

**Social Fieldwork Research**  
**Child Participation in Justice Report**  
**Croatia, 2012**

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## EXECUTIVE SUMMARY

- In Croatia, recent years have been marked by increased focus on rights-based issues related to child participation in justice.
- In the context of criminal justice, the current Criminal Procedure Act and the Juvenile Courts Act are providing the legislative framework that incorporates main precepts of relevant international legal documents, including CoE Guidelines.
- Within the civil justice fields, legislative changes in the area of family law have just been initiated, but established practices employed by courts in collaboration with centers for social welfare increasingly place emphasis on the child's right to be heard.
- In both justice fields examined, specialists coming from social professions are directly dealing with children, with the intention to reduce stress or level of trauma associated with both the reasons for involvement in the justice system and the judicial process itself. In majority of cases, children are isolated from the regular workings of the courts and afforded special protections.
- Many issues remain unresolved in day-to-day operations of the justice system, however. In the field of criminal justice, main inadequacies identified include: duration of proceedings; repeated exposure of children to questioning before and during the proceedings; lack of adequately trained professionals working in courts; lack of systematic and continuous targeted training programs for various professional groups.
- Within the civil justice field, there is some indication that professionals involved feel the need to increase and systematize children's participation in parents' divorce proceedings. According to the current practice, children are rarely heard directly by the court. In cases when parental agreement is reached and there are no risk factors present or detected, children's views are not obtained. In cases when there is no parental agreement, center for social welfare team, tasked with recommending custody decision in accordance with child's best interest, interviews the child (provided that it is at least of school age). Child's views are taken into account, but represent only one element in coming to a decision.
- Within the civil justice field, some of the major problems reported include: lack of in-court human resources and facilities needed for child hearings; lack of training for judges; big work load faced by CSW psychologists and other professionals, resulting with insufficient time devoted to children involved in divorce proceedings; sometimes bureaucratic and less than friendly atmosphere in CSWs.
- Within the criminal justice field, child participation is crucial for ascertaining the facts of the case. Criminal procedural rules specify use of video-links during child hearings. Child and a social professional conducting a hearing are separated from other parties. Social professional is conveying questions to the child, adjusting it to his/her age and maturity.
- Children receive some information on their participation in specific proceedings; information seems to be, however, at the minimum level necessary for the child to be oriented.

- There is almost no child-friendly material available that would facilitate children's participation and that would provide information to children.
- Judicial institutions and social welfare institutions do not provide child-friendly physical environment.
- While a majority of interviewed professionals has attended at least one training devoted to topics relevant for child participation in justice, many emphasize that available training is inadequate since it is offered sporadically, tends to involve short lectures or seminars that do not enable one to gain sufficient skills, and is not organized in a manner that would accommodate practical barriers of all professional groups.
- While majority of interviewees reports on good collaboration between theirs and other institutions or professional groups, some believe that collaboration and multidisciplinary approach should be formalized and not left to individual inclinations.

## **1. BACKGROUND**

### **1.1 Research Methodology**

Fifty six people in total are interviewees in this project. Interviews were conducted with 54 people; 11 of them were also focus group participants. Two interviewees participated only in focus group discussions, and were not interviewed one-on-one. One interviewee participated in both focus groups.

#### **1.1.1. *Sample selection process***

Process of selection of research participants for interviews started with mapping of basic institutions and professional groups involved in the process of participation of children in civil and criminal justice proceedings as outlined by the guidelines. Number of types of professionals and institutions represented is somewhat higher for criminal justice than for civil justice due to a higher complexity of institutional and professional fields.

In addition to proper representation of key professions involved within both legal and social professional groups, as well as proper representation of relevant types of institutions both within and outside of the justice system, criterion of regional diversity was also used to determine who to contact and ask to participate. In addition to this process of institutional and professional mapping, some interviewees were selected on the basis of their public profiles and engagement in initiatives related to participation of children in justice. A final group of participants was selected using a snowball method: they were referred by respondents already interviewed by project researchers.

There were several departures from the original sampling plan, all introduced with the intention to increase relevance of each interview conducted:

- Initial intention was to include professionals from several NGOs in the sample, especially in view to long-term involvement of women's groups with issues of domestic violence. However, closer communication with them in the process of sample selection revealed that they had no direct experience with child participation in justice as defined by the project. Consequently, only one interview was conducted with an NGO employee as a 'test', and other planned interviewees were replaced by other social professionals;
- Three specially trained police officers who conduct interviews with children are included in the sample. This was done although information obtained through police interviews with children victims or witnesses are not admissible in court, and therefore these interviews do not fall under the heading of child participation in justice. Police officers are, however, often first to talk to children, the ones working with other professionals involved with children victims or witnesses, and also a professional group with institutionalized and mandatory training for working with children;
- Although initial sample envisioned simply inclusion of judges, two judges of investigation were added to the list of selected trial judges due to their key role in the pre-trial child hearings;
- Three misdemeanor judges from smaller courts dealing with domestic abuse cases informed us that they never conduct child hearings, and that they would therefore not be eligible to participate.

### **1.1.2. Interviewers**

Fieldwork was conducted by five interviewers, one of whom also moderated both criminal and civil justice focus groups. In terms of professional background, three interviewers came from the field of special education, specifically behavioral disorder in children; one interviewer had background in psychology of education, and one was a sociologist with methodological background and currently working on human right issues. All interviewers had had previous fieldwork experience. Two interviewers had a PhD, while one had an M.A. All interviewers were female; three were from 26-45 age group, while two were from 46-65 age group.

All interviewers were trained for this project according to FRA Project team instructions. Each interviewer was responsible for conducting the interview and writing the report. There was no specialization among team members in terms of criminal fields or types of professionals interviewed.

Any information obtained during the interview, and deemed relevant for future interviews was communicated through the fieldwork manager to all team members.

Initial contacts with sampled institutions and individuals were made by the Croatian Law Centre (CLC). CLC was also responsible for organizing logistical support for fieldwork.

### **1.1.3. Fieldwork issues**

Interviewees were overwhelmingly willing for the interviews to be recorded; only one interviewee did not consent to taping, and interviewer recorded information in writing.

One interview was conducted on the topic of juvenile delinquency, that is, on children as offenders. While audio file and report have been submitted with other interviews, results are not included in the analysis and this interview has not been considered a part of the sample.

One of the civil justice focus group participants, although informed several times of the topic of interest, is currently also working with juvenile offenders. However, she was directed to discuss the topics of interest to this project and contributed to the discussion based on her previous and indirect experience.

## **1.2 Sample**

A total of 56 people were interviewed in this project, two of them only as focus group participants.

Of 54 individual interviews, 30 were conducted with legal professionals and 24 with social professionals. 17 legal professionals came from the criminal justice field, while 13 came from the civil justice field. Among social professionals, 10 interviews were conducted on topics within the criminal justice field, 12 on topics within the civil justice field, while interviews with two social professionals covered both criminal and civil justice issues. In conducting interviews, focus was placed on justice field in which interviewees had extensive experience relevant to the research project. As an example, many employees of centers for social welfare deal with cases spanning both fields; their direct involvements in child hearings, however, is in most cases limited to civil cases. In such cases, interviews were therefore conducted on civil justice issues, and any references to other

types of cases noted. In the overall sample, 20 people in their work deal with custody and visitation issues exclusively, 4 with domestic violence issues exclusively, 9 with sexual abuse exclusively, while work of 21 interviewee encompasses 2 or more of types of cases included in this research in some capacity.

Within the group of civil justice representatives, professional structure is less complex relative to the criminal justice group. Legal professions represented in the civil justice sample are judges (6) and lawyers (7). Social professionals in this group include psychologists (10) and social workers (2). Two interviewees with whom both areas of the justice were discussed were both psychologists working in small town centers for social welfare. Legal professionals from the criminal justice field included: 9 judges (2 of who juvenile judges of investigation and 3 misdemeanor court judges); 1 court staff member working in the victim and witness support office within a county court; 3 lawyers; 1 prosecutor; 3 law enforcement officers. Social professionals include 4 psychologists; 4 court staff members conducting child interviews, 1 social worker from a non-governmental organization; and one social scientist, court staff member working in the victim and witness support office within a county court.

Institutions represented in a sample include:

- Centers for social welfare with 13 interviewees;
- Courts (4 county courts with 8 interviewees; 6 municipal courts with 8 interviewees; 1 municipal civil court and one municipal criminal court with 1 interviewee each; 1 misdemeanor court with 2 interviewees and the High Misdemeanor Court with 1 interviewee);
- Law offices with 10 interviewees;
- Medical institution with 4 interviewees;
- NGO (Caritas shelter) with 1 interviewee;
- Private consulting company with 1 interviewee;
- Police administration with 3 interviewees;
- State attorney's/public prosecutor office with 1 interviewee.

Among legal professionals, there is one head of the court and two division heads included, as well as two persons heading victim and witness support services. Sample also includes one director of a medical institution, one acting director of the centre for social welfare and one director of the NGO-run shelter.

In terms of their role in the proceedings, there are 38 actors and 16 observers in the overall sample (1 of observers also sometimes actively participates in hearings, but nor predominantly in terms of her overall work). Within the criminal field, represented professionals overwhelmingly play active roles, with 21 out of 27 actively participating. Within the civil field, 15 interviewees play an active role in the proceedings, while 10 play a supportive/observer role. Both interviewees who discussed both justice fields are active participants.

In terms of location of interviews, selection of included cities/settlements was somewhat restricted by the territorial structure of courts. Namely, juvenile courts are situated in county centers, and juvenile courts deal with the certain crimes committed by adult perpetrators against children and young people, criminal offences against sexual freedom and sexual morality (Chapter XIV of the Criminal Code (*Kazneni zakon*)), criminal offences against marriage, family and youth (Chapter XVI of the Criminal Code) and other crimes prescribed in Article 113 of the Juvenile Courts Act. Juvenile divisions are established in municipal courts located in the places where county courts have their seats, as well as in county courts themselves. If we separate the overall sample into two groups based on the location of the interview, we can see that 15 interviews were conducted in rural or small municipality (defined as a local government unit with population smaller than < 50,000), while the remaining 39 interviews were conducted in cities or municipalities larger than 50,000 people. This distribution is more uneven within the legal profession (with a 5 to 25 split in favor of larger cities/municipalities) than within the social profession (where the respective ratio is 10 to 14). Also, only 2 professional active in the criminal justice field were interviewed in smaller towns/municipalities, compared to 11 from the civil justice field. Overall, interviews were conducted in 12 localities; 4 largest cities in Croatia (Zagreb, Split, Rijeka and Osijek) are all represented in the sample, as well as 9 regions (counties) of Croatia.

