In item 8.4, above, we have already seen the international legal standards on the right of the child to privacy and how his or her identity is preserved in the judicial system.

Another aspect of this protection is related to audio and video-recording, where the image of the child is registered. Therefore, it is important to understand how the rights of the child and the right of the alleged offender to have access to all evidence are balanced.

The answers were divided in two aspects.

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First, whether the recording is accepted as evidence in court. In 29 countries the answer was affirmative, while in 4 it is not accepted, and in 7 it is not applicable, as no recording is made.

Recording not accepted as evidence in court	Recording accepted as evidence in court	Non applicable
Armenia	Argentina (child heard in a separate room)	Angola (Recording not in practice)
Benin	Bolivia (for expert analysis)	Iraq (Recording not in practice)
Jordan	Bosnia and Herzegovina	Mozambique (Recording not in practice)
Pakistan	Brazil	Palestine (no regulation)
	Cape Verde (recording done during trial, valid for appeal)	South Africa
	Chile	Ukraine
	Colombia	Yemen
	Croatia	
	Cyprus	
	Czech R.	
	Dominican R.	
	Ecuador	
	England & Wales	
	Greece	
	Guinea (but there is a lack of equipment)	
	Hungary	
	India	
	Italy	
	Luxembourg	
	Malawi (when applicable)	
	Malta	

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	Mauritius (but the parties may request complementary hearing)	
	Mexico	
	Netherlands (but not shown in court)	
	Slovenia	
	Sweden (specially for children under 12 y.o.)	
	Switzerland	
	Trinidad and Tobago	
	Uruguay	

The second aspect is about the protections themselves.

With limited responses, in 12 countries distortion of image and voice are allowed, if needed, while in 4 this is not permitted.

Distortion of image/voice allowed, if needed	Distortion of image/voice not allowed	No specific information provided/non applicable
Bosnia and Herzegovina	Canada	Sweden (no anonymous witness or victims)
Brazil	Colombia	Yemen (no recording)
China	England & Wales	
Cyprus	Greece	
Dominican R. (image always distorted)		
Guinea (if equipment available)		Czech R.
Hungary		Ecuador (children heard in Gessel chamber)
India		Mauritius (children heard in a separate room)
Malawi		Palestine
Mexico		South Africa

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Switzerland		
Trinidad and Tobago		

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

If the system is based on the preservation of the child, avoiding multiple hearings, and using audio and video-recorded interviews to excuse him or her to be heard in court, it is necessary not only to have good and reliable equipment, but also, on one hand, regulations to balance the right of the child to protection against the hardship of the procedure and, on the other hand, the right of the alleged offender to a fair trial and to due process, which is also a fundamental principle of justice itself.

Nine countries have not provided specific information on this subject, either by saying that everything is made to grant quality (mainly the adoption of safety protocols) or by explaining that the record is of good quality, exempting the question.

However, failures are inherent to any human activity, even involving technical equipment and procedure, and it is important to have strategies and legal responses on what to do in this situation.

In 7 countries alternative parallel methods are adopted, mainly transcription of the interview.

In one country, the interest of the child prevails, forbidding a new interview.

In 8 countries, a new hearing is organized, although many countries mentioned that the particularities of the child are considered and it is analyzed whether the measure is really necessary.

No specific information	Interviews are not recorded	Alternative evidence methods adopted	Renewal of the hearing	New interview is forbidden
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provided//non applicable				
Argentina (everything is made not to repeat the testimony)	Angola	Bosnia and Herzegovina (many copies made, transcription)	Brazil (taking into consideration the child's particularities)	Chile
Armenia	Benin	Cape Verde (transcription)	Croatia	
Bolivia	Guinea (no equipment available)	China (transcription)	Cyprus (if necessary)	
Colombia	Pakistan	Cyprus (transcription of notes)	Greece	
Czech R.		England & Wales (written record provided alongside)	Malawi (if the child is comfortable with this measure)	
Dominican R.	South Africa (no recording)	India (transcription +backup systems)	Malta	
Ecuador	Yemen	Mauritius (interviews are recorded and transcribed)	Switzerland	
Hungary (quality is excellent, no information about failure)			Trinidad and Tobago	
Mexico (record of good quality)				
Palestine				

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9.9. 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?

Child testimony is one expression of the many possibilities of child participation, more than that, it is an expression of a possibility to have access to justice.

Therefore, according to the Inter-American Court of Human Rights, if the participation of child victims of crime in criminal proceedings may be necessary to contribute to the effective conduct of the criminal proceedings, especially when there are no other witnesses to the commission of the crime, such participation should not be considered only in terms of the evidence that it can provide. This approach does not respond to its status as a right holder, since it should be entitled to act in its own interest as a participant in the process. To this end, it is necessary that the child or adolescent be provided, from the beginning of the process and throughout the course of the process, with information regarding his or her procedure, as well as about the legal assistance, health and other protection measures available. (ICHR 2021, para 160).

In a certain measure, the same lesson is expressed by the European Court of Human Rights in case R.B v. Estonia when analyzing the failure to advise the child about the duty to tell the truth and about her right not to testify (ECHR 2021).

What are the limits of control by the child on what he or she is testifying? Can it be reviewed?

