

CHILD-FRIENDLY JUSTICE

THE PERSPECTIVES OF CHILDREN AND YOUTH

RESEARCH

OCTOBER, 2020





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1 | RESEARCH METHODOLOGY

The research on Child-Friendly Justice from the Perspective of Children and Youth was conducted in the period from March to September 2020 by the Child Rights Centre within the project "Children's Rights in Serbia - Improving the Position of Children in the Judicial System of the Republic of Serbia", performed by the International Rescue Committee, Child Rights Centre and ASTRA - Anti Trafficking Action, with the support of the European Commission through the Rights, Equality and Citizenship Program (reference number: 878485 - CRIS).

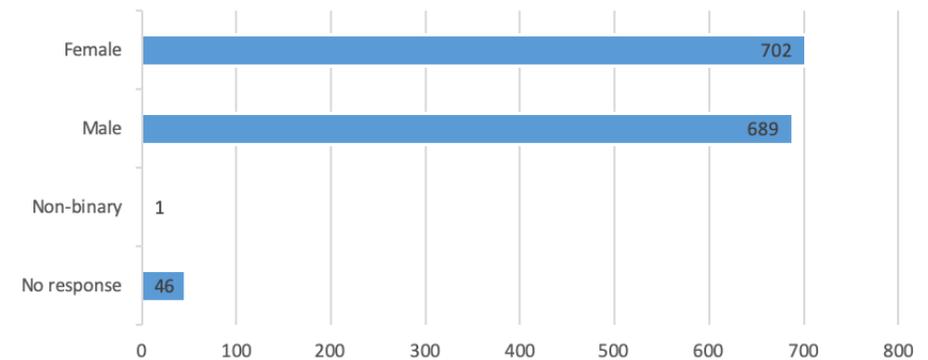
The aim of the research was to determine the opinion of children and youth about the judicial system and the level of its adaptation to children and youth in accordance with the adopted standards of child-friendly justice. The achievement of standards of child-friendly justice is analysed in relation to the basic standards and rights defined by international and national documents, in particular the UN Convention on the Rights of the Child, the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice and the provisions of the Law on Juvenile Offenders and Criminal Protection of Juveniles in the Republic of Serbia.

In particular, the standards of child-friendly justice which relate to informing the child about the rights and proceedings, hearing of a child, the urgency of the proceedings, safety and security, respect and dignity, the child-friendly environment and the exercise of the rights of children deprived of liberty are addressed. Within the exercise of the rights of children placed in juvenile justice institutions, the exercise of the following rights was considered: informing on rights, keeping regular contact with the family, the right to education, the right to play, engage in sports and cultural activities, the right to health care, the right to protection from violence, freedom of religion and the right to a legal remedy.

The research sample consisted of 1505 children and young people, of which 67 children and young people who were in contact with the judicial system aged 10-22 years who are placed in the Correctional Institution in Krusevac, the Institute for Education of children and youth in Nis, the Institute for education of children and youth in Belgrade, the Institute for education of children and youth in Knjaževac and 1438 children and young people aged 10 to 18 from the general population. The research included 742 male and 714 female respondents, 1 respondent declared himself as a non-binary person, while 48 respondents did not declare their gender.

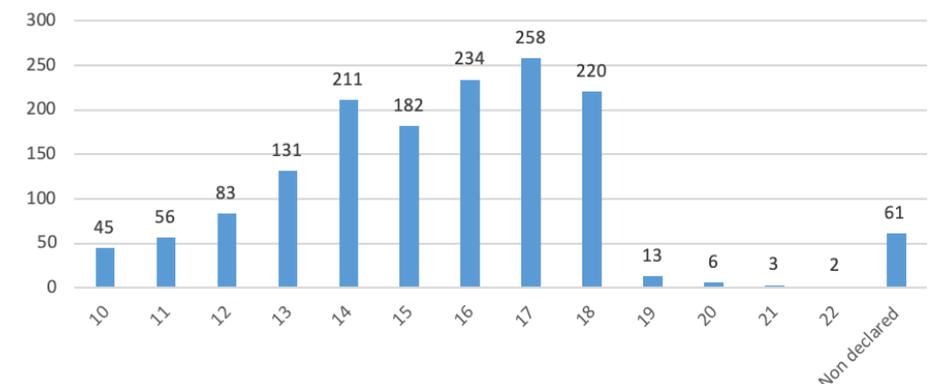
Within the research sample consisting of children who were in contact with the judicial system and who are placed in these institutions, out of a total of 67 children and youth, the research included 55 male and 12 female respondents, whereas the research sample of a total of 1438 children from the general population included 689 male respondents, 702 female respondents, 1 respondent who declared himself as a non-binary person, while 46 respondents did not declare their gender.