Except for two interviewees, whose age was estimated by interviewers to be greater than 65, all interviewees fall within two age groups: 23 participants were younger than 45, while 29 were estimated to be between 45-and 65 years of age. There are no significant deviations from the overall age distribution within professional groups or justice fields.

Study sample departs most dramatically from the general population in terms of gender distribution. Of the total of 54 persons interviewed, only 7 were men. While official statistics on gender distribution within the population of professionals included in this study are not available, our respondents informed us that the field was extremely feminized and that our sample, in their opinion, was in fact representative of reality. Just to illustrate, both juvenile judges of investigation, both trial judges and the only appeals judge within the Juvenile Division of the County Court in Zagreb are female. Our male respondents include 4 attorneys (2 of them predominantly working with civil, and 2 predominantly working with criminal cases), 2 psychologists working in centre for social welfare, and one social worker working in centre for social welfare.

Average interview duration was just about one hour (61.02 minutes), while 50 percent of interviews lasted 55.5 minutes or less and the other half of the interviews lasted 55.5 minutes or more. The shortest conducted interview lasted 25 minutes, and the longest lasted 110 minutes. Comparison of the mean length of interviews within two justice fields shows similar results, with the mean duration of 60.56 for civil and 60.78 minutes for criminal field. However, while interviews with 50 percent of professionals within the civil justice field lasted 53 minutes, median length within the criminal justice group was 60.00. Comparison of two professional groups shows more significant differences: mean interview duration for social professionals was 65.96 minutes, while that statistic for legal professionals was 57.05.

Level of confidence was high in 49 interviews, and medium in 5 interviews. Level of confidentiality was high in 42 interviews, medium in 10, and low in 1 interview. Some interviewees share their offices with other colleagues and were not able to conduct the interview with just them and

interviewers present. However, it is worth noticing that, in some cases, other persons present were court clerks, with whom one would expect that judges have a relationship of trust. Level of interruption was assessed as low for 47 interviews, as medium for 4 interviews, and as high for 2 interviews, with data missing in one case.

The two focus groups had the following structure of participants:

- Civil justice focus group consisted of 6 interviewees. 1 was male, 5 female. 2 were under 45 years of age, and 4 over 45 years of age. In terms of profession, there were 3 psychologists, 1 social pedagogue, 1 judge and 1 attorney at law.
- Criminal justice focus group consisted of 7 participants – 1 male and 6 female. 2 were under 45 years of age, and 4 over 45 years of age. Represented legal professions included 3 judges and 1 prosecutor. Social professions included 2 psychologists and 1 social scientist.

In terms of participation, the two focus groups exhibited the following characteristics:

\* Level of confidence in the civil justice focus group was rather high. There were no interruptions and the participants could speak freely. All participants were active in focus group discussion but the participants with the social profession background very had more direct experiences in interviewing children, so they contributed more. The social pedagogue contributed less to the discussion due to a lack of direct experience in the field. There were no conflicts in the group and the participants freely expressed their views, including their agreement or disagreement with others.

\* In the criminal justice focus group, all participants were active in focus group discussion and they freely expressed their views. There were no conflicts in the group. There were no interruptions in focus group discussion and the level of confidence was high. Judges contributed the most due to a fact that they have biggest experience in direct hearings. Psychologists and the social scientist contributed to the variety of perspectives, as well as the prosecutor.

### **1.3 Legal context**

Both the Juvenile Courts Act and the Criminal Procedure Act (i.e. provisions relevant to this study), as two central legal documents regulating child participation in criminal cases encompassed by this study, have come into force recently – on 1 September 2011 - and have introduced significant novelties in terms of jurisdiction, victim's rights, and procedure in general. Some of interviewed professionals have limited experience working based on provisions of these two laws, and some of the answers in which interviewees are referring to specific procedures or legal institutes might not correctly reflect the letter of the law.

Family Act of 2003, regulating issues of child involvement in custody and visitation proceedings, contains very broad principles in relation to child's right to participation. Many specific procedures have been developed through institutional practice and collaboration of courts and social welfare institutions.

Since the beginning of the project, changes to several laws have been announced or enacted, including amendments of the Juvenile Courts Act, the Criminal Code, and the Family Act.

Short presentation of central aspects of the legal framework follows.

### **1.3.1. Jurisdiction**

In criminal proceedings, special juvenile courts (i.e. divisions or panels) have jurisdiction in criminal cases involving certain crimes committed by adult perpetrators against children and young people, criminal offences against sexual freedom and sexual morality (Chapter XIV of the Criminal Code (*Kazneni zakon*)), criminal offences against marriage, family and youth (Chapter XVI of the Criminal Code) and other crimes prescribed in Article 113 of the Juvenile Courts Act.

Juvenile divisions are established in municipal courts located in the places where county courts have their seats, as well as in county courts themselves. Juvenile divisions are composed of juvenile panels and juvenile judges. In addition, some other municipal courts also have juvenile panels and judges. The Supreme Court also has a juvenile panel.

In civil proceedings, there are no specialized courts, but there are family departments in bigger courts. Some judges are in charge of family-law cases in smaller courts, where there are enough such cases. Articles 32 (1) and 32 (2) of the Courts Act provide for the establishment of departments where one or more judges decide on similar law matters.

### **1.3.2. Conducting child hearings.**

In criminal proceedings, according to the Juvenile Courts Act (Article 115), when the police find out that a specific criminal offence listed in Article 113 (3), which carries a penalty of imprisonment of three years or more, has been committed against the child, they have to notify immediately the public prosecutor for juveniles. The competent public prosecutor for juveniles, at the latest within three days of the entry in the register of criminal charges for crimes against sexual freedom and sexual morality, and against marriage, family and young people, has to make a proposal to the judge of investigation to hold evidentiary hearings, in order to examine the child as a witness. If the child has not reached sixteen years of age, such an examination is conducted under the provisions of the Criminal Procedure Act on the examination of a child as a witness (Article 292 (1) CPA). A person within the child's trust may attend the examination. Children as witnesses to the victim of the offence referred to in Article 113 of the Juvenile Courts Act may, instead of in court, be examined at their home or in another specially equipped space. At the trial, the child will not be re-examined, but a video recording of the examination will be reproduced and used.

Pursuant to the Criminal Procedure Act, the examination of a child as a witness is carried out by a judge of investigation. The examination is carried out in the absence of the judge and parties. The child is situated in a room and is examined through audio and video devices which are operated by an expert assistant. The examination is carried out with the assistance of a psychologist, educator or other expert person and, unless this is contrary to the interests of the proceedings or the child, the parents or a guardian may be present during the examination. The parties may ask the child-witness

questions authorized by the judge of investigation through an expert. The examination has to be video-taped and audio-taped and the recording has to be sealed immediately and enclosed with the record. The child may be examined again only in exceptional cases and in the same manner (Article 292 (1) CPA).

Similarly, the examination of a minor as a witness is also carried out by the judge of investigation. During the examination of a minor, especially if the minor is the injured person of the criminal offence, special care is taken so that the examination does not have a harmful effect on the mental condition of the minor. When the circumstances of the case so demand, the judge of investigation can decide, paying special attention to the protection of the minor, to conduct the examination in the manner provided for the examination of a child (Art 292 (2) CPA).

In misdemeanor proceedings, the Misdemeanor Act (*Prekršajni zakon*) (Article 173 on interrogating witnesses and court experts) provides that the provisions valid in the Criminal Proceedings Act for interrogating witnesses and court experts shall be applied *mutatis mutandis*.

In the civil field, in all actions where a child's rights or interest are decided upon, children have the right to find out, in an appropriate way, the important circumstances of the case, to receive advice and express their views, and be informed of the possible consequences of compliance with these views. The views are taken into consideration with respect to the child's age and maturity (Article 89 (5) of the Family Act).

In divorce proceedings and in parent-child disputes, the social welfare office, when drawing up an opinion on custody, usually interviews the child through a psychologist, as part of long established practice, although this is not prescribed by law. Almost none of the questions above are regulated in the civil field.

### **1.3.3. Informing children**

In the criminal field, when undertaking the first action in which the victim participates, the court, the State Attorney, the investigator or the police authority has to notify the victim of:

- 1) The rights of the victim and the rights of a child victim;
- 2) The rights which the victim is entitled to as an injured person (Article 43 (3) of the Criminal Procedure Act (CPA)).

In the criminal field, when undertaking the first action in which the victim participates, the court, the State Attorney, the investigator or the police authority has to notify the victim of:

- 1) The rights of the victim and the rights of a child victim;
- 2) The rights which the victim is entitled to as an injured person (Article 43 (3) of the Criminal Procedure Act (CPA)).

Generally, the injured person is entitled to be present at the hearing, to participate in evidentiary proceedings and make a closing statement, inspect documents and files, be informed if the criminal charges are dismissed or the State Attorney decides not to proceed with the criminal prosecution, and be informed on the outcome of the criminal proceedings (Article 47 CPA).

In the civil field, in all actions where a child's rights or interest are decided upon, children generally have the right to find out, in an appropriate way, the important circumstances of the case, to receive

advice and express their views, and be informed of the possible consequences of compliance with their views. The views are taken into consideration with respect to the child's age and maturity (Article 89 (5) of the Family Act). There are no further specific remarks about who informs the child, where, when, how often and how.

For matters affecting child-parent relations, a social welfare office, upon the request of the court, informs the child about the possibility of participating in a court procedure (pursuant to Article 277 (2) of the Family Act). Where, when and how are left to the social welfare office, and there are no guidelines on delivering information on the court proceedings.

#### **1.3.4. Current or planned changes to policy of legislation**

Interviewees are not aware of any planned policy changes relevant to child participation in justice. Two respondents – one expert witness and one CSW psychologist expressed their hope that this research might lead to some policy changes.

In terms of legislative developments in the criminal field, while a vast majority of interviewees is not aware of any changes, few mention that they have heard of some future changes to the Criminal Act, but nothing that would impact child participation in proceedings. One misdemeanor court judge mentions that the new Misdemeanor Act is going to be drafted. Two judges point out the fact that the court practice and case law based on the recent legislation are still insufficient, and that it is only through practice that any flaws in legislation become revealed.

Seven interviewees are aware that the new Family Act is being drafted. They do not seem to have full information on the direction of changes, but some mention harsher sanctions for parents manipulating their children in divorce proceedings.