According to the research, in 20 countries children are allowed to review statements, specially when they are written.

In 11 countries they are not allowed to review, because statements are audio and video-recorded, while in 1 it is expressly forbidden to review it. In addition, in 6 there is no clear regulation.

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Child allowed to review statements	Child not allowed to review statements	Statements audio/video-recorded (no correction allowed)	No clear regulation/ No specific information
Bosnia and Herzegovina	Iraq	Argentina	Armenia
Canada		Brazil	Benin
Cape Verde		Chile	Bolivia
China (the child must sign the statement)		Colombia	Czech R.
Cyprus (if not video-recorded, as it usually is)		Croatia	Netherlands
England & Wales		Dominican R.	South Africa (if prosecution deems necessary)
Greece (but not informed about it regularly)		Ecuador	
Guinea		Mexico (recorded, no specific information about getting a copy)	
Hungary		Slovenia	
India (but no clear regulation)		Trinidad and Tobago	
Luxembourg		Uruguay	
Malawi			
Mauritius (reviewed, but not corrected)			
Mozambique			
Pakistan			
Palestine			

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Switzerland (in case of written statements)			
Trinidad and Tobago (in case of written statements)			
Ukraine (in case of written statements)			
Yemen (written statements)			

In addition, the research focused on the rights of legal representatives or parents, mainly whether they are allowed or not to get a copy of the child’s statements.

The research has already shown how it is disputable whether the parents are allowed or not to accompany the child during the interview, with a prevalence of permission to do it.

Eighteen countries allow the child or the representative to get a copy of the child’s statements, while in 3 they are not allowed to get it, and in one it is available in the digital file of the procedure.

Child/Representative allowed to get a copy	Child/Representative not allowed to get a copy	Copy available in digital procedure	No regulation/non applicable
Angola (through representantives and dependent on judicial approval)	Canada	Brazil	Benin
Armenia	Switzerland (copies only shared with the lawyer)		
Bolivia	Uruguay		
Cyprus			
England & Wales			
Greece			

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Guinea			
Hungary			
India			
Iraq			
Luxembourg			
Malawi			
Mauritius (just in trial)			
Mozambique			
Pakistan			
Trinidad and Tobago (in case of written statement)			
Ukraine			
Yemen			

9.10. 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?

According to the Committee on the Rights of the Child, the right of the child victim and witness is also linked to the right to be informed about issues such as the ways in which “questioning” is conducted (UNITED NATIONS 2009, paras 64).

Special procedures are developed to provide better conditions of safety and assistance to children. The question is whether this procedure is mandatory or could the child opt for traditional hearing.

In 10 countries the special procedure is mandatory, while in 7 it is the rule, but special measures may be adopted under a child’s request, if he or she wants to testify in a traditional manner.

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Special procedure is not mandatory	Special procedure is mandatory	Special procedure is the rule, but special measures may be adopted under a child's request	No special procedure in place
Armenia	Bosnia and Herzegovina	Argentina	Angola
Benin	Chile	Bolivia	Iraq
Dominican R. (the child may choose either to be heard in presence or virtually)	China	Brazil (the child can request to be heard directly by the judge)	Mozambique
India (but the child should be heard in a sensitive manner)	Colombia	Croatia	Yemen (but parents accompany)
Malawi	Cyprus	Ecuador	
Pakistan	Greece	England & Wales	
Slovenia	Hungary	Guinea	
	Luxembourg		
	Sweden		
	Switzerland		

Five countries also informed what kind of adaptation is adopted in case the child chooses to be heard as any other victim/witness.

Adaptations in place if the child chooses to be heard as any other victim/witness	Adaptations not adopted if the child chooses to be heard as any other victim/witness	No clear regulation/ new regime in construction
Brazil (right to be heard by the Judge, who should observe the protocol)		Armenia

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Cyprus (having a support person, simplified language, allowing breaks)		Benin
India		
Malawi (screens, support person, breaks)		
Pakistan		

10. OFFENDER’S RIGHT DURING OR AFTER THE INTERVIEW

The implementation of special procedures, with interview structure and protocol, may challenge traditional conceptions on due process and the ways the rights of the defense are exercised. The Guidelines on Justice in matters involving child as victim or witness of crime recommend—that professionals highlight this challenging balance in its article 31,(b), when recommending professionals to ensure that child victims and witnesses are protected, if compatible with the legal system and **with due respect for the rights of the defence**, from being cross-examined by the alleged perpetrator: as necessary, child victims and witnesses should be interviewed, and examined in court, out of sight of the alleged perpetrator, and separate courthouse waiting rooms and private interview areas should be provided (UNITED NATIONS 2005).

The Committee on the rights of the child also emphasizes that “at all times and in all cases, due process must be respected”, while at the same time the protection and the further development of the child and his or her best interests (and the best interests of other children where there is a risk of a perpetrator reoffending) must form the primary purpose of decision-making, with regard given to the least intrusive intervention as warranted by the circumstances (UNITED NATIONS 2011, paras 54).