Gender of the respondents



In relation to age, the research covered children and young people aged 10 to 22, namely 45 respondents aged 10, 56 respondents aged 11, 83 respondents aged 12, 131 respondents aged 13, 211 respondents aged 14, 182 respondents of 15 years, 234 respondents of 16 years, 258 respondents of 17 years, 220 respondents of 18 years, 13 respondents of 19 years, 6 respondents of 20 years, 3 respondents of 21 years and 2 respondents of 22 years, while 61 respondents did not declare their age.

Age of the respondents



The research methodology was based on examination through two questionnaires. The first questionnaire consisted of 29 open-ended and closed questions. The aim of this questionnaire was to collect in-depth opinions of children and young people on the judicial system and the level of its adaptation to children and young people in accordance with the adopted standards of child-friendly justice. This questionnaire was intended for children and young people aged 10 to 22 who were in contact with the judicial system and who are placed in the Educational-Correctional Institute in Kruševac, the Institute for Education of Children and Youth in Nis, the Institute for Education of Children and Youth in Belgrade, the Institute for the Education of Children and Youth in Knjaževac.

The questionnaire was disseminated in a printed form, with the previously obtained permits of the Ministry of Justice and the Ministry of Labour, Employment, Veterans and Social Affairs, as well as the additional consent of the institutes in which the research was conducted. This questionnaire covers issues related to the standards of child-friendly justice, related to informing on rights and proceedings, hearing of the child, urgency of the proceedings, safety and security, respect and dignity, child-friendly environment and exercise of the rights of children deprived of liberty. Within the exercise of the rights of children in juvenile justice institutions, the exercise of the following rights was considered: informing on rights, keeping regular contact with the family, the right to education, the right to play, engage in sports and cultural activities, the right to health care, the right to protection from violence, freedom of religion and the right to a legal remedy.

The second questionnaire consisted of 7 open-ended and closed questions and was intended for children and young people from the general population aged 10 to 18 years. The aim of this questionnaire was to determine the level of information provided to children and young people about their rights in contact with the judicial system. The questionnaire was designed in a google form and disseminated via the Internet, through social networks, the influencers, as well as in cooperation with other institutions, organizations, associates and partners, particularly with teachers and professors of primary and secondary schools in many cities and rural areas.

The questionnaires were designed to entail a coherent whole that allows, following their qualitative and quantitative analysis, a comprehensive outlook and presentation of the opinion of children and young people on the achievement of standards of child-friendly justice. All formulated questions in the questionnaires were discussed by the focus group of children (Club DX of the Child Rights Centre) before dissemination in order to make the language clear and fully adapted to children and youth. During the process of developing the questionnaire, support was also provided by the Republic Institute for Social Protection.

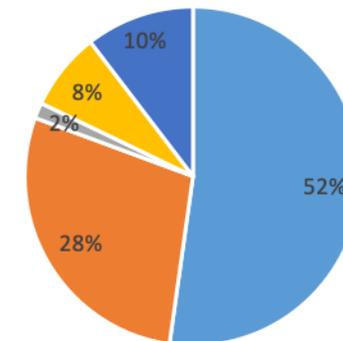
2 | RESEARCH RESULTS

2.1. INFORMING ON RIGHTS AND PROCEEDINGS

The results of the research show that this right is not exercised sufficiently and that there are a number of challenges in relation to informing the child about the rights and proceedings.

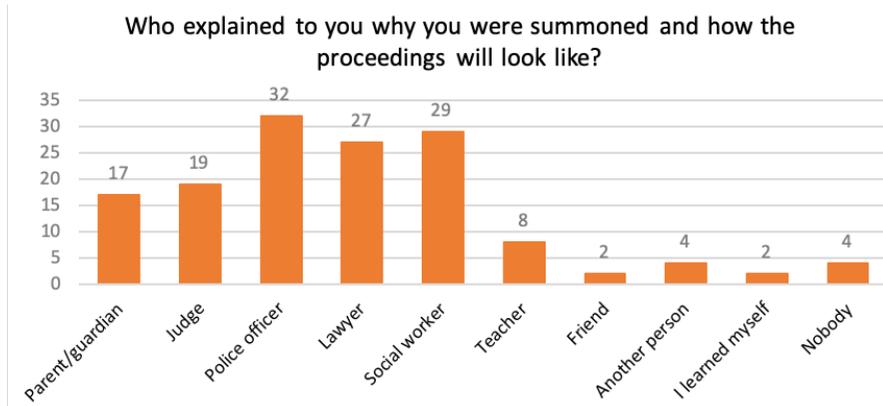
With regard to informing the child about the proceedings, the research results show that 1/5 of the respondents who were in contact with the justice, when they came to the institutions, have not explained or were minimally explained why they were summoned and what the proceedings would look like. When asked in which institution the proceedings were not explained to them sufficiently, in most cases the respondents stated that it happened in the police (14 respondents), and very rarely that it happened in the centre for social work (1 respondent).

When you arrived there, has anyone explained why you were summoned and how the proceedings will look like?