## **2. FINDINGS**

### **2.1 Right to be heard**

#### **2.1.1 Right to be heard in the criminal justice field**

##### **2.1.1.1. Current practices**

Interviewees describing right to be heard in the criminal justice field were describing relatively new procedural rules, being applied since 1 September 2011, when the new Criminal Procedure Act came into force, and defined by the Juvenile Courts Act of 2011. In terms of criminal cases in which a child is a victim of sexual abuse as well as in severe physical/domestic abuse case, the competent public prosecutor for juveniles, at the latest within three days of the entry in the register of criminal charges for crimes against sexual freedom and sexual morality, and against marriage, family and young people, has to make a proposal to the judge of investigation to hold evidentiary hearings, in order to examine the child as a witness. If the child has not reached sixteen years of age, such an examination is conducted under the provisions of the Criminal Procedure Act on the examination of a child as a witness.

The first central feature of the current practice of examination, as prescribed by regulations and as practiced in criminal courts is the use of technology (video link equipment). Use of such devices allows for the child to be protected in two important ways: it that allows separation of child victim or witness from other parties in the proceeding; and, it allows for child's statement to be recorded,

sealed and entered into evidence, eliminating or reducing the need for child hearings to be repeated in later stages of criminal proceedings. The second central feature of child hearings within criminal proceedings is the use of social professionals with appropriate educational background (including, for example, psychologists or special educators) as the ones actually communicating with children during the hearing.

In terms of procedures used in juvenile courts, there is no difference regarding the role of the child; children as victims and children as witnesses of crime are being heard using the same rules.

Age of the child does matter: while the Juvenile Courts Act defines child victim as any person under the age of 18, Article 292 (1) of the of the Criminal Procedure Act on examination of children applies if the child has not reached sixteen years of age.

Before coming to court, child might first be interviewed by a police, by a medical professional or some other professional from his/her environment (for example, a school psychologist). A specially trained police officer is allowed to collect information from a child, usually in the presence of parents or guardians, or the representative of the social welfare centre or an educational institution. However, police officers are not authorized to hear children as witnesses. That is, information obtained through the initial police interview does not represent evidence. In order to be authorized to sign police reports in cases involving children, police officers have to complete a three month long training program. As reported by interviewees 20 police stations in Croatia have special rooms for conducting child interviews. Police officers from Zagreb included in the sample report that they have good collaboration with the Polyclinic for the Protection of Children of the City of Zagreb, where they send children victims for counseling/treatment. The Polyclinic represents an example of medical institutions mandated to provide health care services to traumatized children. Other such institutions exist, but the Polyclinic was mentioned numerous times by interviewees. In addition to providing health care to traumatized children, some professionals working in the Polyclinic are court experts and conduct child valuations in the context of both criminal and civil proceedings.

Child's first contact with the court happens during the evidentiary, pre-trial phase. Central features of child hearings that will be described using the example of hearings conducted by judges of investigations; any features specific to other phases of the proceedings or other contexts will be specified later in the text. When a judge of investigation sends a letter of summons to the child (that is, to child's parent(s) or legal guardians), he/she provides contact information for social professional working in the court, or an outside expert in courts that do not have social professionals on staff. In courts where they are established, contact information for victim and witness support services is provided. Most interviewees from a legal professional group state that one of these two actors provides initial relevant information and prepare the child for the hearing. Neither actor is allowed to discuss the case itself with the child or the accompanying adult. Rather they provide general information on the proceedings and the child's role in it. When a child comes to court, he/she is accompanied by a parent or a legal guardian and received by staff of the support office or the social professional conducting the hearing. Interviewees working in juvenile divisions of several courts describe the practice of showing the child the physical environment of the courtroom and the hearing room, to acquaint him/her with the surroundings and reduce stress.

Interviewees describe various measures used to avoid unintended meetings between the child victim or witness and the offender, including scheduling at different times, so that a child is placed in

a hearing room before the offender comes to the building (or is accompanied there by judicial police if in custody), use of architecturally separate waiting areas, and so on.

During the hearing itself, a child is typically alone with a social professional conducting the interview in a separate room, linked via video to the courtroom. While regulation allows for a parent or another person a child trusts to be present during the hearing, majority of interviewees stated that the child was alone with the social professional. When asked for reasons for such practice, most interviewees, especially legal professionals stated that in many sexual abuse and domestic violence cases parents or other family members are either implicated in the case or needed as a witness; that precludes them from listening to child's testimony. Social professionals who are conducting interviews especially emphasize their opinion that it is better for a child to remain alone. They state that children frequently feel embarrassed when someone they are close to is present; they also believe that it is easier for the child to relax when he/she is not accompanied and that the quality of the testimony is improved.

Parties present in a second room include: judge of investigation, public prosecutor, defense attorney, the accused, and – in cases when he/she is appointed by the court – the attorney for the victim. Parties address their questions to the judge, who decides on their appropriateness and asks the social professional to ask them of the child. Social professional is given the opportunity to reformulate each question in order to make it appropriate for child's age and maturity. The child hears and sees only the social professional, and is unaware of the presence or the actions of other parties.

Video recording of the testimony is added to the file; in cases of sexual abuse a transcript of the testimony is also made. The intention is for these documents to be used in later stages of proceedings, so that the child would not be required to give testimony again.

Courts vary based on availability and quality of resources needed for child hearings. In terms of human resources, only large courts have social professionals trained for working with children on their staff. In other courts, external experts are used. Since the program related to establishment of the victim and witness support service is rather new, such offices exist only in several courts, and were originally intended for adult victims/witnesses. Video link equipment has been present in Croatian courts for about a decade, but some respondents report that it is outdated to the point that it represents an obstacle to proper conducting of the court business. Most interviewees report that separate rooms for child hearings do exist. Those interviewees familiar with the way they look in most cases do not describe them as child-friendly. These are typically offices or small judges' chambers, with office furniture and no child-friendly features. In some courts, professionals working with children bring in toys, drawing equipment, posters, etc., to make the environment less stern. Most interviewees, however, emphasize the importance of the fact that the child is not being heard in the courtroom.

Almost all interviewees who have participated in or observed child hearings report that there is no material available that would facilitate child's participation. Process is left to communication skills of the social professional in charge. Sometimes they use drawing techniques to elicit responses from the child. Only one medical institution included in the study had testimony tools available, and some legal professionals expressed their belief that social professionals might have them available or that they bring them when they are asked to come to the court to conduct hearings.

There is no legal minimum age for participation of child victim or child witnesses. Interviewees generally report that victim testimony is central for establishing the facts in most sexual and domestic abuse cases due to scarcity of other evidence. If the child is young, social professional conducting the interview adjusts his/her communication style. This typically, among other things, means that the pace of the interview is slower and that it consequently extends to a longer period. When the interview is long, breaks are introduced to make it easier for the child. Some judges split the interview into several sessions, if the child is unable to focus or if he/she gets emotional during the process. In case of small children (some interviewees talk of school age, some of age 5 or younger) interviews are not conducted through video link. Instead, children talk to an expert, and toys and drawings are used to elicit information. According to a psychologist interviewed, some judges are 'more sensitive' and do not automatically call younger children into the court. Rather, they solicit a psychologist to conduct an evaluation of child's ability to testify. According to her, this is done both to assure that the child is protected from trauma and to assure that the evidence obtained is credible.

On the other side of the age spectrum, while there is no explicit obligation to conduct hearings of children over 16 years of age via video-link, some judges report doing it, at least when it comes to sexual abuse cases.

Similarly, adjustments are made to the interview process when it is assessed that child's personal situation or characteristics might require some adjustments. Both social professionals conducting interviews and legal professionals observing them emphasize the importance of personal communication skills and the necessity to approach each child individually. One social professional mentions that the interview can be divided in several sessions if a child has disability; legal professionals speak of a skilled process of 'translation' of the legal language into a set of simplified, gradual questions that children can understand. In cases of language barriers, the courts have resources to elicit external help, including interpreters for foreign languages or for the sign language, as well as other experts with specialized knowledge. Many institutions represented in the project do not have any or full access for persons using wheelchairs.

In addition to the hearing, a child might be interviewed again for the purposes of the criminal proceeding if the court orders for the expert witness to perform child valuation and to evaluate credibility of child's witness testimony.

Reported practices regarding repeated child hearings vary. One respondent states that in her institution the child is heard only once – by the judge of investigation. Some judges cite the legal provisions intended to make repeated hearings unnecessary. However, when prompted, they state that sometimes children are being heard several times. Reasons mentioned could be grouped into categories of legitimate legal reasons, procedural mistakes, lack of care for the protection of the child, lack of knowledge. They include changed circumstances of the case; need to clarify some points that remained unclear in the first testimony; request by the defense to be granted the opportunity to question the witness; mistakes made during the first hearing, etc. Some attorneys and social professionals also report on repeated child hearings. It is difficult to assess whether such practice is an exception or not. One court advisor describes her assessment of the situation.

**Quote 1:**

*./../ the child comes with his parents to the police and says, I've said it to the police, thinking that the police are the state institution where one should not lie, one should not, I don't know what, right. He/she comes to investigation, says I've said it in court, a county court during the investigation, and now for the third time we call him/her to come here and say, now you repeat it again. Terrible."*

Following the provisions in the relevant law, child hearings in the trial phase are conducted either following the above-described procedure, or in the courtroom. If the hearing is conducted in the courtroom, the accused is asked to leave during the testimony. Transcript of the testimony is then read to him/her, and he/she can question some aspects of the statement. In such cases, child and the accused are both present in the courtroom.

Video link is not available to judges in misdemeanor proceedings dealing with cases of domestic violence involving children. However, procedures specified by the CPA are obligatory for them. One misdemeanor judge reported in the interview that a vast majority of judges in misdemeanor courts have no technical equipment, human resources, or even physical space necessary to conduct child hearings according to the prescribed procedure. They also do not feel competent to question children. Consequently, they mostly opt not to call them as witnesses. This report is substantiated by the lack of success of project's attempt to recruit three misdemeanor judges for participation in this project: they informed us that they do not call children as witnesses.

One attorney included in a sample describes the situation faced by misdemeanor judges.