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

As acknowledged by the Inter-American Court of Human Rights, in many cases involving violence against children, especially in cases of sexual abuse, child testimony may be the only direct evidence of the offense, which makes it extremely important for the defense to be able to participate of this moment (ICHR 2021, paras 160). That is why the Guidelines on Justice in matters involving child as victim or witness of crime recommend that child victims and witnesses should be interviewed, and examined in court, out of sight of the alleged perpetrator, and separate courthouse waiting rooms and private interview areas should be provided (UNITED NATIONS 2005, article 31,b). In the same line, the African Committee proscribes the possibility of the victim being confronted with the alleged offender and communication technology should be employed to enable child victims to be heard during the trial without being present in the courtroom (ACERWC 2020b), as much as the Guidelines for Action for Children in the justice system in Africa: defendants should be prevented from personally cross-examining child witnesses; (AFRICAN CHILD FORUM 2011, paras 64, I).

In 24 countries the alleged offender is allowed to participate, while in 6 countries, they allow dependent on certain circumstances, especially if there is no request of the child to exclude them, because they feel unease or intimidated.

In 15 countries the alleged offender is not allowed to participate.

Alleged offender is allowed to participate	Alleged offender is not allowed to participate	Alleged offender's participation dependent on certain conditions

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Angola	Armenia	Argentina (if the child does not expressly request not to participate; defender is always present)
Benin (during trial. If the child does not want to be in the same place, a virtual hearing might be organized)	China	Brazil (always in another room, if his/her presence would not affect the child)
Bolivia	Colombia	Chile
Bosnia and Herzegovina (no direct communication with the child, but mandatory participation during trial)	Cyprus	Guinea (the child may request absence)
Canada (during trial, not in investigative phase)	Czech R.	Mexico (if the child is heard during investigation phase, no participation is allowed)
Cape Verde (except if this could cause harm to the child)	East-Timor (during investigation)	Trinidad and Tobago
Croatia	England & Wales (during interview at the police, but allowed in court)	
Dominican R.	Greece	
East-Timor (during trial)	Hungary (but offender may plead for a child testimony in court, exceptionally)	
Ecuador	India	
Iraq	Luxembourg (the child is heard at the police, no participation of suspect person or attorney)	
Italy	Mozambique	
Jordan (in court)	Netherlands (hearings occur during investigation, with no participation of the defendant.	

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	Additional questions may occur in court, child heard in the same room of the first hearing, at the police)	
Malawi	Sweden	
Malta (not in the same room)	Switzerland	
Mauritius		
Pakistan (during trial)		
Palestine (during trial, the child staying in another room)		
Puerto Rico		
Slovenia		
South Africa (from a separate room)		
Ukraine		
Uruguay (behind Gessel chamber)		
Yemen		

Concerning the participation of defense attorney, they are allowed to participate in 34 countries, but mainly when the child is heard in court, not in previous phases of the procedure. In 2 countries, defense attorneys are allowed to participate under certain conditions, while in 6 countries they are not allowed to participate.

Defense attorney allowed to participate	Defense attorney not allowed to participate	Defense attorney allowed to participate under certain conditions
Angola	Canada (during investigative phase)	Cyprus (not to question, just to ensure that hearing's legal standards were observed)
Argentina	China	Mexico (only if the child is heard during trial)

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Armenia	Czech R. (normally heard by police officer at investigation phase)	
Bosnia and Herzegovina	Hungary (as a regular base, limited questions allowed)	
Brazil	India	
Cape Verde	Luxembourg	
Chile (during trial)		
Colombia		
Croatia		
Dominican R. (not mandatory, especially in case of undue procrastination)		
East-Timor		
Ecuador		
England & Wales (only in court)		
Greece (not mandatory)		
Guinea		
Iraq		
Italy		
Jordan		
Malawi		
Malta		
Mauritius		
Mozambique		
Netherlands (in case of additional questions, in court, child in a separate room, at the police, the same as used before)		
Pakistan (during trial)		
Palestine (during trial)		
Puerto Rico		

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Slovenia (from a separate room)		
South Africa (child heard through an intermediary)		
Sweden (from another room)		
Switzerland (from another room)		
Trinidad and Tobago (during trial)		
Ukraine		
Uruguay		
Yemen		

10.2. 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?

In cases where the child is heard at investigative phase or those in which the child is heard in a protective manner, besides being present, defense attorney should have the right to raise questions to the child through the intermediate. In 32 countries this professional is allowed to question the child, in 5 they are allowed under certain circumstances and in 2 not allowed to participate.

Defense attorney allowed to make questions	Alleged offender is allowed to make questions to the child under certain conditions	Defense attorney not allowed to participate
Angola	Armenia (after coordination with the psychologist, without direct communication with the minor)	China

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Argentina	Czech R. (normally the child is heard by police officer, presence of defense attorney is not mandatory)	Cyprus (just to ensure observation of legal standards, not to question)
Benin	Hungary (normally the child is heard by police officer or trial judge, presence of defense attorney is not mandatory)	
Bolivia	India (during trial, cross-examining the child directly or through the judge)	
Bosnia and Herzegovina	Luxembourg (the child is heard by the police officer; if needed, child can be heard in court by the judge, suspect and attorney present)	
Brazil		
Canada (during trial)		
Cape Verde		
Chile		
Colombia		
Croatia		
Dominican R.		
Ecuador		
England & Wales (only in court)		
Greece (complementary questions can be raised and the child is heard in his/her residence)		
Iraq		
Malawi		
Malta		
Mauritius		