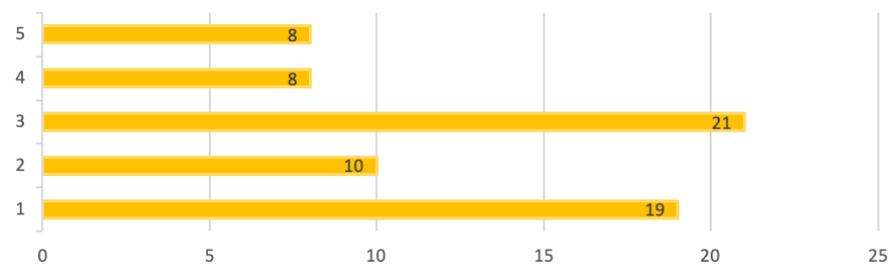
■ YES ■ TO SOME EXTENT ■ I DON'T KNOW ■ MINIMALLY ■ NO

The respondents who were informed about the proceedings reported that in most cases they received information from members of the police, social workers and lawyers. 1/3 of the respondents reported that their parents and judges informed them about the proceedings, while a small number of respondents stated that they also received information from some other persons (another adult, teacher, friend) or that they informed themselves about the proceedings.



However, research indicates that even when children and young people are provided with information about the proceedings, the way professionals address them is not fully adapted to the language tailored to the child. Thus, almost half of the respondents indicated that they are not satisfied or are minimally satisfied with the way they were given information about the proceedings and assess that they could not understand them, ask additional questions to resolve ambiguities, or fully understand what is happening.

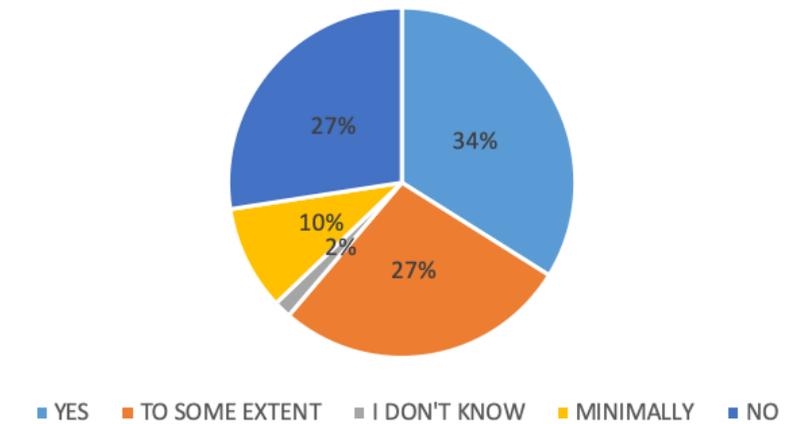
Rate with 1-5 how satisfied you are with the manner in which they explained to you why you were summoned and how the proceedings look like. To what extent you were able to understand them, ask if something is unclear or understand what is happening?



When it comes to informing children and young people about the rights they have in the proceedings, the results of the research are also worrying.

Namely, almost 1/2 of the respondents who were in contact with the justice system indicated that they were not explained or were minimally explained the rights they have in the proceedings when they came to the institutions.

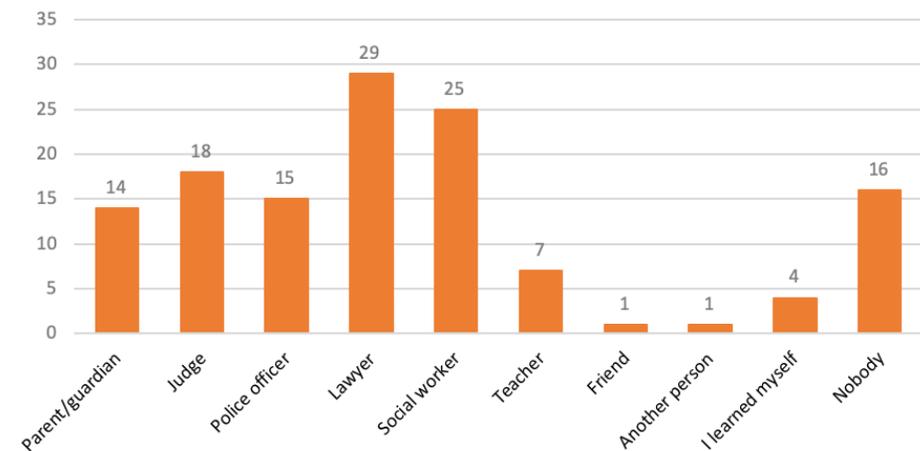
Has anyone explained to you which rights do you have?



When asked in which institution they were not explained the rights they have in the proceedings, in most cases the respondents stated that it happened in the police (7 respondents), and very rarely that it happened in the centre for social work (1 respondent).