**Quote 2:**

*„There a judge, aware of the fact that he has to investigate a child as witness, is in a fact trying to get closer to the child using his own life experience, trying to make the hearing as non-traumatic as possible, while at the same time conduct a procedure in an appropriate manner in order to ascertain some facts important for the proceedings.“*

**2.1.1.2. Overall assessment**

Interviewees involved in criminal proceedings involving children do not question the necessity of child participation. Many interviewees emphasized the centrality of child testimony for the case, especially for types of cases discussed here: sexual abuse of children and domestic violence with children as witnesses. All interviewees that discuss feature of these types of cases emphasize the fact that physical evidence is rare and that witnesses are few. Since interviewees assess that it is of the central importance to the child for the perpetrator to be sentenced and removed from his/her life environment, interviewees generally perceive child participation to be in child's best interest, too. (Few interviewees expressed their view that there is sometimes an overreaction to minor offences, and that the fact that the case is brought to a trial has more negative effects on the child than the original offense itself.)

Assessment does not differ much when it comes to participation of children as witnesses of domestic violence. Many professionals believe that child testimony is crucial in making the case.

What all interviewees do emphasize is that, while necessary, participation in justice proceedings is traumatizing for children. Therefore, was it not necessary to obtain sufficient evidence, they would not request or recommend child participation in criminal proceedings. Various interviewees emphasize different features of the judicial proceedings that might raise the level of stress for the

child. One of the most mentioned objections is that children are sometimes forced to give their testimony multiple times. Sometimes this repetition occurs in various phases of the same proceeding, for example when trial judges conduct hearings again (or even more than once), or when expert valuation of child's testimony is requested. Sometimes it is an additive effect of the fact that multiple actors are involved: police, medical institutions, social welfare institutions, courts, etc. Some interviewees used to the expert valuation format are critical of the way in which hearings is being conducted. They emphasize that the expert communicating with the child is not able to conduct normal conversation, but rather has to react to questions coming from the courtroom, or even wait while information is being recorded into case file (hearing minutes). Few social professionals with the expertise in child communication and interviewing are critical of the level of expertise of social professionals employed or used by the courts. One such professional describes effects of the physical environment on the child.

**Quote 3:**

*“And, now, we are bringing a child overwhelmed by a feeling of guilt, by a feeling of shame, by a feeling of fear. We are bringing him/her into /a room/ that, in his view is BUUUUH (imitates fear). Awful! Let’s just try and think and perceive this situation from a child’s perspective! And then a person wearing headphones that look like this (uses arms to suggest big headphones) on his/her ears is standing in front of me in a grizzly room equipped with a thing hanging on a side, he/she has some paper in front of him/herself and is writing something down, he/she is asking me questions about something that evokes in me... that I am doing by best to suppress, to negate, to forget... do you understand?”*

Interviewees did not talk about differences between participation of boys and girls.

**2.1.1.3. Good practices on individual and structural level**

\* Many interviewees mention high level of professionalism of those involved in child hearings, which result in an overall good atmosphere during the hearing. Interviewees frequently speak of the special atmosphere during these hearings, with a much higher than usual level of patience and consideration by almost all parties involved. In addition, judges of investigation, charged by state attorneys to conduct child hearings, are entitled to intervene if they consider any question to be inappropriate or unnecessarily burdening to the child.

\* There is a practice in one misdemeanor court to accept indirect testimony by CSW psychologists who interviewed a child, in order to avoid exposure of the child to inadequate conditions in the court. Misdemeanor courts do not have social professionals on staff, nor are they able to hire external experts. Some misdemeanor judges do not use child witness testimony at all, while others use the above practice to include child’s views into the process of decision-making.

\* Police officers working with children have to complete a mandatory 3-month training program in order to be certified to investigate children.

\*Police officers in Zagreb routinely refer children and their parents to a medical institution for the child to be assisted.

\* While most interviewees are not satisfied with the physical environment in which child hearings are conducted, many interviewed professionals working in courts have brought toys and other goods from their own homes to improve the situation for children.

## 2.1.2 Right to be heard in the civil justice field

### 2.1.2.1. Current Practices

Contrary to specialization of courts dealing with certain offences committed against children, as discussed in the previous section, there are no specialized courts in civil proceedings. There are just family departments in bigger courts; some judges are in charge of family-law cases in smaller courts, where there are enough such cases.

In civil cases, and specifically in parental divorce proceedings when matters of custody (or more precisely, of a decision on where the child is going to live after parent's divorce) and visitation are decided, in-court child hearings are an exception rather than a rule. One of the reasons might be related to legal status of the child: children do not have the status of a party in proceedings dealing with custody and contacts.

Another contributing factor relates to resources, to the fact that judges dealing with civil matters in proceedings involving children do not have social professionals trained in child communication on staff; they are consequently not able to solicit the involvement of such professionals when and if they decide to hear a child. Finally, judges do not receive training needed to conduct child hearings.

One judge explains why she rarely interviews children.

#### **Quote 4:**

*"I'm for mandatory practice of obtaining the views of the child, we have to hear what the child thinks, what he feels, but we have to give him a chance to do it in a way suited for him. This court is not fit for children, not even visually - you can see it, I don't have to explain it. Another thing is that I, as a judge was never trained how to talk with children, so I can only use my private knowledge. And that is one dangerous zone. In my opinion."*

While a couple of judges we interviewed told us that they, on rare occasions, do ask psychologists working in centers for social welfare (CSW) to come to court and assist them in conducting hearings, they do not have institutional mechanisms to do that regularly. Instead, centers for social welfare serve as a special service that helps the court establish evidence, protects the interest of the child in the proceedings and prepares an opinion on what is the best interest of the child in terms of custody and contact, as well in other matters. As part of long established practice rather than based on any legal provisions, psychologists from CSWs conduct interviews with children in order to obtain child's views and preferences in terms of his/her living accommodations after the divorce. In a sense, this duty is 'outsourced' by the court to CSWs, and a vast majority of children's views related to divorce and custody proceedings are obtained for the court by CSW psychologists. Information obtained through such interviews is compiled with other information and presented in a form of a written

opinion of the CSW team to the judge. However, not all children are interviewed during custody and visitation proceedings.

Based on information obtained from interviewees working within family teams of CSWs (mostly psychologists, and some social workers), they first become aware that they are children involved in divorce proceedings when parents report for a mandatory attempt at mediation. They use this occasion to make sure that children are informed of what's going on, but do not talk to children themselves. If mediation fails, but parents come to an agreement regarding custody and visitation, CSW psychologists do not conduct interviews with children. The only exceptions reported are when there were some doubts that child's best interests is being realized through such an agreement, and when some potential risk factors were present. CSW psychologists conduct interviews with children in the context of divorce /custody proceedings when there is no agreement reached on arrangements between two fit parents.

Since child's right to participation is realized much more frequently in the form of the out-of-court interview by CSW psychologists than in the form of direct or assisted interview/hearing by the judge in the court, this format will be described first.

CSW psychologists are members of a family law team, typically also including a social worker and a lawyer. Each team member contributes information needed to write a team opinion on the best interests of the child in terms of custody and visitation. Child interviews are conducted by psychologists; social workers do a social anamnesis, and lawyers deal with legal aspects of the situation. Sometimes team members visit child's home and couple of members might be present during interactions with families. However, psychologists report that they are alone with the child during the interview.

Child is typically brought to CSW by a parent he/she is currently living with. After a short introductory chat, a parent is asked to wait outside. Interviewees uniformly state that children accept such an arrangement; even those who are initially anxious tend to relax after a couple of minutes. Interviewed psychologists assess that presence of a parent would negatively influence the interview process and would create a risk for child's responses to be biased by the need to conform to parent's expectations.

Interviews, according to most professionals conducting them, last about half an hour, and the session in some cases also includes some standard psychological tools, such as test of sentence completion or picture drawing. These tools have been mentioned by several interviewees coming from different CSWs, but no mechanism that would result in the uniformity of approaches has been articulated by respondents. Duration and tools used depend on age of the child. While verbal tools are used with older children, some non-verbal tools and aids are used during sessions/interviews with younger children. Duration of interviews also depends, according to majority of professionals conducting them, on individual children. Some children articulate their opinions more easily, some are more introverted. One attorney interviewed, as well as a couple of non-CSW social professionals, suggested that child interviews only last some 15 minutes and are not sufficient to adequately assess child's position. Several interviewees point to a heavy work load of CSW professionals that may result in less than ideal results in each individual case. One judge states that CSW psychologists are sometimes late in submitting their reports, delaying the proceeding.

Psychologists interviewed never refer to these sessions as hearings; they call them interviews. They are informal conversations with the purpose to obtain some information from the child that would be suggestive of best choices and arrangements for him/her after parental divorce. Several psychologists emphasized that they never ask children directly what parent they would like to live with. They assess such a question to place too much of a burden on a child. Rather, conversation revolves around typical activities performed together by each parent and the child and similar topics.

Large majority of interviewed CSW psychologists states that they only interview school-age children or older children. Some mention lack of training to conduct interviews with younger children, some mention general developmental reasons. When dealing with custody matters involving younger children, CSW psychologists report using direct observation methods in natural environment to obtain information that would facilitate their decision on what would constitute child's best interest in terms of custody and/or visitation. They typically visit family's home and observe child's interactions with each parent.

Interviews are conducted in psychologists' regular offices; there is no special child interview room with child-friendly features. Psychologists interviewed, since they are working with children, have introduced some decorative elements into their work space, and some keep toys and picture books in their work space. Lack of a private space is a problem for some professionals interviewed. Some CSW professionals are sharing offices, and someone needs to leave the office in order for a conversation with a child to take place in privacy. As already mentioned, sometimes CSW psychologists and/or other team members visit child's home (especially when children are young). Some psychologists interviewed suggest that they use child's home environment to conduct interviews in, even if children are of school age or older. Such decision is sometimes made if a psychologist, together with a parent, assesses that the exposure to the institutional environment of the CSW would be too stressful to the individual child.

There are no materials made available to professionals within the welfare system specifically developed for the purpose of conducting interviews in the context of divorce and custody proceedings. Few interviewees mentioned that they use some related resources available on the Internet, on web pages of some welfare or medical institutions. They also direct parents to obtain and use such resources.

Together with other information obtained by a psychologist and other team members from other sources, CSW team uses information and views obtained by a child to form an opinion and issue recommendation in relation to custody and visitation matters to the court. Child interview is only one source of information and final recommendations can be contrary to expressed child's wishes, if the psychologist assesses that child's best interest is better served by a different decision. In the experience of a vast majority of interviewed CSW professionals, courts tend to respect their professional opinion. This view is confirmed by family/civil law judges interviewed. Most of them almost exclusively depend on CSW opinions and recommendations when it comes to obtaining child's views. Some of them, in some cases request for the child interview to be conducted and child's views to be obtained. Several interviewees within both the welfare and the judicial system suggested that there is more of awareness that child's views should be obtained and reported on in case files during recent years.