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Mozambique		
Netherlands (in additional and exceptional hearing, in court, the child at the police station)		
Pakistan (during trial)		
Palestine (during trial)		
Puerto Rico		
Slovenia		
South Africa		
Sweden		
Switzerland		
Trinidad and Tobago (during trial)		
Ukraine		
Uruguay		
Yemen		

11. **PARALLEL PROCEEDINGS – COORDINATION**

The Committee on the rights of the child acknowledges that judicial involvement in cases involving violence against children may consist of the following:

- “(a) Differentiated and mediated responses such as family group conferencing, alternative dispute-resolution mechanisms, restorative justice and kith and kin agreements (where processes are human-rights respecting, accountable and managed by trained facilitators);
- (b) Juvenile or family court intervention leading to a specific measure of child protection;
- (c) Criminal law procedures, which must be strictly applied in order to abolish the widespread practice of de jure or de facto impunity, in particular of State actors;

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(d) Disciplinary or administrative proceedings against professionals for neglectful or inappropriate behaviour in dealing with suspected cases of child maltreatment (either internal proceedings in the context of professional bodies for breaches of codes of ethics or standards of care, or external proceedings);

(e) Judicial orders to ensure compensation and rehabilitation for children who have suffered from violence in its various forms” (UNITED NATIONS 2011, paras 55).

Child-protection procedures, as much as those related to custody or divorce, may proceed in parallel, with the different paces and risk of conflicting measures.

More than that, children may be heard in any of these proceedings, exposing them to the possibility of victimization.

Therefore it is important to understand the coordination measures adopted by the Justice System to provide a more coherent and comprehensive response to violence.

This coordination procedure should involve as well the nature of the interventions.

Still according to the Committee on the Rights of the Child, “the decision to separate a child from his or her parent(s) or family environment must be made only when it is in the child’s best interests (art. 9 and art. 20, para. 1). However, in cases of violence where perpetrators are primary caregivers, within the child’s rights safeguards listed above, and depending on the severity and other factors, intervention measures focusing on social and educational treatment and a restorative approach are often preferable to a purely punitive judicial involvement. Effective remedies should be available, including compensation to victims and access to redress mechanisms and appeal or independent complaint mechanisms. (UNITED NATIONS 2011, paras 56)

11.1. 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?

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In 14 countries, in case of existing various parallel proceedings, the priority to hear the child remains with the criminal court, mainly because the rules of evidence are stricter and the impact of the judicial provision is normally more severe.

In 5 countries, the priority is of child protection or family procedures and the justification for this decision is twofold: on the one hand, the emphasis in any case is the protection of the child, as already stated by the Committee on the Rights of the Child (UNITED NATIONS 2011, paras 54). On the other hand, child protection procedures usually are speedier than the criminal ones.

One country informed that there is no priority, but a duty to cooperate to all courts.

However, the majority of the countries explained that there is no clear regulation on the subject (16 countries).

Priority of Criminal procedure	Priority of protection/family procedure	Independent tracks for each procedure, with parallel hearings	No clear regulation	Duty to cooperate
Armenia	England & Wales (priority of youth court proceedings)	Benin	Angola	Sweden
Brazil (presumed priority)	India (Juvenile justice board and child welfare committee are key authorities to conduct inquiries and proceedings involving children)		Argentina	

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Canada (police investigation)	Trinidad and Tobago (priority is the safety and protection of the child)		Bolivia	
Chile (special testimony only in criminal matters)	Uruguay (because it is faster)		Bosnia and Herzegovina	
Colombia	Yemen		China	
Croatia			Cyprus (dependent on judicial discretion)	
Czech R.			East-Timor	
Hungary			Ecuador	
Italy			Greece	
Jordan			Guinea	
Luxembourg (same professionals, hearing by police officer)			Mexico	
Netherlands			Mozambique	
Slovenia			Pakistan	
Switzerland			Palestine (coordination in place)	
			South Africa	
			Ukraine	

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

According to FRA’s research on perspectives and experiences of children with the justice system, one in six children was involved in both civil and criminal proceedings and one third of the children interviewed were involved in multiple proceedings. Most

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cases involved serious crimes, followed by custody conflicts, alternative family or residential care and other crimes (FRA 2017, p. 12).

Therefore, it is important to understand what kind of coordination procedure is implemented in each country to avoid overlapping initiatives.

In 17 countries, there is no coordination procedure, while this procedure, usually based in case management, is defined in 16 countries.

In the remaining 7 respondents, some experiences and practices have been developed, depending on the circumstances.

Coordination defined	Coordination not defined	Some experiences/practices, depending on the circumstances
Bosnia and Herzegovina (concerning reparation)	Angola	Brazil
China	Argentina	Cyprus (case management conferences, centralized databases or systems, joint hearings or collaborative sessions)
Czech R. (family/civil courts are not allowed to hear, but can order cautionary measures)	Armenia	England & Wales (case management)
India	Benin (except rogatory letter)	Hungary (no regulation, but it occurs in practice)
Jordan	Bolivia	Italy
Luxembourg (prosecution office is the same for both issues, criminal and protection)	Canada	Switzerland (no legal framework)
Malawi	Chile (under construction)	Ukraine (Barnahus in implementation phase)

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Malta (court decrees may be shared)	Colombia	
Mauritius	Croatia	
Netherlands	Ecuador (there are some protocols, but not properly observed)	
Pakistan	Greece	
Palestine	Guinea	
Puerto Rico	Iraq	
Slovenia	Mexico	
Sweden	Mozambique	
Trinidad and Tobago	South Africa	
	Uruguay	

11.3. 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 and with whom)?