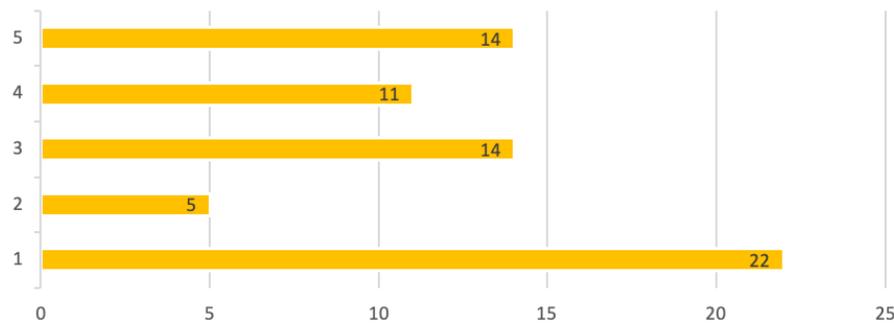
The respondents who were informed about the right they have in the proceedings reported that in most cases they received information from a lawyer and a social worker. 1/3 of the respondents reported that their parents, judges and police officers also informed them about their rights, while a small number of respondents stated that they also received information from some other persons (another adult, teacher, friend) or that they obtained information themselves.

Who explained to you which rights do you have?



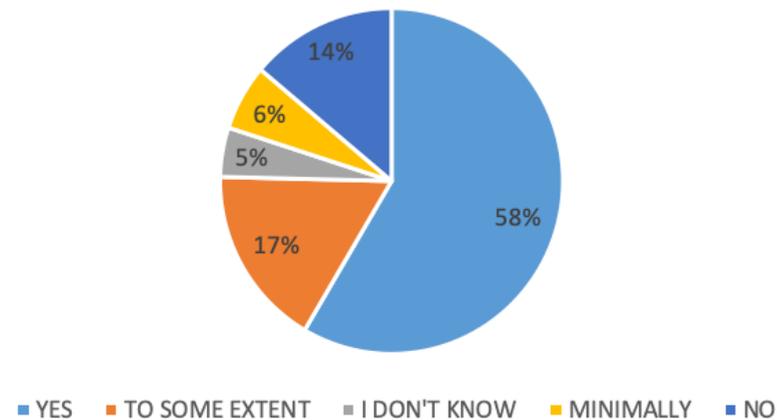
The results of the research indicate that, even when children and young people are provided with information about the rights they have in the proceedings, the way in which professionals address them is not completely adapted to the language tailored to the child. Thus, almost half of the respondents are not satisfied or are minimally satisfied with the way the information was given to them.

Rate with 1-5 how satisfied you are with the way in which you were given the information about the rights that you have. How much could you understand, ask if something is unclear and comprehend the rights that you have?



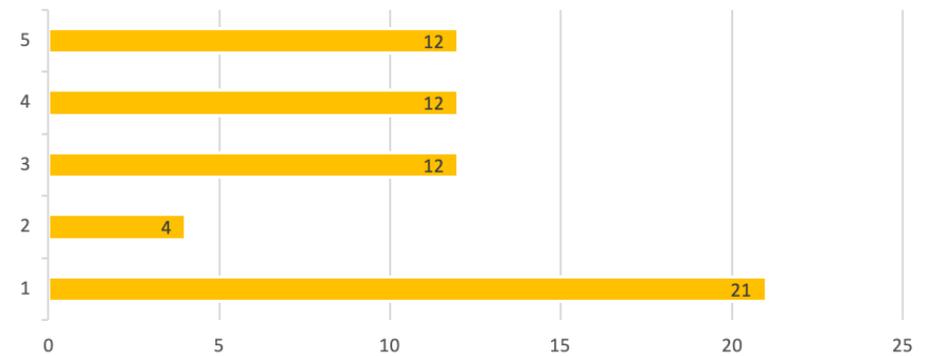
In terms of informing on the decision made in the proceedings, the results of the research show that the majority of children and young people who had contact with the judicial system were fully or to some extent explained the decisions made in the proceedings. However, it is worrying that 1/5 of the respondents indicated that the decision that was made was explained to them minimally or not at all.

Has someone told you and explained the decision that was made?



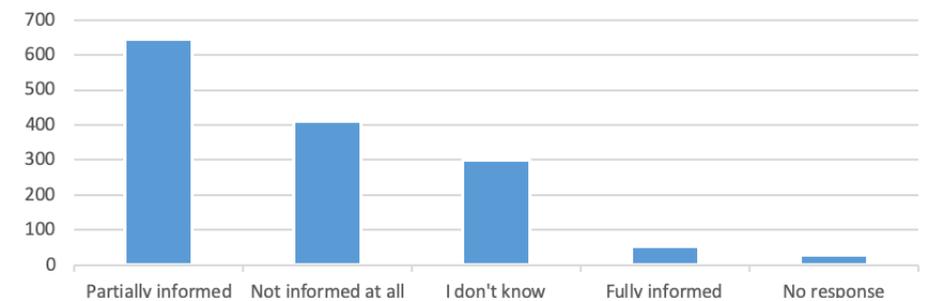
Also, the respondents indicated that the way the decisions were explained to them was not always adapted to the child's language in a way that they could fully understand them.

