

CAN JUSTICE BE CHILD-FRIENDLY?



Model of child-friendly court practices for children with intellectual and psychosocial disabilities

Romanian perspective

Oana Dodu, Center for Legal Resources

This project is co-funded by
the European Union's Rights,
Equality and Citizenship Programme (2014-2020)



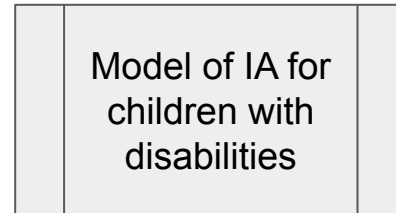
This conference is co-funded by
the European Union's Rights,
Equality and Citizenship Programme (2014-2020)



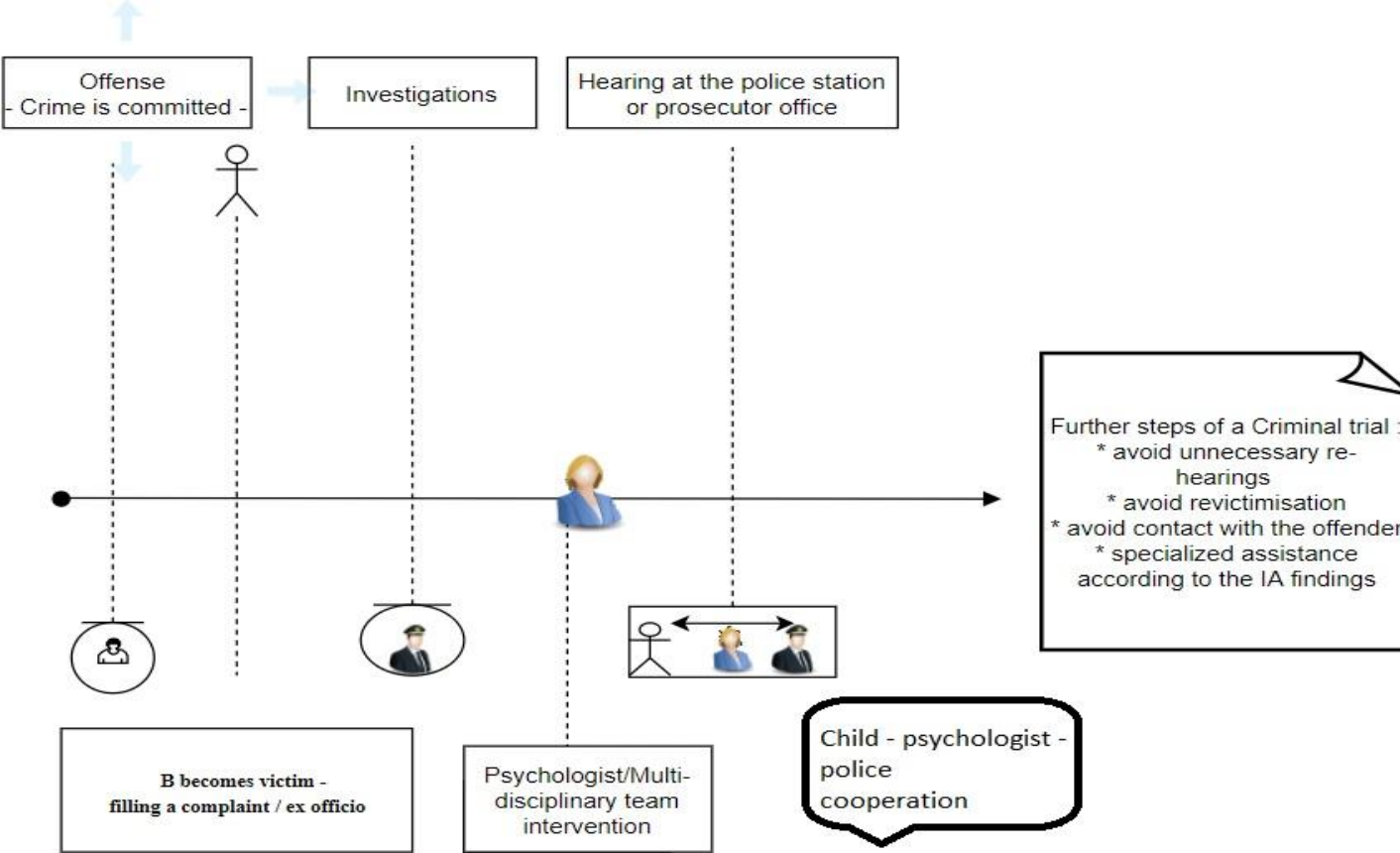
Introduction

Individual assessment - more than just a tool for providing a child-friendly justice?

- Focus group : children with intellectual and psychosocial disabilities
: victims and accused of committing a crime (both below and above 14 yo - age of criminal liability)
- importance of an adapted IA tool for children with disabilities
- facilitate children participation



Story of B



Purpose

The aim of this Model is to set a minimum standard for the individual assessment of children that were victims or accused of committing a crime. Moreover, as it is provided by the EU Victim's directive (2021/29) and the Directive providing minimum safeguards for children (2016/800), this model is set to bring a practical tool in form of a questionnaire that is going to be used by a psychologist or the multidisciplinary team that will be first in contact with the children. It also incorporates a set of practical advice that comes in aid to the practicing that never dealt with children with disabilities. A very important role in the elaboration of the model was played by the national promising practices (special hearing rooms for children, manuals and other guidance's) and the opinion of children that were accused of committing a crime and are, at the moment, in a special care centre, and o a children with psychosocial disabilities, victim of crime, whom we thank very much.