Focusing on the child hearing, as a possibly traumatic experience by children, the research tried to understand the adopted measures to minimize the impact on the victims of an eventual lack of coordination.

In 20 countries, the interview may be shared with other courts, while in 4 other countries further child interview is not allowed.

Meanwhile, in 11 countries the child may be heard again, by another court. Six countries have presented some special situations.

Child might be heard by another court	Further child interview not allowed	Interviews may be shared	others
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Angola	Armenia (child can be heard just once, maximum twice)	Angola	Bolivia (complementary interview possible, but without repeating questions already answered)
Benin	Bosnia and Herzegovina	Argentina (no clear regulation on who should share it)	Colombia
Cape Verde	Czech R.	Brazil	Croatia (interview cannot be shared, just the decision of the criminal court)
Chile (in reserved interviews)	Luxembourg (prosecution office grants information sharing)	China	Malta (interviews cannot be shared)
East-Timor		Cyprus (with consent of interested parties and judicial coordination)	Mauritius (interviews are confidential, cannot be shared)
England & Wales		Dominican R.	Switzerland (no federal legal framework)
Pakistan		Ecuador	
Puerto Rico		Greece	
South Africa		Guinea	
Sweden		Hungary	
Ukraine		India	
		Italy	
		Malawi (with the consent of parties)	
		Mozambique	
		Netherlands	
		Slovenia	

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		Switzerland (in some cantons)	
		Trinidad and Tobago	
		Uruguay (but if the first hearing was not in a criminal procedure, usually the child is heard once again to grant a fair trial)	
		Yemen	

12. TRAINING

The Committee on the Rights of the Child recommends that, in order to fulfil their obligations, “States parties should adopt, among other, the strategy to provide training on article 12, and its application in practice, for all professionals working with, and for, children, including lawyers, judges, police, social workers, community workers, psychologists, caregivers, residential and prison officers, teachers at all levels of the educational system, medical doctors, nurses and other health professionals, civil servants and public officials, asylum officers and traditional leaders. The Committee emphasizes that training is a condition for the implementation of the right to be heard, for example, with skills in listening, working jointly with children and engaging children effectively in accordance with their evolving capacities. The Committee also remembers that children themselves can be involved as trainers and facilitators on how to promote effective participation; they require capacity-building to strengthen their skills in, for example, effective participation awareness of their rights, and training in organizing

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meetings, raising funds, dealing with the media, public speaking and advocacy” (UNITED NATIONS 2009, paras 49 and 134, g).

European Directive 2012/29 article 25, also states that “1. Member States shall ensure that officials likely to come into contact with victims, such as police officers and court staff, receive both general and specialist training to a level appropriate to their contact with victims to increase their awareness of the needs of victims and to enable them to deal with victims in an impartial, respectful and professional manner. 2. Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall request that those responsible for the training of judges and prosecutors involved in criminal proceedings make available both general and specialist training to increase the awareness of judges and prosecutors of the needs of victims. 3. With due respect for the independence of the legal profession, Member States shall recommend that those responsible for the training of lawyers make available both general and specialist training to increase the awareness of lawyers of the needs of victims” (EUROPEAN PARLIAMENT/COUNCIL 2012).

The African Committee emphasizes as well that all persons having contact with children in the criminal justice system should receive education and training in human rights and in gender responsive and child -sensitive approaches to criminal justice (ACERWC 2023, p. 30).

12.1. Are judges and magistrates trained to deal with child victims?

The African Committee recommends that law enforcement bodies be educated on interviewing child victims and on investigating and prosecuting these types of crimes (ACERWC 2021, p. 45).

The European Directive 2012/29 also states that Member States shall ensure that officials likely to come into contact with victims, such as police officers and court staff, receive both general and specialist training to a level appropriate to their contact with

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victims to increase their awareness of the needs of victims and to enable them to deal with victims in an impartial, respectful and professional manner (article 25).

With the exception of 8 countries, the remaining mentioned the existence of available training for judges and magistrates.

Training available for judges/magistrates	Training not available for judges/magistrates
Argentina (training is not mandatory)	Angola
Armenia	Bolivia
Benin	Cape Verde
Bosnia and Herzegovina	Greece
Brazil (for the majority of Judges)	Iraq
Canada	Mexico
Chile	Switzerland (courts usually don't have contact with children)
China	Uruguay
Colombia (only on legal issues)	
Croatia	
Cyprus	
Czech R.	
Dominican R.	
East-Timor (but not on a regular basis)	
Ecuador	
England & Wales	
Guinea	
Hungary (optional training)	
India	
Italy	
Jordan	
Luxembourg	
Malawi	
Malta	

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Mauritius	
Mozambique	
Netherlands	
Pakistan	
Palestine (prosecution)	
Puerto Rico	
Slovenia	
South Africa	
Sweden	
Trinidad and Tobago	
Ukraine	
Yemen	

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

With the exception of 7 countries, for the majority the training is interdisciplinary.