Rate with 1-5 how satisfied you are with the way in which you were explained the decision that was made. To what extent could you understand the information, ask if something is unclear or understand the decision that was made?



The research results also indicate that children and young people are generally not informed about their rights in case they come into contact with the judicial system, especially if they have no previous experience. Thus, the majority of respondents from the general population believe that children and young people are not informed at all about the rights they have if they come into contact with the judicial system (44%) or that they are partially informed (28%). Only 3% of respondents believe that children and young people are fully informed about their rights in case they come into contact with the judicial system.

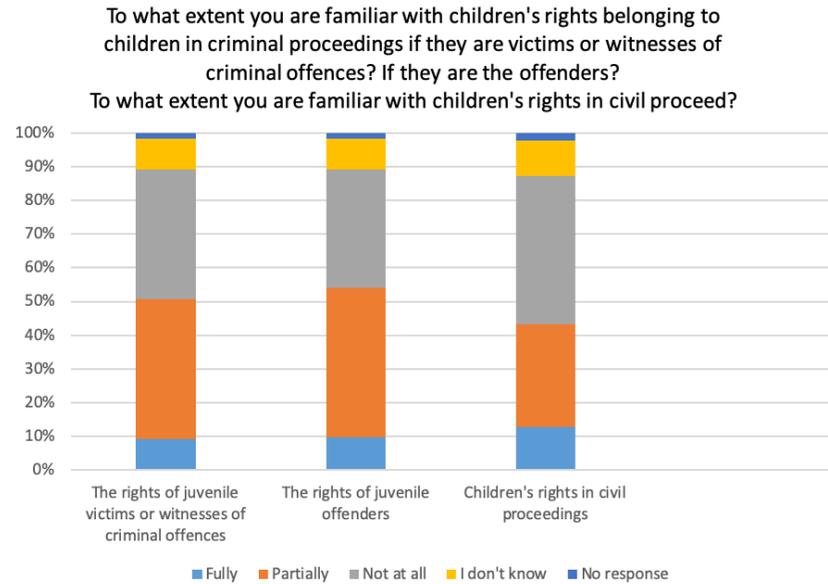
To what extent you believe the youth is informed about the rights they have if they come into contact with the judicial system and other relevant authorities (police, prosecutors' office, court or centre for social work)?



When it comes to assessing how familiar respondents are with the rights they have in certain court proceedings, the research results also indicate that the level of

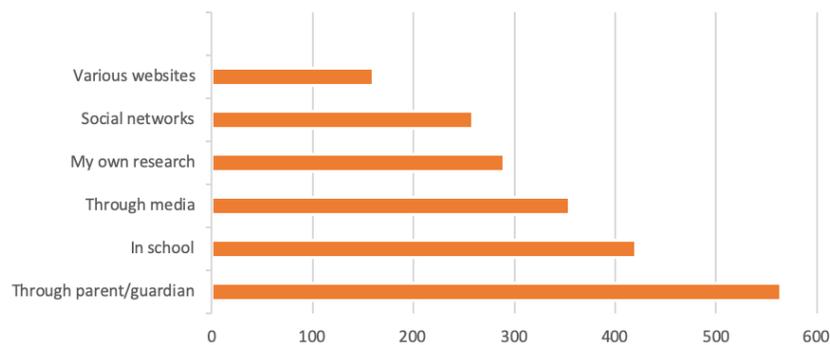
knowledge of the rights is low. Thus, only about 9% of respondents from the general population are fully aware of the rights that children have in criminal proceedings if they are victims or witnesses of criminal offence or if they are offenders, while about 12% are fully aware of the rights children have in civil proceedings.

Most respondents are not aware at all or are partially aware of their rights.



The results of the research show that children and young people most often received information about their rights in the judicial system through parents/guardians (51%), at school (38%), through the media (32%), independent research (26%), and various websites (14%). A number of young people additionally stated that they were informed through films, at gatherings of citizens' associations, i.e. in their premises.

So far, in what way you were learning about child rights in case they come in contact with the police, court, prosecutors' office or centres for social work?



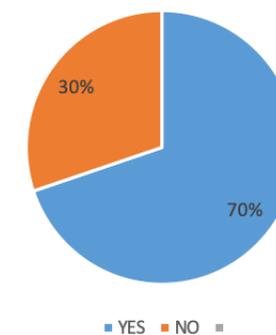
The respondents referred to school classes (76%), media (53%), YouTube (39%), Instagram (36%), brochures (30%), posters (21%), Facebook (20%), TikTok (19%) and festivals (15%), as the best ways to increase children's and young people's awareness of the rights they have in the judicial system. The ways that respondents additionally cite include video clips, short films, mobile phone applications, games, influencers, peer education and workshops on this topic.