Few other actors interviewed, specifically some attorneys and medical professionals, presented somewhat different views of the above-described process. They pointed out that, according to their information, child interviews do not last longer than 15 minutes. One attorney pointed out that the process is not made transparent to all parties in the proceedings, and that she can obtain very basic information on results of child interviews, and not on the interview itself.

In summary, relevant issues in most divorce-related cases are either (a) resolved through parental agreement without child hearings; such an agreement is not questioned by CSWs or by the court if arrangements are deemed to be acceptable in terms of child's interest; or (b) decided by the court on the basis of CSW family law team opinion and recommendations, partially based on child interviews conducted by CSW psychologists in CSW offices or in child's home.

One judge describes her expectations in terms of information contained in a report.

**Quote 5:**

*“(...) as a rule I ask a lot because this helps me make a decision. Namely, in the procedure we collect all the little details and make a big picture out of them. In these procedures I can't focus only on the fact who used the property last and in what way and when did the trespass occur as in the litigation on the trespass, for instance. This is not about a wall or a property, this is about a child.”*

There are two exceptions to these patterns. The first one occurs when one of the parents/guardians does not agree with the opinion expressed in the CSW report. A parent, as one of the parties of the proceeding, can then request an independent court expert witness to conduct a separate evaluation. Such evaluation can also be requested by the court. In most cases, a party requesting the evaluation also pays for it. In conflict divorce proceedings, it is not uncommon for both parties to request separate evaluations. The second exception occurs when civil court/family judges decide that they have to conduct child hearings themselves. This practice has been mentioned only by three legal and one social professional, and only in relation to practices of few courts. It has been employed by some judges only in extremely rare cases when several conditions were satisfied: when the judge already attempted to reach a decisions and was not able to do so; when a child was old enough for the judge to feel somewhat comfortable in the situation (12 years old children or older); in one or two cases a judge mentioned a situation when she felt that child was deprived of a potentially beneficial relationship with a family member by a current situation; in one or two case, a child him/herself expressed the wish to state his/her views. Two judges solicited psychologists to join them during the hearing, although they were not court staff members but CSW employees involved with the case. Two judges conducted the interview themselves. All judges removed other parties from the courtroom during the interview to reduce stress/trauma for the child; one even asks her clerk to leave and writes 'working notes' herself, to reduce potential stress for the child.

Interviewed professionals do not report on differences in terms of gender of children.

**2.1.2.2. Overall Assessment**

Most psychologists working in CSW on divorce issues express the view that the current practice corresponds to children's interests and do not believe that children's participation should be broadened. Only few CSW practitioners states that they would be more comfortable soliciting views from more children, but simply do not have time to do it. Large majority does not believe in institutional involvement in the relationship between children and functioning, responsible parents and trusts that through agreement parents can identify and serve best interests of their children. If parents cannot reach an agreement, and the child is consequently interviewed, most psychologists assess that the situation can cause some stress, but at the level that can be alleviated through careful communication with the child. In the assessment of many professionals involved in divorce proceedings in various roles (including CSW psychologists, social workers, expert witnesses, judges, attorneys) the biggest negative impact on the child occurs when there is a high level of conflict between parents, and when they are using the child to get at each other. Child manipulation is the most frequently mentioned negative feature of child participation in civil proceedings. It has been even suggested by few interviewees from the criminal justice field that some child abuse cases that come to their attention are resulting from false allegations caused by conflicts between former spouses.

#### **2.1.2.3. Good practices on individual and structural level**

- \* Several interviewees suggested that the civil justice system is becoming more aware of issues related to children's rights in general, and their rights related to participation in particular. One psychologist from a small town CSW informed us during the interview, for example, that they have been receiving more and more requests from judges to obtain child's views and to record that fact in their report.
- \* Judges from family law groups in municipal courts in Zagreb and Rijeka have been holding regular biannual meetings in order to discuss cases and ambivalent legal issues among themselves.
- \* Psychologists working in CSWs reported their practice to visit children in their homes for interviews whenever possible and assessed as preferable due to some concerns expressed by parents or due to some special need.
- \* Few interviewees report on the willingness of family law judges to leave the court and interview children in a different setting when they feel that the court environment is too severe for the child.
- \* CSW family team members and judges generally assess their mutual collaboration very favorably. They feel that they receive professional appreciation and they report that they have open lines of communication whenever child's interests require it.

#### **2.1.3 Concluding assessments on the right to be heard**

Criminal and civil fields differ dramatically in a sense that all the procedures within the criminal justice are much more specifically regulated. However, exposure to information on practices of various family courts and CSW family teams also indicates that there is a rather high level of codification of practices.

Within both types of proceedings, specialists are tasked with communicating with children. In criminal proceedings, judges use either court employees or external experts. Such resources are not available to civil court judges. They therefore rarely conduct interviews in the court, but rather rely on reports and opinions of CSW family teams, which sometimes include results of child interviews.

In both justice fields, institutions of guardians exist to further assure protection of child's interests. However, in both fields guardians do not seem to be used as well as they should be. In the criminal field, in cases when the court appoints an attorney to the victim/legal guardian, it seems that his/her role is not clear or consistently practiced. Some interviewees were not able to describe what do legal guardians do, and some suggested that they were not active or well-prepared.

In the civil law field, guardian ad litem can be appointed in all cases when child's and parent(s)' interests are in conflict. However, interviewees report that specific tasks of such a guardian are not clear, and that there is no procedural regulation explicating his/her role.

## **2.2 Right to information**

### **2.2.1 Right to be informed in the criminal justice field**

#### **2.2.1.1. Current Practices**

Unlike with issues related to child's right to be heard, general observation for interviewees across the professional spectrum within the context of criminal justice proceedings is that there seems to be less awareness of specific rights to information related to judicial proceedings. Most interviewees volunteered much less rich information in this section when compared, for example, with the section on child's right to be heard. When prompted, some stated that it would be improper for them or for other actors involved in criminal proceedings to share information with a child, referring to material facts of the case. In terms of information on the judicial proceedings themselves, and on child's role and expected involvement within it, most actors seem to be pointing to other actors involved as those tasked with providing such information.

When the court first sends a letter of summons to child's parents/guardians for the child to come to a hearing (both during the pre-trial evidentiary hearings and in the trial phase), this letter contains contact information for court advisors responsible for conducting child hearings in case that the court has one on staff. In smaller courts, where there are no social professionals on staff, contact information is provided by the external expert hired to perform the same task. Only in few courts victim and witness support services provide support to child victims or witnesses. In those courts, the letter of summons contains contact information for these services. Representatives of two such services included in the sample report that they are the ones children or their parents contact when summoned by the court. Staff of the support service meets with the child and the accompanying parent and takes them to their office where they receive general (and not case-specific) information on the procedure and expected steps during child's involvement. They also offer to the child to get a tour of facilities, so that he/she would get acquainted with the environment. Support services have some information leaflets available; however, they are not child-friendly and are typically used by older children or by parents. In other courts, the child meets with the social professional tasked with conducting the hearing who typically takes him/her and the parent to his/her office for a conversation before the hearing itself starts. They are offered some general information on the

court and on the formal aspects of the proceedings. While there is a scarcity child-friendly information materials, few social and legal professionals mentioned a picture book titled “Luka at the Court” published by an NGO as a very useful tool to offer children and parents as a preparation for their role of a participant in justice proceedings.

Few legal professionals pointed out that in criminal cases involving offences resulting in minimum sentences of 5 years or more, child victim has a right to request a court appointed attorney to the victim, who is then charged with protection of victim’s rights. In cases when such an attorney is appointed, his/her name and contact information is added to information provided in the letter of summons. According to interviewees mentioning this institute, one of the tasks of such an attorney would be to provide all information relevant to the child victim, from the beginning of their involvement with the justice proceedings till the end of such involvement. Such continuity of support, and especially of informational support, is also ensured by the use of same court staff members throughout the judicial proceedings. Interviewed judges themselves do not know what kind of information are children or their parents provided with by court advisors or (in some cases) by court appointed attorneys to the victim. Interviewed attorneys and the public prosecutor also were not very familiar with the nature of such information. They themselves do not provide information to children victims/witnesses

**Quote 6:**

*“I know that it is put into action. I don’t personally know in what way and I haven’t participated in any preliminary conversation with the child, but I know that this conversation is, again, performed by the professionals. That during this conversation a parent may be present, or person in whom the child has confidence. So, if a child has parents, has a person in which he has confidence, so he can have both his attorney and his legal representative. In any case, there are a number of people who work on protecting interests of the child, and I suppose that these people then adjust, or try to explain the situation to the child in which he has found himself”.*

The only information directed at the child all participants in the hearing were aware of related to a conversation between the child and the social professional conducting the interview immediately before the hearing. Here, through an informal conversation, social professional checks whether a child knows why he/she is present at the court and he/she is eased into talking about the event. Children are not given typical witness instructions mandatory for adult witnesses, but it is suggested to them that they have to tell the truth.

Several interviewees included in the sample, those who are clinical psychologists by profession, encounter children victims of criminal offences in several points of their involvement with the justice system, or even in points preceding such involvement: when parent(s) bring them to a medical institution with a suspicion that they might have been victimized; when their parents are referred to a medical institution by the police after their initial interview with the child; in their role as external collaborators conducting forensic interviews/child hearings via video link; and, finally, in their role as expert witnesses tasked to assess the credibility of child testimony. These professionals stress the importance of provision of all available and appropriate information to children, given that uncertainty is, in their best knowledge, one of the biggest stressors for children in these situations.

Those providing information themselves and other involved with the judicial process suggests that a minimalist approach might be the best when it comes to information. They point out the fact that the outcome cannot be guaranteed, that next steps in the proceedings and duration of the proceedings cannot be predicted. While parents could be informed of rights of their child as a victim or a witness, there is no guarantee that those requests related to most of these rights will be granted, except for, for example, a right to an interpreter.

#### **2.2.1.2. Overall Assessment**

Interviewees focus their comments mostly on the process they call 'preparation' of the child for the hearing. They are referring to a short conversation between the social professional about to conduct the hearing and the child. It occurs immediately before the hearing. As described by interviewees, the purpose of this segment is twofold: to provide some information to the child and to relax him/her before the hearing. The process involves a series of informal, chatty questions on child's everyday life. They are followed by some questions through the professional checks whether the child knows the purpose of his visit to the court. The child is then reminded in the mild languages on the need to speak freely of the events in question. Interviewees describe how the child becomes visibly more relaxed throughout this process.