Indeed, the Guidelines on Justice in matters involving child victims and witnesses of crime, recommend that “Professionals should be trained to effectively protect and meet the needs of child victims and witnesses, including in specialized units and services. This training should include: (a) Relevant human rights norms, standards and principles, including the rights of the child; (b) Principles and ethical duties of their office; (c) Signs and symptoms that indicate crimes against children; (d) Crisis assessment skills and techniques, especially for making referrals, with an emphasis placed on the need for confidentiality; (e) Impact, consequences, including negative physical and psychological effects, and trauma of crimes against children; (f) Special measures and techniques to assist child victims and witnesses in the justice process; (g) Cross-cultural and age-related linguistic, religious, social and gender issues; (h) Appropriate adult-child communication skills; (i) Interviewing and assessment techniques that minimize any trauma to the child while maximizing the quality of information received from the child; (j) Skills to deal

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with child victims and witnesses in a sensitive, understanding, constructive and reassuring manner; (k) Methods to protect and present evidence and to question child witnesses; (l) Roles of, and methods used by, professionals working with child victims and witnesses” (UNITED NATIONS 2005, paras 41).

Besides that, regarding all issues related to coordination, the Committee on the Rights of the Child recommends that professionals working within the child protection system need to be trained in inter-agency cooperation and protocols for collaboration. The process will involve: (a) a participatory, multi-disciplinary assessment of the short and long-term needs of the child, caregivers and family, which invites and gives due weight to the child’s views as well as those of the caregivers and family; (b) sharing of the assessment results with the child, caregivers and family; (c) referral of the child and family to a range of services to meet those needs; and (d) follow-up and evaluation of the adequateness of the intervention. (UNITED NATIONS 2011, paras 50-51)

The African Committee also emphasizes the need of a shared understanding by all personnel (social welfare, protection, health, education, law enforcement, judiciary) on the specific vulnerabilities of children who have suffered violence and equipped with skills to respond to the violence in a collaborative, multisectoral and holistic manner (ACERWC 2023). In the General Comment on sexual exploitation, the African Committee includes other issues in the mandatory training: child development, trauma, disclosure, interviewing child witnesses, leading evidence and judicial management of child sexual abuse cases (ACERWC 2021, P. 45).

The Santiago Guidelines for Latin American Prosecution Officers as well recommend, in its article 20, interdisciplinary, gender-based and human rights-based training, including protection programs for witnesses. This training should be provided together with other relevant actors (AIAMP 2020, p. 20).

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Content of training is interdisciplinary	Content of training is mainly legal	No clear information provided/training not available
Argentina (but not mandatory)	Cape Verde	Angola
Armenia (provided by international organizations)	Colombia	Czech R.
Benin (in short training sessions)	East-Timor	Guinea
Bolivia (psychological)	Ecuador	Mexico
Bosnia and Herzegovina	Greece	Uruguay
Brazil	Iraq	
Canada (not mandatory)	South Africa	
Chile		
China		
Croatia		
Cyprus		
Dominican R.		
England & Wales (sometimes)		
Hungary		
India		
Italy		
Jordan		
Luxembourg		
Malawi		
Malta		
Mauritius		
Mozambique		
Netherlands		
Pakistan		
Palestine		
Puerto Rico		
Slovenia		
Switzerland		

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Trinidad and Tobago		
Ukraine		
Yemen		

For this reason, to achieve collaborative and systemic approaches, training should involve professionals from different areas, as it is the practice in the majority of the countries, except 11 (and two, who have not provided clear information on the subject).

Joint training is provided for judges/magistrates and other professionals	Joint training is not provided for judges/magistrates and other professionals	No clear information provided/training not available
Argentina (but not mandatory)	Angola	Guinea
Benin (occasionally)	Armenia	Uruguay
Bosnia and Herzegovina	Bolivia	
Brazil (for the majority of the judges)	Canada	
China	Cape Verde	
Croatia	Colombia	
Cyprus	Czech R.	
Dominican R.	Greece	
England & Wales (sometimes)	Iraq	
India	Italy	
Jordan	South Africa	
Malawi		
Mauritius		
Mozambique		
Pakistan		
Palestine (prosecution with other professionals)		
Puerto Rico		
Slovenia		

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Switzerland (prosecution, police and other professionals)		
Trinidad and Tobago		
Ukraine		
Yemen		

13. **REFORMS IN PROGRESS**

13.1. Are there reforms in progress in your country regarding child’s victim rights, about **the procedure among others**? What **are** the aim and the main subject of it?

As Kofi Annan stated in the preface of the World report, that “violence against children cuts across boundaries of geography, race, class, religion and culture. No country is immune, whether rich or poor and it is thus a major threat to global development and our work to reach the Millennium Development Goals. However, it is not inevitable, its underlying causes are identified and addressed, violence against children is entirely preventable” (UNITED NATIONS, 2007, P. 26) and much more can be done.