2.2. HEARING OF A CHILD

In relation to the hearing of a child in the proceedings, the research particularly aimed at determining to what extent the standards related to the manner of hearing and the number of hearings were respected. In particular, the extent to which the standards of the child-friendly environment have been met was considered. The results of the research illustrate that in most cases, the premises where the interrogation takes place are not arranged in such a way that they are adapted to children and young people. Thus, almost 2/3 of the respondents believe that the premises in which they were interrogated were not adapted for children. A number of respondents also estimate that a large number of people are present at the hearing. With regard to the question "How many people were present with you in the room?", two respondents answered "many", and one respondent stated that "9 people" were present. Bearing in mind that the public is excluded in proceedings involving juveniles, even in the main phase of the trial in criminal proceedings against juvenile offenders, the presence of 9 persons may be questionable and in particular in other phases of the proceedings. Some respondents stated that a large number of "police officers", "inspectors" or "commanders" were present during the police interrogation, and that they sometimes took turns in the room. The fact that two respondents state that they were alone in the room where they were interrogated, with one of them stating that a lawyer arrived later is of particular concern.

The results of the research also indicate that 1/3 of the respondents believe that a person they trusted was not present during their hearing.

When you were invited inside for a hearing, has anyone entered with you or someone who was supporting you (e.g. a parent, lawyer, psychologist, another person of trust)?



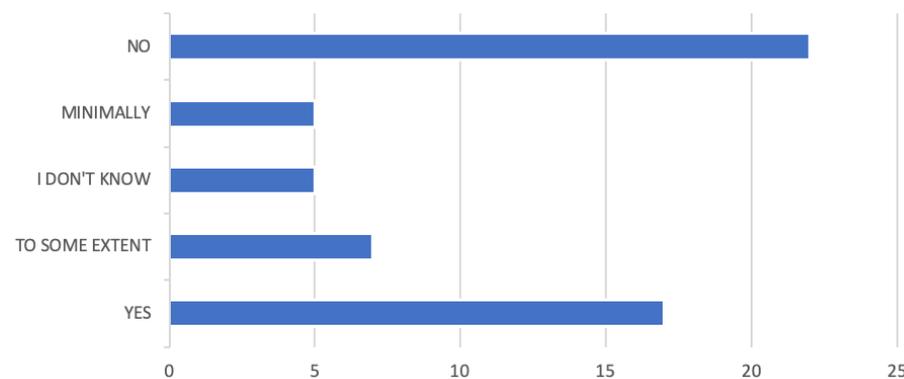
2.3. URGENCY OF THE PROCEEDINGS

The results of the research indicate that the standard of urgency of the proceedings is commonly respected to a great extent and that in most cases no more than a year passes from the first hearing to decision making. In rare cases, the responses of the respondents imply that the obligation of urgency is not respected. Namely, two respondents state that "3 years" have passed from their first hearing to the decision, two respondents state that "4 years" have passed, while one respondent states that "6 and a half years" have passed.

2.4. SAFETY AND SECURITY

The results of the research point out that the achievement of safety and security standards is not sufficiently respected. Only 1/2 of the respondents who were in contact with the judicial system consider that they felt safe or somewhat safe in the proceedings. Out of the 67 respondents from the population of children and young people deprived of liberty who experienced criminal proceedings and came into contact with most institutions in the judicial system, as many as 27 respondents indicated that they did not feel safe during the proceedings or that their sense of security was minimal.

Did you feel safe?

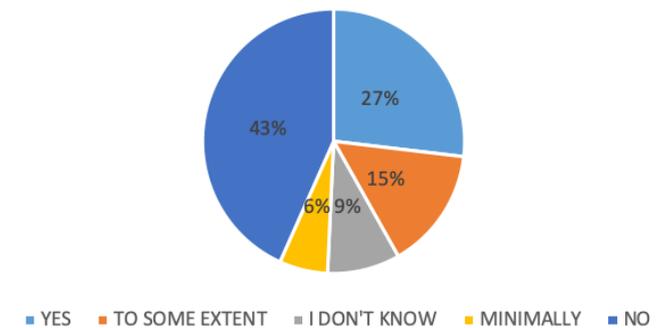


In relation to the reason why they did not feel safe in the proceedings, several respondents state the reasons that are directly related to violence. Namely, one respondent states "they did not behave well towards me, they hit me", two respondents "because of the police shouting at me", and one respondent "they looked at me rudely". A number of respondents refer to the fear of beating as the reason to feel insecure. Thus, 10 respondents (15% of the total number of respondents) stated that they were "afraid of beating" or that they were "afraid of beating in the police". Respondents also state that they felt injustice and disinterest of professionals, which also affected their sense of security. One respondent states "I felt great injustice and disinterest in my story with major distrust".