One court advisor conducting such conversations summarizes information provided.

#### **Quote 7:**

*"We say to a child: You will be questioned as a witness, there is proceeding where you will be a witness. You will go to a room with me, and judge, state attorney etc. will be in the other room. You will tell me what happened, and if there will be any questions; I will pass them to you. You have to tell the truth, the conversation will be recorded and may be used as the basis for verdict. What we do today will be the end of story for you."*

No participants articulate very clearly their views on the relationship between the type and level of information provided and the comfort level for the child or the outcome of the proceeding. Many interviewees stress that the child should be told only about those things that adults can guarantee. It can be perilous to discuss outcomes of the case or even to predict next steps because there are no guarantees.

A large majority of interviewees does not perceive informing children as a problematic area. Responses of different types of professionals involved seem to suggest that there is no clear set of procedures or a protocol on what information should be given to a child at what point and by whom.

While in some criminal cases child victims are entitled to have court-appointed attorneys to the victim, based on responses obtained during this project, this institute is not being used properly. One of the mandates of the court appointed attorney is to provide all relevant information to children and their parents/guardians throughout the proceeding. No interviewee mentioned any cases where such role has been played by them.

#### **2.2.1.3. Good practices on individual and structural level**

There are not many good practices mentioned. It is interesting that several interviewees pointed to a picture book published by an NGO, and designed to inform children participants in the justice proceedings of some aspects of their role.

Victim and Witness Support Services established in some courts have a mandate to provide non-case-specific information to children participating in proceedings and their parents/guardians.

## 2.2.2 Right to be informed in the civil justice field

### 2.2.2.1. Current Practices

In the civil field, there are no specific provisions regulating who informs the child, where, when, how often and how. Specific procedures are therefore being developed through professional practices of actors involved. Family Act simply makes a general statement that, in all actions where a child's rights or interest are decided upon, children generally have the right to find out, in an appropriate way, the important circumstances of the case, to receive advice and express their views, and be informed of the possible consequences of compliance with their views. The views are taken into consideration with respect to the child's age and maturity (Article 89 (5) of the Family Act). Of social professionals working within the social welfare system, no social workers were able to describe legal provisions related to child's right to information. Majority of psychologists working in CSWs were also unsure of legal guarantees. Some simply stated that the child has the right to information on matters relevant to him/her and his/her status provided in accordance with his/her age and maturity. Others described their institutional and personal practices, sometimes not in compliance with the above-stated principle. One interviewee, who is also a supervisor within the social welfare system, states explicitly that she, aware that Croatian Family Act incorporates principles contained in international legal documents (and specifically relevant parts of the child's right to participation), believes that stated rights should be exercised in a more restrictive manner.

#### **Quote 8:**

*"But I really do think that (...) life should not be adapted to regulations (...) if things can be done in a less painful way for the child."*

Specifically, she does not believe that the child should be brought to CSW to discuss the situation with a psychologist, if his/her parents can reasonably be trusted to inform him/her of what's going on. Such view is reflected in a civil justice focus group as well, where a near consensus was reached that, in divorce cases, it is parental duty and responsibility to inform their children about the divorce and the related proceedings, and that other (institutional) actors should only be involved in terms of assuming responsibility for informing children if and when parents cannot reach an agreement in relation to issues relevant to the child.

First instance when CSW psychologists check whether the child is properly informed is during mediation, when he/she (according to reports of all interviewed psychologists) asks parents to tell him/her what their child or children know about the situation. In cases when parents inform CSW professionals that their children are ignorant of the situation, CSW psychologists report providing them with advice, scenarios or resources available to facilitate the process. Several interviewees mentioned as relevant as helpful materials for parents and for children available at the web-site of the Polyclinic for the Protection of Children of the City of Zagreb. If parents then assume the

responsibility to inform their children, CSW professionals do not get involved (provided that they assess parents are responsible and non-abusive). From interviewees' responses, it can be concluded that the type of information expected to be shared with the child is, in essence, that his/her parents are getting divorced; and, that new living and visitation arrangements are going to be introduced, assuring that the child will be able to continue his/her relationship with both parents.

In cases when parents proceed with divorce proceedings, and when they cannot reach an agreement of child's status issues, including custody and visitation, a child is invited to come to CSW with a parent for an interview. The first part of the interview is a conversation through which CSW psychologists inform children on the situation and check whether they are familiar with reasons for their visit to CSW. While the format of this conversation varies based on the age of the child, the intention is to convey basic changes that parental divorce will introduce into child's life, but also to assure the child that some things will remain unchanged. Majority of CSW psychologists conducting these interviews pointed out their belief that there was no need to discuss specifics of the situation and of parental relationship with the child. Interviewed psychologists conducting child valuations in conflict divorces, also working in medical institutions, share the individual approach to assessing what type and level of information is given to the child; information is deemed helpful only if the child can understand it. This is assessed in each individual case, so that:

**Quote 9:**

*"Children receive as much information as they can understand."*

Civil court judges involved in the study do not assume an overall responsibility for informing children. They state that provision of information is primarily parental responsibility, when they are dealing with non-conflict divorces and with responsible parents. Most judges assume that CSW team members inform children in cases when they conduct child interviews. One judge formally asks CSW team members to check whether children are informed of the situation. Only when children are invited to court for an interview do judges provide relevant information on the proceedings. Alternatively, they make sure that CSW psychologists provide it.

Attorneys interviewed in the study have limited experience with informing children: since parents are their clients, and not children, they leave this role to them. Most interviewed attorneys were also unsure on specific procedures related to informing children. Most attribute the role to parents, and some to CSWs. Divorce attorneys interviewed have no insights into the content of conversation between children and CSW professionals in relation to the type of information conveyed. Interviewed attorneys do not think that the courts have the role of informing children on parents' divorce proceedings and related matters.

**2.2.2.2. Overall assessment**

In this area, most legal professionals interviewed have a very limited experience and, accordingly, provide rather general assessments.

Social professionals involved in the process of providing information to children in relation to their parents' divorce proceedings and their role in it reflect more on the impact of such information on children. Psychologists emphasize the importance of conveying to children the information related to the purpose of the interview they are conducting with them. Proper information reduces

uncertainty and limits negative information. Psychologists interviewed emphasize, for example, how children are relieved when they are informed that they will not be asked to make certain decisions related to custody.

In general, interviewed legal and social professionals express the view that children whose parents are divorcing generally know more about the situation than their parents are aware of. Most professionals, when talking about 'regular', low conflict divorces, do not see a particular role for themselves in terms of informing children. Legal professionals mostly see this as a non-judicial matter, an issue that should be dealt with by the social welfare system. The judicial system only has to provide to children information relevant for their participation. Social professionals place the duty to inform children onto their parents, as the best equipped to talk to their child. One psychologist emphasizes the importance of establishing good collaboration with parents, since they believe that parent's attitudes and feelings towards the hearing are often reflected in child's attitudes and feelings.

#### **2.2.2.3. Good practices on individual and structural level**

Several interviewees mention that the web-site of the Polyclinic for the Protection of Children of the City of Zagreb provides useful and relevant materials for parents and children involved in divorce proceedings. One interviewee also mentions materials produced by the Family Center. In short, although CSW psychologists may not have specific information material in their offices, they use external resources to assist children and their parents. Apart from this, there have been no significant good practices reported.

#### **2.2.2.4. Areas of improvement**

Interviewed professionals do not see this area of their practice as a problematic one. In general, they place most of the responsibility of informing children onto parents. This changes if they assess that parents are not fulfilling their role in the best interest of the child. When CSW professionals assume the role of informing children, they do it through an informal conversation, without using any materials that would assist them. Production of such materials would, in our assessment, represent an improvement of current practices.

Given the heavy case-load of CSW psychologists, it might be prudent to introduce some kind of a 'check' on whether children were informed and what kind of information were they given.

#### **2.2.2.5 Ambivalent, open and challenging issues**

While CSW psychologists do talk to children about their family situation during the interview, other, and specifically legal actors, largely do not seem to assume responsibility in the area of informing children.

### **2.2.3 Concluding assessments on right to information**

In many areas, procedures in the criminal justice are more specifically prescribed than in the field of civil justice. What makes this area of the study specific is a seeming lack of full information on the type of information child victim or witness is entitled to and receives in practice when participating

in criminal justice proceedings. Both social professionals (expert witnesses and court advisors) and legal professionals point to the lack of predictability of the proceedings, especially in terms of their duration. Some argue that it is best not to provide information than to give false information.

In the civil justice field, everything seems to rest on CSW psychologists' judgment. They have to assess whether parents can be entrusted to provide adequate information to their children. In cases when children come in for an interview with them, they are the ones providing information. Extent and type of information appropriate for each age group and each child is not prescribed, but rather left to their judgment. Interviewed CSW psychologist did not report that the right to information was a topic discussed during their professional meetings or seminars. It would not be correct to suggest that this procedure is necessarily lacking, but some efforts at unification and support (in a form of materials or guidelines) might be welcome.

### **2.3 Training and co-operation of professionals**

In general, regardless of the criminal justice field and of the professional group, interviewees included in the sample have not received any extended on-the-job training at the beginning of their career in a position involving participation of children in justice proceedings. Almost all professionals interviewed started on their job with their university degree, without any additional requirements. Two groups have been identified through this project as exceptions; training programs they attended will be described below.

Some interviewees describe how they obtained specific knowledge and skills through their own initiative. Examples include a juvenile court judge who completed training in a therapy technique in order to better herself professionally. One interviewee, a social professional who used to conduct child valuations before the new procedural rules have been introduced, began to conduct them only after she, together with her colleagues, organized a long term training for themselves from an NGO they formed. Another judge, working on family law cases, describes how she reads books by psychologists to learn more about the field.

Another general observation that needs to be made about several professionals included in our sample (including some senior ones) is that they have been involved in training programs in capacities other than as participants. Participating in a multidisciplinary team working on domestic violence issues, one legal professional participated, as she reports, in the development and implementation of a training program for misdemeanor court judges. Another legal professional in the criminal justice field got involved in early stages of development of the Judicial Academy, as the institution designed to provide targeted training for legal professionals working within the justice system; her efforts did not result in the inclusion in courses relevant to child participation in justice. Two psychologists included in the sample design and execute training programs themselves, specifically on forensic interview techniques and broader issues of working with victimized children. Several interviewees from both professional groups have lectured in a series of one-day seminars in the field of child participation in justice organized by the Office of the Ombudsperson for Children and the Croatian Bar Association. Several of the interviewees are holding leadership positions in an association of legal and social professional working in fields of juvenile justice and family law, while several others have attended lectures organized by that association.