According to the Committee on the Rights of the Child, children should be consulted in the development and implementation of legislative, policy, educational and other measures to address all forms of violence. Particular attention needs to be paid to ensure that marginalized and disadvantaged children, such as exploited children, street children or refugee children, are not excluded from consultative processes designed to elicit views on relevant legislation and policy processes. (UNITED NATIONS 2009, paras 118)

As mentioned previously, The African Committee also recognizes a lack of a consistent, comprehensive and agreed legal framework that specifically addresses all of



the issues concerning violence against children, with a limited focus on prevention on the continent and lack of social support services (ACERWC, 2021 p. 6).

Therefore, expecting to identify much diversity in this research, the final question was on reforms in progress, on the focuses adopted by each country to address their problems, expecting to identify some trends.

In the majority of the countries, there are no reforms in programs.

In 15 countries, there are ongoing organizational reforms, considering the specificities of child interview regarding parental conflicts, children belonging to cultural minority groups or with disabilities, introduction of technology or coordination procedures, and integrating activities in Barnahus(-type) services.

Besides that, legal reforms are in progress in 13 countries, both related to a better description of the offenses or to improve procedural aspects, including about the hearing itself or children representation and welfare.

No reforms in progress	Legal reforms in progress	Organizational reforms in progress
Angola	Armenia (draft of amendments to Criminal Procedure Code and child protection legislation)	Brazil (regarding hearing of traditional people and special testimony proceedings in cases of “parental alienation”)
Argentina	Benin (aiming to introduce new modalities of child hearing)	Chile (law is recent, in implementation)
Bolivia	Dominican R. (independent legal representation for children)	China (in implementation)
Bosnia and Herzegovina	Ecuador (on domestic violence)	Croatia (introduction of Barnahus model)
Canada	England & Wales (victim’s code)	Dominican R. (adaptations for handicapped children)

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Cape Verde	Hungary	Guinea (judicial support for children and decentralization of justice system)
Colombia	India (on child participation)	Iraq (structure of the courts and services)
Cyprus (to enhance child victim's rights and procedural safeguards)	Iraq (child welfare)	Jordan (on coordination and use of assessment tools)
Czech R.	Luxembourg	Mauritius (video conferencing, electronic information display and case management system)
East-Timor	Pakistan	Netherlands (experiences in some cities to improve coordination)
Greece	Sweden (in case of sexual abuse or threat from a close relative)	Pakistan (training)
Italy	Switzerland (new definition of sexual offences)	Palestine (organizational, training and aware-raising programs)
Malta	Yemen	Puerto Rico (court specialization)
Mexico		Ukraine (implementation of Barnahus, training and coordination)
Mozambique		Yemen (integrated center)
Slovenia		
South Africa		
Trinidad and Tobago		
Uruguay		

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14. CONCLUSIONS AND RECOMMENDATIONS

The compilation of data in this research allows to conclude that a remarkable convergence can be seen in this field. A majority of countries hear the children, considering them as capable to give testimony. They also have adopted separate hearing of the child, with intermediaries, most of them qualified professionals, who use evidence-based protocols to hear the children. Interviews are audio and video recorded, avoiding multiple hearing because, as a general rule, this recording is accepted as evidence in court. A slight majority, as well, also grants, from a separate room, participation to the alleged offender and his or her attorney, trying to balance the right of the child to protection and due process and the right to exercise the defense.

However, there are still clear challenges.

Although children are normally heard, two circumstances should be better understood on their impact in the value of children's testimony: the persistence of necessity to undertaking for testimony beyond certain age and the consequent distinction between witnesses and informants. It is also arguable how non-verbal communication of children in early childhood, who are also victims, is received in criminal cases and what are the criteria adopted to acknowledge this kind of expression.

Besides that, the limitations for children to refuse to make a statement suggest the persistence of their participation as source of evidence and not as rights holders.

This situation reflects the position of the child regarding initiating, suspending or terminating, not necessarily the proceeding, but at least his or her own participation and contribution. The involvement of children in the proceeding, without clear information strategies to qualify their adherence to participate, including the consequences of this participation, especially to family members, has already been object of analysis in the European Court of Human Rights. The lack of material for information, or the limited information provided in the material shared in this research, in comparison with what is

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recommended by international standards, is an important starting point to discuss a comprehensive and systemic approach on violence against children. More than that, it is not clear how children reach this information, giving the impression that the justice system itself could assume with more emphasis its own obligation to provide consistent information to children.

In this regard, it seems that there is a gap between what was envisaged when the Guidelines on Justice in matters involving child victims and witnesses of crime were published and the subsequent UNODC/UNICEF model law, with the assignment of a support person for the child during the whole proceeding and beyond.

It seems that in many countries the provision of information was expected to be fulfilled by parents and legal representatives, although they have no special qualification on the subject and are themselves affected both by the situation suffered by their children and also by their own sense of disempowerment for the lack of protection their children have lived. All of this in a context of apparently insufficient informative material.

In this context, it is worth mentioning how limited the parents and legal representatives are assessed on their own capacity to grant protection to the child and on their own specific needs to be supported, acknowledged as indirect victims and entitled to assistance as well.

In another research involving the contact of children with the Justice system, the friendliness of the proceedings is a disputable matter (FRA 2017) and it would be highly important to check with children themselves the best practices to grant access to information.