2.5. RESPECT AND DIGNITY

The results of the research in relation to the achievement of standards of respect and dignity are particularly worrying. Over 1/2 of the respondents indicate that during the proceedings not all participants treated them with respect or that they treated them with minimal respect.

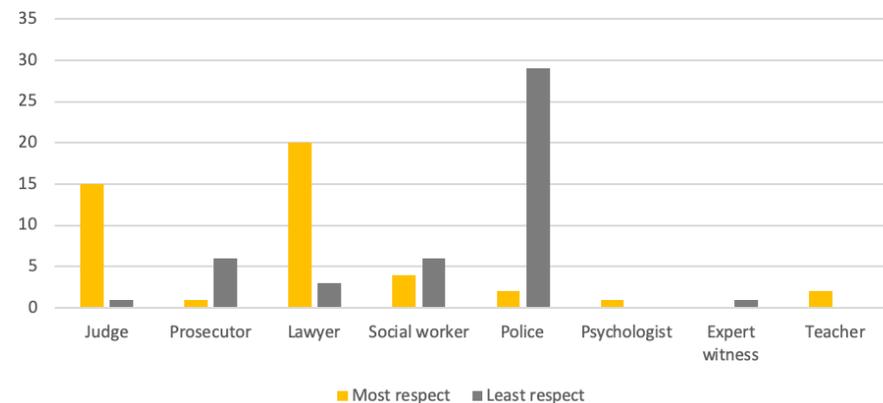
If you think now of your experience with the judicial system, do you think that all the participants in the proceedings treated you with respect?



The largest number of respondents, almost 1/2, cite the police (29 respondents) as professionals who treated them with the least respect, while a smaller number cite prosecutors and social workers (6 respondents), lawyers (3 respondents) and judges and experts (1 respondent).

Lawyers (20 respondents) and judges (15 respondents) had the most respect for children and young people in the proceedings. Some participants stated that they were treated with respect by social workers (4 respondents), police officers (2 respondents), prosecutors (1 respondent), psychologists (1 respondent) and teachers (2 respondents).

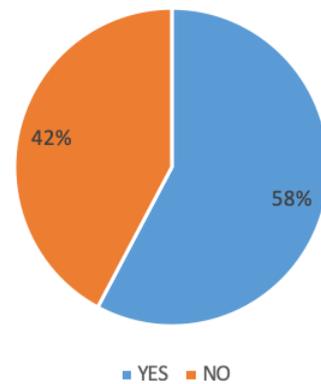
Who treated you with the most/least respect?



2.6. RIGHT TO A LEGAL REMEDY

The results of the research indicate that a large number of respondents believe that they were not entitled to a legal remedy. When asked “Were you able to appeal the decision that was made?”, out of 67 respondents, 27 respondents stated that they could not appeal the decision that was made in the proceedings. Given that about 1/5 of the respondents indicated that the decision made in the proceedings was not explained to them or was minimally explained to them, along with the fact that they could not appeal the decision, all this could be related to the violation of their right to information.

Were you able to appeal the decision made if you didn't agree?



2.7. EXERCISE OF THE RIGHTS OF CHILDREN DEPRIVED OF LIBERTY

Within this part of the research, the level of the exercise of guaranteed rights of children deprived of liberty was considered. The following rights were considered in particular: informing on rights, keeping regular contact with the family, the right to education, the right to play, engage in sports and cultural activities, the right to health care, the right to protection from violence, freedom of religion and the right to a legal remedy.

The results of the research indicate that the experience of the respondents regarding the exercise of their individual rights varies. Thus, a certain number of respondents state that their rights were fully respected, while some respondents believe that their rights were not respected.

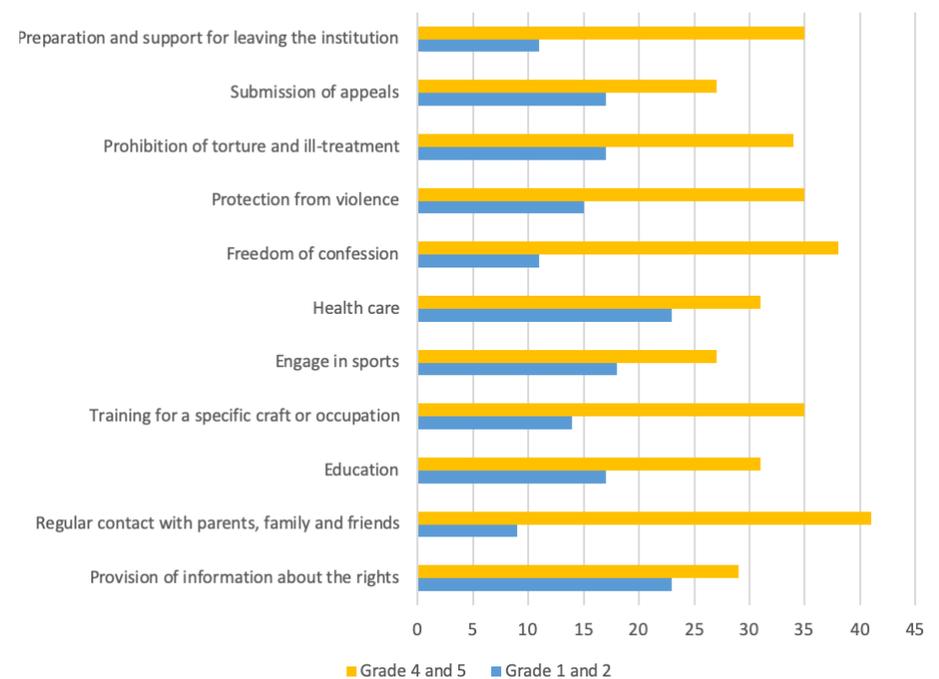
The highest level of the exercise of rights exists in relation to keeping regular contact with parents, family and friends and freedom of religion. Thus, almost 2/3 of the respondents rate the respect of their right to keep regular contact with parents, family