In summary, there are some initiatives related to training of professionals working in different capacities with children in justice proceedings, but most training programs reported by interviewees in the study could not be considered to represent systematic and continuous efforts to improve job-specific knowledge and skills.

### 2.3.1 Training and co-operation of professionals in the criminal justice field

Police officers working within the Department for Juvenile Delinquency have the obligation to participate in a three-month training program organized by the Ministry of Internal Affairs, completion of which results in certification and the authorization to sign police reports in cases involving children.

Members of other professional groups within the criminal justice field do not report any minimum requirements for their jobs except for their formal education. More experienced interviewees emphasize the role of obtaining some on-the-job experience as the best way to learn, while some younger interviewees express their dissatisfaction with the scarcity of training. Represented attorneys emphasize practical problems they are facing when thinking about attending training.

#### **Quote 10:**

*„Look, unfortunately, attorney's job is such that it really requires a lot of time and it is also unpredictable in terms of a daily schedule, and so... Professionally speaking, according to me, every lawyer should go through it. Definitely. But, is it possible to find enough time and will - that is another question. “*

Of 17 legal professionals within the criminal justice professional group, 8 reported no training participation, while 9 reported participating in a training program. Of 10 social professionals, 6 participated in some kind of a training program.

Majority of reported training programs were short workshops or lectures. The largest individual group in terms of training type relates to methodological training, specifically training on how to conduct forensic interviews. Training programs on this topic were attended by participants from both the civil and criminal justice group. While several interviewees did not identify the institution which organized the training, 9 participants (from both justice fields) participated in training on forensic interview techniques within an IPA 2009 Twinning Project conducted in collaboration between the Croatian and the Irish police.<sup>1</sup> While some participants only attended introductory, lecture-type seminars, others participated in workshops on how to conduct forensic interviews with children, using methods developed by the Irish Police.

In terms of patterns of cooperation between professionals in the criminal justice field, one of the more prevalent assessments is that professionals working within juvenile justice cases seem to have special inclination toward the field. Some interviewees emphasize the role of the process of self-selection, while others emphasize specialization (through selection of those with special inclination)

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<sup>1</sup> „Capacity Building in the Field of Fight against Sexual Exploitation and Sexual Abuse of Children and on Police assistance to Vulnerable Crime Victims“.

as one of the legislative intentions. In several descriptions of child hearings, participants and observers have referred to a special atmosphere of patience and of focus on child's interests that is not characteristic of other types of cases. One legal professional, juvenile judge of investigation, states that she is fully dependent on collaboration with others, since the process of conducting child hearings is designed precisely in a way to involve both legal and social professionals.

Some interviewees stress the fact that, when it comes to collaboration between various institutions, too much is left to individual decision of individuals involved, and not enough protocols of collaborations are developed. As an example, an expert witness described how she has to obtain information from various professionals and institutions in child's life in order to get better insight into his/her life (including health and education professionals). Their collaboration, however, is not mandatory and she occasionally meets with their reluctance to collaborate.

Several interviewees insinuated that there were conflicts or 'turf wars' between individuals or/and professional groups involved in activities related to child participation in justice. As an example, while child-friendly facilities for child hearings exist in a medical institution in a large city, and while they have reportedly been offered to judges, only two judges have chosen to make use of them.

### 2.3.2 Training and co-operation of professionals in the civil justice field

Disproportion between training participation between legal and social professionals within the field of civil justice is much higher than in the criminal justice field. Of 13 legal professionals, only 4 participated in training. Only one judge reported participated in a training program devoted to conducting child hearings. Another judge participated in a seminar on mediation, and the third one attended a seminar on the Hague Conference on Private International Law. One attorney attended a seminar on the process of divorce, organized by the Polyclinic for the Protection of Children of the City of Zagreb. Among social professionals, 11 out of 12 were included in some kind of training. Topics most represented in this field include methods of forensic interviewing and issues of children in divorce.

In terms of cooperation between professionals, it could be said that child participation in civil proceedings (custody and visitation proceedings) only exists through inter-disciplinary and inter-institutional collaboration. Judges are overwhelmingly depending on CSW social professionals to inform their decisions. In the vast majority of cases, as reported by professionals involved in child hearings during divorce proceedings either directly or indirectly, children do not go to court and are not heard by judges directly. Rather, they might be interviewed by CSW psychologists, and judges base their decisions on their written reports (and sometimes in-person testimony). Vast majority of CSW employees feel professionally appreciated by judges they are working with, and report that their opinions are taken into account. While psychologists are the only ones conducting interviews to obtain children's views, CSWs have teams typically including psychologists, social workers, and lawyers.

Apart from few comments on the inability of CSW professionals to meet court deadlines due to a heavy work load, this collaboration seems to be assessed positively by both sides.

### 2.3.3 Concluding assessments on training and cooperation of professionals

In both justice fields there is an expressed sense of the lack of systematic approach to relevant knowledge and skill development that would be offered by institutions tasked with the development of such programs. One institution mentioned several times is the Judicial Academy; several attorneys also point out lack of training programs offered by the Bar Association; some CSW employees stated that they were not receiving enough training through the competent ministry. In that context, although some interviewed professionals were able to participate in some short training programs, many could not even precisely recall topics covered.

Some interviewees point out that financial constraints limit their ability to participate in training programs. Interviewees from smaller towns, or even just not from the capital, are complaining that training workshops tend to be organized in urban centers, increasing the time and financial resources required of them/their institutions. One attorney suggested that, for her, participation in longer seminars would mean that she would have to hire additional trainees. Others emphasized irregular and unpredictable schedules characteristic of their job as an obstacle to participation.

Cooperation of professionals is an integral part of processes of child participation in justice, since the process is designed in a way that engages professionals with varied fields of expertise.

Many interviewees reported on their interest to participate in multidisciplinary events designed to enhance mutual exchange of knowledge and experiences. Examples most frequently mentioned include seminars organized an association of legal and social professionals in fields of juvenile and family law, and an annual multidisciplinary seminar devoted to family law issues.

## 2.4 Horizontal issues

### 2.4.1 Discrimination

Vast majority of interviewees from both professional groups and fields states that they do not believe that child's background influences child's participation. Also, an overwhelming majority of interviewees has only limited experience with children coming from some or all categories or having background characteristics mentioned in the interview schedule.

Most interviewees emphasize that each child is approached individually, which means that his/her individual needs are adequately addressed by social professionals involved. That is the most prevalent answers among CSW psychologists: individualized approach to each child. Other frequently mentioned measures aimed at facilitating equal right to participation are those directed towards elimination of concrete barriers. For example, it is mentioned that interpreters are provided for each child with a language barrier; sign language experts are also provided; interviewees mention use of alternative locations or child's home in case when their institutions are not fully accessible, etc. Few interviewees mention that children with intellectual disabilities are not being heard directly in court, but rather by specially trained experts. Specifically, before testimony, child valuation is conducted in order to assess child's ability to testify. Judges are provided with relevant information on children by CSW professionals, and they are able to decide what measures to take.

Few interviewees describe Roma community as specific in terms of practices of sexual relations with minors. Some interviewees seem to suggest that different standards should be applied in cases

involving Roma community. One interviewee points to the Supreme Court judgment asserting that the law applies equally to all citizens.

Some interviewees, although they represent a minority, point to the fact that formal equality is not enough and that it might result in a real inequality. Complex social environments and needs of some categories of children require use of very specialized measures and resources that the system cannot provide or afford.

**Quote 11:**

*“There is no equal treatment of children because preconditions for that are not being met. Equal treatment in terms of the same treatment... That is, the person working with the child, preparing him, she provides the same treatment. But for her to acknowledge all the differences that exist in reality and prepare such a child for testimony, she would have to be able to get into these matters. And that costs money. The state does not have the money for that and the state does not do it.”*

#### 2.4.2 Best interest of the child

In describing the relationship between child’s right to be heard and meeting of child’s best interests within parental divorce proceeding, one interviewee summarized views of many participants of civil proceedings by stating that the more difficult it is to ascertain child’s best interests, the more important it is for the child to be given the opportunity to express his/her views. This opinion seems to correspond with the philosophy guiding the practice of child hearing/interviewing within the civil justice field.

One attorney with a long experience in divorce cases represents views of a strong proponent of child hearings.

**Quote 12:**

*“In my experience so far no child was inarticulate, got confused; all the children answered happily, gladly and well, often even very objectively. (...) they were very careful not to cast stones only to one parent, and yes, amazingly, I am delighted how well the children assessed their parents and say that they want to live with one parent because of these, these and these reasons. (...)When they arrive, when they seriously need to say where they want to be, they are usually very objective and fair.”*

Within the criminal justice field, the most prevalent view is that child best interests are served if interests of justice are met – that is, if facts of the case are ascertained. Although many interviewees acknowledge at least potential for victimization through participation, they do not put into question the necessity of child’s involvement if his/her testimony is crucial for the case. Given that, interviewees mostly mention short proceedings, high level of professionalization and specialization, and avoidance of repeat testimony as mechanism that can assure that child’s best interest are met within criminal justice proceedings.

#### 2.4.3 Differences and similarities in regional, national, international context

There seems to be a clear distinction between Zagreb and other regional centers in terms of human resources and training available. In terms of in-court facilities available for criminal cases, differences

among courts are not that pronounced. Generally speaking, child-friendliness of the environment has not been achieved yet. While the Polyclinic for the Protection of Children does have child-friendly facilities for conducting child interviews, they do not seem to be used. One interviewee reported that the facilities have been offered free of cost. Real reasons for such lack of cooperation remains unclear, but perhaps it could be attributed to institutional or inter-personal conflicts.

Professionals from smaller towns in the vicinity of big centers seem to benefit from resources available in those bigger cities: children are referred to medical institutions, professionals can more easily travel to attend trainings. However, some professionals in smaller towns do report a feeling of isolation and lack of a professional network.

## **2.5 CoE Guidelines**

About half the interviewees have never heard of the CoE Guidelines, while the other half is either familiar, or somewhat familiar with them, their responses being relatively evenly split among the two categories. The social professions seem to be somewhat better acquainted with them, as 54% claim to be either familiar or somewhat familiar, while only 43% of the legal professionals fall into these categories. Of 30 legal professionals working in both justice fields, only 7 are fully familiar with the document. Of those, 5 are working in the field of criminal justice. 4 legal professionals working in criminal field have heard of the Guidelines, but are not fully familiar with them. In the civil justice field, the corresponding number is 2. Among social professionals, the difference between the two justice fields is smaller. Of 5 social professional familiar with the Guidelines, 3 are working within the civil, and 2 within the criminal justice field. Of 12 interviewees fully familiar with the Guidelines, 8 work in Zagreb and 2 in towns in the vicinity of the capital, suggesting lack of dispersion of information among the regions.