One additional example is the distant relationship between judicial environment and the child and the limited opportunities to explore the space and reduce stress and anxiety when their participation is at stake, having in mind that the majority of victims are still (or may be) heard in court, not allowed to have previous audio-recorded testimony used as evidence in court in many countries. This is important, because, even with the effort to have allegedly child-friendly facilities for the child interview, children's

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assessment of the hearing location in criminal proceedings is in general negative, including those child-friendly rooms (FRA 2017, p. 16). The lack of guidelines for such kind of rooms, and even the possibility of improvement of one room in the middle of a building that is not child-friendly as a whole, may impact negatively the experience of children with the justice system.

Although the majority of the countries have alluded to the existence of a specific legal framework and a lack of reforms in progress, it is clear that there are still many impasses and blanks in a comparative perspective that could suggest a deeper analysis of what could be improved.

This is very clear regarding coordination. Experiences in integrated approach are just beginning or non-existent in many countries, impacting the way rights are granted. Even in Europe, where the Council of Europe supports the development of Barnahus services, this movement is still in its beginning, not implemented in all countries and, even in those where it was settled, there are limited experiences in each country (COUNCIL OF EUROPE 2023).

An expression of this situation is clearly reflected in the frequency of hearings the child must deal with, which seems to be related to some challenges regarding how to balance the right of the child to be protected from the hardship of the proceeding and the due process and the right to a fair trial by the alleged offender.

This is clear in terms of participation of the alleged offender's defense, with many barriers to participate during the child's testimony and even, in some countries, to raise questions. The challenge appears to be on the capacity of the justice system to adopt speedy responses, especially anticipation of evidence, allowing a conciliation between the time of the child and the time of the justice system (MURTA 2020). This balance is important for the legitimacy of the proceeding, of the judicial intervention as a whole, and, as a consequence, to the judicial involvement in the protection of children, and some promising experiences are in place to conciliate both needs

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In fact, it is noteworthy that, in parallel to these limits to the right of defense, there are also de facto limits to the rights of legal assistance for children themselves. Although many countries have answered that children have this right granted, theoretically at least, other research reveals that a small percentage of children have effective access to this kind of support (FRA 2017) and, when they have it, it is not necessarily under a perspective of empowerment of the child, as right holder, but, in many cases, a professional who intervenes to support what, according to an adult perspective, is the best interest of the child.

The outcome is a child heard many times, not necessarily by qualified professionals (because still in a considerable, but minority, number of countries, training is not mandatory), and no clear protocol is in use.

Another important issue related to coordination regards interaction between criminal and child-protection proceedings. This can be identified in many aspects:

The focus of initial assessment in the justice system is much more focused on children's capacity to convey a message in their testimony than on protective measures and on the role of the Justice System to enforce the right to effective assistance by local authorities. The reality lived by children, even in developed countries, shows that there is a lack of effective assistance (FRA 2017, p. 17) and the justice system should have a more consistent role in analyzing whether all rights of the child are satisfied or not and which measures should be adopted.

In this context, Barnahus-type services pretend to be part of the solution, with multidisciplinary and interagency approach, dealing not only with criminal cases involving violence against children, but also child protection and even post-divorce or custody conflict cases. However, the services themselves acknowledge that organizing multidisciplinary and interagency operation is the main difficulty in setting such services (COUNCIL OF EUROPE 2023).

The lack of coordination and rights-based approach could be diagnosed in the frequency of alternative care for children as a protective measure for children. Imposing

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a measure that should be a last resort, instead of removal of the offender and the imposition of restraining orders, among others, calls attention to revictimization of children by local authorities or the justice system.

This situation reflects the limited scope of criminal cases, focused mainly on punitive responses, instead of incorporating a broader and protective approach to children as well.

It also reflects the lack of coordination within the justice system. The prevalence of an absence of clear regulation on how to deal with parallel proceedings in criminal, child protection or family courts reveals a lack of a child-centered approach, leaving room for overlapping and uncoordinated interventions. It also shows the competing values at stake: on the one hand, a priority to hearings in criminal procedure would emphasize the respect of a stricter observance of the rules of evidence and the attention to the impact of judicial provision on civil liberties. On the other hand, if the priority is given to child protection or family procedures, the emphasis lies on the protection of the child and a speedy provision by the courts, as the proceedings in this area are speedier than the criminal.

This situation is paradoxical in a context in which the majority of the countries mentioned that judges are trained in an interdisciplinary manner and together with professionals from different areas, which should call attention to the need of a systemic approach.

With this scenario in mind, it is possible to infer common trends, based not only in convergent international and regional legal standards, but also in an evidence-based approach.

In comparison to family and child protection and to juvenile justice, the participation of children in criminal cases, with a rights-based approach, is the newest frontier, with ongoing developments in many places, experiencing and proving methodologies and adapting new approaches to consolidated paradigms on due process and fair trial.

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Historically, the justice system has already experienced a period of more convergent approach in juvenile justice, under an initial common understanding on the need of a welfare approach in contrast to a punitive paradigm, until new understandings and ideological disputes have complexified this scenario.

Therefore, it is to be followed, observed and analyzed whether the apparently current convergence on understandings will remain and how the need to develop a more systemic, coordinated and integrated approach between child protection and responsive (if not punitive) approach to violence against children could be improved.

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