

Access to justice for children and
the guidelines on child-friendly
justice of the Council of Europe -
challenges and good practices

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Access to justice and child-friendly justice

- Child-friendly justice: that children must be met with legal systems that understand and respect their rights and unique vulnerabilities
- Access to justice for children: children must be able to use and trust the legal system to protect their rights. The legal system must provide children the means to obtain a quick, effective and fair response to protect their rights; the means to prevent and solve disputes; mechanisms to control the abuse of power; and all of this must be available through a transparent, efficient, accountable and affordable process.

Access to justice for children – global research

- Using the CRC in national law
- Status of children in legal proceedings
- Challenging violations of children's rights
- Practicalities

Explore the research online:
www.crin.org/home/law/access

The legal status of the Convention on the Rights of the Child

Giving the CRC the force of law

- Monist vs. Dualist
- Incorporation

Enforcing convention rights in court:

- Direct application vs. interpretive guidance

CRC in court database:

www.crin.org/library/legal-database

The legal status of the child

Bringing cases in the name of the child

Compulsory representation of children and capacity based tests

Subject specific exceptions

Challenging violations of children's rights

National Human Rights institutions

- Complaints on behalf of children
- Collective and public interest complaints
- Powers to intervene

NGO complaints

Restrictive rules of standing - “directly affected”

Specialised rules for NGOs to bring cases

Challenging violations of children's rights

International complaint mechanisms:

- ECHR and ECSR
- Treaty body complaints
- The Complaints procedure under the CRC
 - 16 Ratifications; 13 Signatures in Europe

Practicalities – legal aid and assistance

Establishing the principle of free legal assistance for children

Parental income and funding decisions

Legal aid and pro-bono assistance

Child-friendly justice

Convention on the Rights of the Child

- Arts. 3, 9, 12, 19, 22, 37, 39, 40

Optional Protocol on the sale of children

- Arts. 8 and 9

General Comments

- No. 12 on the right to be heard
- No. 10 on juvenile justice

Council of Europe Guidelines on Child-Friendly Justice

Principles:

- 1) Participation
- 2) Best interests
- 3) Dignity
- 4) Protection from discrimination
- 5) Rule of law

Settings:

- Before proceedings
- During proceedings
- After proceedings
- Involving police

Participation and the right to be heard

Overarching right to be heard in all judicial proceedings concerning the child vs. restricted to certain proceedings

Rigid age limits vs. capacity based tests

Giving evidence in child-friendly setting

Privacy

Principle: “The privacy and personal data of children who are or have been involved in judicial or non-judicial proceedings and other interventions should be protected in accordance with national law. This generally implies that no information or personal data may be made available or published, particularly in the media...”

- “Public interest”
- Anonymity until 18?