Generally, the respondents were not eloquent on the issue of the Guidelines, indicating that they have not been generally established as a recognized benchmark in this area. However, judged by a few more elaborate responses, the situation regarding the integration of the actual content of the Guidelines into the Croatian justice system may be somewhat different than indicated by the statistics. On one hand, the Guidelines, despite the fact that they were translated into Croatian, have not been publicized and distributed widely to all stakeholders to whose work they are relevant. Similarly, no training on the application of the Guidelines has been offered by the institutions officially charged with professional development of judicial officials, primarily the Judicial Academy, a fact that was directly mentioned by one of the respondents. On the other hand, the Guidelines, as reported by one of the respondents, were in fact used as the reference by the working group developing the new Juvenile Courts Act, and, consequently, their main provisions are in fact integrated into the Croatian legislation. As the sample used in the present research consists mostly of practitioners, the influence and impact of the Guidelines may well be underrepresented in their responses: while they may not be very familiar with the document itself, they do implement the law that incorporates its main precepts.

## **3. CONCLUSIONS**

### **3.1 Overarching issues**

Majority of interviewees from both justice fields and professional groups, when comparing current situation with the situation several years ago, assess that major advances have been made in terms of achieving a more child-friendly justice. General observation shared by representatives of both justice fields is that there is raised awareness of children's rights and an increased focus of guarding children's interests.

Interviewees within the criminal field point especially to legislative novelties, including guarantees of a speedy initiation of proceedings, specialization of courts and justice professionals, use of video link equipment and social professionals for child hearings, institutions of new protective measures.

Interviewees within the civil justice field also point to increased focus on child's views and his/her best interests achieved without legislative changes. Some even point out that principles of child-friendly justice are applied in practice even within the explicit awareness by some of the practitioners.

### **3.2 Research**

The study clearly identified a significant gap in research on children in the justice system in Croatia. Two thirds of interviewees were not able to report on any study they'd encountered, and the remaining third mostly reported on just one such paper, without being able to recount the specifics of methodology or findings. On the other hand, large majority of the interviewees stated that investigating children's experiences with the justice system would be very useful, to the ratio of 6 to 1. Respondents who were opposed to such research did not favor it because they believed it would expose children to further victimization. It should be noted that those who were in favor of the research also emphasized the need to protect children from such victimization, mostly by ensuring their voluntary participation, and through careful selection of interviewers (trained psychologists were mentioned), age of the subjects, and settings. In all this, no significant differences were found between legal and social professionals.

On the whole, the interviewees believed such research feasible, although some two thirds of them expressed serious concerns on that account. Primary concern related to sampling / access to data. As most of the court proceedings regarding children are sealed, it would be difficult to obtain insight into these files, either for the purpose of conducting secondary-source research, or for the purpose of identifying potential subjects. Centers for social welfare could not provide information for sampling purposes directly, as confidentiality is an issue. Finally, parents' consent is prerequisite for children's participation in research, and, according to two interviewees who elaborated on the matter; parents tend to be very protective of their children in this respect, and do not seem to view their participation in research as something that's in the child's best interest, especially after a traumatic experience such as court hearings. Consequently, the resulting sample would be small and probably biased.

Most of the interviewees who expressed an opinion on the matter seem to agree that the best entry point for potential research is through CSWs, as they are almost always a party when children are involved with the justice system. Few of the interviewees indicated that, upon a previous consent by

the Ministry of Social Welfare, they could be approached to issue a call for voluntary participation in such research. The call would be issued to parents, but the child's consent would have to be acquired as well. Other entry points mentioned by the interviewees include: specialized CSOs, law offices, and victim and witness support centers at courts.

The other method of research mentioned in the interviews is the one that would be based on a sort of debriefing of children at the end of the court proceeding via the institutions that were involved in hearings, again with their and parents' consent. This should be done by trained professionals. One of the interviewees suggested that children could be interviewed 5-10 years after their hearings originally took place, as that would probably not be traumatic for them. And, finally, a number of interviewees indicated that the most appropriate method for research would be based on the analysis of court records and other relevant documents.

## ANNEXES

### Documentation

#### Quotes

- “/.../ the child comes with his parent to the police and says, I've said it to the police, thinking that the police are the state institution where one should not lie, one should not, I don't know what, right. He/she comes to investigation, says I've said it in court, a county court during the investigation, and now for the third time we call him/her to come here and say: now you repeat it again. Terrible.”
- „There a judge, aware of the fact that he has to hear a child as witness, is in a fact trying to get closer to the child using his own life experience, trying to make the hearing as little traumatic as possible, while at the same time conducting a procedure in an appropriate manner in order to ascertain some facts important for the proceedings.“
- “And, now, we are bringing a child overwhelmed by a feeling of guilt, by a feeling of shame, by a feeling of fear. We are bringing him/her into /a room/ that, in his view is BUUUUH (*imitates fear*). Awful! Let's just try and think and perceive this situation from a child's perspective! And then a person wearing headphones that look like this (*uses arms to suggest big headphones*) on his/her ears is standing in front of me in a grizzly room equipped with a thing hanging on a side, he/she has some paper in front of him/herself and is writing something down, he/she is asking me questions about something that evokes in me... that I am doing by best to suppress, to negate, to forget... do you understand?”
- “I'm for mandatory practice of obtaining the views of the child, we have to hear what the child thinks, what he feels, but we have to give him a chance to do it in a way suited for him. This court is not adjusted to children, not even visually - you can see it, I don't have to explain it. Another thing is that I, as a judge was never trained how to talk with children, so I can only use my private knowledge. And that is one dangerous zone. In my opinion.”
- “(...) as a rule I ask a lot because this helps me make a decision. Namely, in the procedure we collect all the little details and make a big picture out of them. In these procedures I can't focus only on the fact who used the property last and in what way and when did the trespass occur as in the litigation on the trespass, for instance. This is not a wall or a property, this is a child.”
- “I know that it is put into action. I don't personally know in what way and I haven't participated in any preliminary conversations with a child, but I know that these conversations are performed by the professionals. That during these conversations a parent may be present, or a person in whom the child has confidence. So, if a child has a parent, has a person in which he has confidence, so he can have both his attorney and his legal representative. In any case, there are a number of people who work on protecting interests of the child, and I suppose that these persons then adjust that is, try to explain to the child the situation in which he has found himself”.

- “We say to a child: You will be questioned as a witness, there is proceeding where you will be a witness. You will go to a room with me, and judge, state attorney etc. will be in the other room. You will tell me what happened, and if there will be any questions; I will pass them to you. You have to tell the truth, the conversation will be recorded and may be used as the basis for verdict. What we do today will be the end of story for you.”
- “But I really do think that (...) life should not be adapted to regulations (...) if things can be done in a less painful way for the child.”
- “Children receive as much information as they can understand.”
- „Look, unfortunately, attorney's job is such that it really requires a lot of time and it is also unpredictable in terms of a daily schedule, and so... Professionally speaking, according to me, every attorney should go through it. Definitely. But, is it possible to find enough time and will - that is another question.“
- “There is no equal treatment of children because preconditions for that are not being met. Equal treatment in terms of the same treatment... That is, the person working with the child, preparing her, she provides the same treatment. But for her to acknowledge all the differences that exist in reality and prepare such a child for testimony, she would have to be able to get into all these matters. And that is costly. The state does not have the money for that and the state does not do it.”
- „I had situations, also involving children, where they would come to, for example CFSW, and they would feel accepted, and everything was OK. Then, the next time, they would come and encounter someone else, and they would feel threatened by them, and so on. That is simply the way the system is set up- it is big, employees are overburdened, I don't think they are trained well enough, and what happens then is that such an impression is created.“

## Tables

Professional Group	Gender		Location		Age Group			Total
	Male	Female	Rural/small municipality (local government units < 50,000)	Urban/big cities (local government units > 50,000)	< 45	45-65	> 65	
<b>Legal</b>	4	26	5	25	13	15	2	30
Criminal	2	15	1	16	7	9	1	17
Civil	2	11	4	9	6	6	1	13
Both areas	0	0	0	0	0	0	0	0
<b>Social</b>	3	21	10	14	10	14	0	24
Criminal	0	10	1	9	4	6	0	10
Civil	2	10	7	5	4	8	0	12
Both areas	1	1	2	0	2	0	0	2
<b>Mixed</b>	0	0	0	0	0	0	0	0
Criminal	0	0	0	0	0	0	0	0
Civil	0	0	0	0	0	0	0	0
Both areas	0	0	0	0	0	0	0	0
<b>All professionals</b>	7	47	15	39	23	29	2	54

### Ad CoE guidelines:

Ad CoE guidelines:	Familiarity with Guidelines				
	Profession	Familiar with CoE guidelines	Just heard of them/somehow familiar	Never heard/not familiar	Total
<b>Legal</b>					
Civil	2	2	9	13	
Criminal	5	4	8	17	
Both areas	0	0	0	0	
<b>Social</b>					
Civil	3	3	6	12	
Criminal	2	4	4	10	
Both areas	0	1	1	2	
<b>Mixed</b>					
Civil	0	0	0	0	
Criminal	0	0	0	0	
Both areas	0	0	0	0	
<b>All professionals</b>	12	14	28	54	

### Ad training:

Profession	Training Participation		Total
	no	yes	
<b>Legal</b>	17	13	30
<b>Civil</b>	9	4	13
<b>Criminal</b>	8	9	17
<b>Both areas</b>	0	0	0
<b>Social</b>	5	19	24
<b>Civil</b>	1	11	12
<b>Criminal</b>	4	6	10
<b>Both areas</b>	0	2	2
<b>Mixed</b>			0
<b>Civil</b>	0	0	0
<b>Criminal</b>	0	0	0
<b>Both areas</b>	0	0	0
<b>All professionals</b>	22	32	54

Professional Group	Type of Training				
	Legal	Social/ psychological	Specific justice issues	Specific child issues	Methods/ procedures
<b>Legal</b>	3	4	2	0	4
<b>Social</b>	3	1	0	0	15
<b>Mixed</b>	0	0	0	0	0
<b>All professionals</b>	6	5	2	0	19