Current assessment

In Romania, individual assessments or evaluations were not systematically carried out at the time of drafting the national report. However, this does not preclude the authorities from assessing a victim's need on a case by case basis. The police can also carry out an assessment once the victim, through his tutor, has reported the crime and obtained a crime reference number, or the prosecutor has filed a complaint in the name of the victim.

The national legislation provides special measures to support and protect victims such as:

- Victims interviewed in rooms specially designed or adapted for this purpose;
- Victims interviewed by, or with the participation of, appropriately trained specialists;
- all questioning of victims of sexual violence, gender violence or violence in close relationships (if the hearing is not conducted by a judge or a prosecutor) carried out by a person of the same sex as the victim, if this is the wish of the victim and without prejudice to the criminal proceedings.

Special measures are also provided for children who are always presumed to have specific protection needs due to their vulnerability in accordance with the Victims' Directive. Support and protection measures are laid down by the national laws. They are implemented either by the person who conducts the preliminary proceedings or by a psychologist from General Direction of Child Protection.

File number:
Nature of the offence:
Date of the offence/last offence:
Assessment Date:

Draft - questionnaire
(CONFIDENTIAL WHEN COMPLETE)
Victims' assessment for special measures
Initial questionnaire of victim

NOTE: THE QUESTIONS CONTAINED WITHIN THIS NEEDS ASSESSMENT ARE FOR GUIDANCE ONLY AND SHOULD NOT BE READ OUT IN QUESTIONNAIRE STYLE TO THE VICTIM. THIS QUESTIONNAIRE AIMS TO DETECT POSSIBLE RISKS OF SECONDARY AND REPEAT VICTIMISATION, INTIMIDATION AND RETALIATION AS WELL AS TO DETECT VICTIMS' SUPPORT AND COMMUNICATION NEEDS. THE RECOMMENDATIONS SECTION AT THE END OF THE DOCUMENT SHOULD BE COMPLETED FOR ALL CASES

The victim agrees for an evaluation to take place: ☐Yes ☐No

PERSONAL CHARACTERISTICS OF THE VICTIM

General information

Last name:

First name:

Gender:

Date of birth/reported age:

Contact Address:

E-mail address:

Phone number:

Lawyer/contact person:

Nationality:

Personal vulnerability

- ☐ Child
- ☐ Disability (please clarify):
- ☐ Mental
- ☐ Physical

Future form of IA

Guidance :

- Assessments are child-centred, strengths-based, holistic (including health, social behaviour and education/ learning) and appropriate to the child's culture, language, disability and development stage
- Assessments ensure the child's participation and, as far as reasonably possible, the child's family/persons that he trusts
- Do not forget about consent forms at the beginning of the assessment – the children with disabilities should get full explanation of what is going to happen, information from the court, what are the information needed for etc

In a few words:

- model of questionnaire for IA, disability centered
- training for professionals that are going to for a multidisciplinary team (prosecutors, police, psychologist and state institutions etc..)
- Legislative changes : introduction of an **interpreter** which shall both be the “best interpretation of will and preferences” (from CRPD) and the one who will ensure that “the best interest of the child” (from CRC) are respected

Dependant children: ☐ Yes (number: ... age: ...) ☐ No
Are you (or your children) supported by a social worker or other agency? ☐ Yes ☐ No
If yes, which?

Other vulnerabilities (no parents, institutionalization, ...)

3 - RISKS AND FEAR OF HARM
Type or nature of crime (may select more than one response)
☐ Human trafficking
☐ Sexual violence
☐ Child abuse or exploitation
☐ Violence in a close relationship

Circumstances of the crime
Does the victim have a personal connection with the suspect? ☐ Yes ☐ No
Does the victim fear further harm from the suspect? ☐ Yes ☐ No
Does the suspect have previous offending history against the victim? ☐ Yes ☐ No

Recommendations of the evaluator regarding victim's needs assessment
(TO BE COMPLETED IN ALL CASES)
a) Victim's protection needs (needs related to victim's protection and/or related to improving the quality of the evidence)

b) Support referral needs (counselling legal services, victim support services, community services...):

Identity of the evaluator:
Date :

Victims' assessment for special measures
Detailed evaluation

Please fill this section if:

- the offence is one of the crimes specified above or;
- you have answered 'yes' to any of the questions under circumstances of the crime or;
- you consider it appropriate, taking into account any identified vulnerability.



Thank everyone for watching!

*Individual assessment - more than just a tool for
providing a child-friendly justice*

<https://www.crj.ro/pledoarie-pentru-demnitate/justitie-prietenoasa-pentru-copii-initiativa-privind-dezvoltarea-c-onceptului-de-practici-in-instante/>



This conference is co-funded by
the European Union's Rights,
Equality and Citizenship Programme (2014-2020)



BCNL