and friends and freedom of religion with a score of 4 or 5 (on a scale of 1 - 5).

Respect for the right to health care could be singled out as the most problematic. Namely, more than 2/5 of the respondents rate the level of respect for this right with a grade of 1 or 2, while 4 respondents independently added a zero on a scale from 1 to 5, which they circled.

The fact that almost 1/4 of the respondents believe that their right to protection from violence, prohibition of torture and ill-treatment, attending classes, training for a certain craft or occupation, playing sports and filing complaints was not respected is also distressing.

Rate with 1 - 5 to what extent the following rights were respected in the institution?

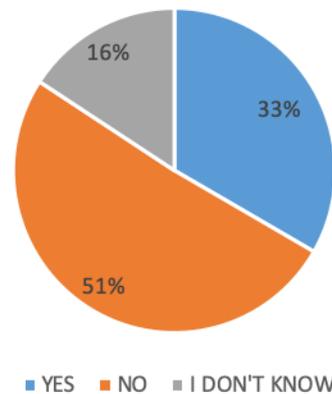


2.8. REINTEGRATION AND REHABILITATION – PSYCHOSOCIAL SUPPORT

In relation to this standard, the research aimed to determine whether children and young people received some kind of psychosocial support following the proceedings. The results of the research indicate that different practice exists in relation to

compliance with this standard and that only slightly more than 1/3 of the respondents received some kind of health or psychological support following the proceedings. It is worrying that the majority of respondents did not receive this type of support once the proceedings were finalised.

Did you receive health or psychological support after the proceedings?



2.9. RECOMMENDATIONS OF CHILDREN AND YOUNG PEOPLE FOR IMPROVEMENT OF CHILD-FRIENDLY JUSTICE

The last question was open-ended to allow respondents to write their suggestions and ideas about methods to improve the judicial system to make it more child- and youth-friendly. The proposals of children and young people refer to several different aspects of advancing child-friendly justice.

The first proposal concerns systemic changes in the judicial system and educational measures. Thus, one respondent states *“to radically change and reorganize the judicial system as well as to examine their previous ways of working”*; another states *“my proposal is that fixed penalties should be introduced for juvenile offenders and I believe that penalties for more simple - minor offenses should be lesser because it is not right that someone who, for example, committed violent behaviour, petty theft ... has the same punishment as someone who committed rape, murder, trafficking and distribution of narcotics”*, while the third states *“the sanctions should be more lenient.”*

The second proposal refers to establishment of a higher level of understanding and respect for children and young people. Thus, one participant states *“a little more respect for us and approval of some things”*, while another states *“in my opinion, the judge should check how (someone) spent his childhood, whether he grew up on the street, whether he was tortured by the elderly”*.

The third proposal refers to the improvement of the protection of children from violence. Thus, one participant proposes *“that commanders and police stop harassing people and children, excessive use of force”*.

The fourth proposal refers to the promotion of the right to engage in sports. The participant states that *“a sport should be introduced so that I can train (not football and basketball), so that I can run somehow, because my legs have atrophied”*.

The fifth proposal refers to the improvement of the quality of nutrition in institutions. The participant states *“it would be nice if the food was eatable since we are still developing”*.

The sixth proposal refers to the improvement of the manner of implementation of educational measures from the point of view of separating children and young people of different sexes. Several participants stated that boys and girls should not be separated in institutions. Thus, one participant states *“in closed institutions, you should not separate the sexes because it is unnatural, connect boys and girls”*, while another states *“that no differences are made between the sexes”*.

3 | CONCLUSIONS

Despite a number of reforms undertaken in the process of improving child-friendly justice, research on child-friendly justice conducted with children and youth shows that there remain a number of challenges in practice which seriously hinder the full exercise and respect of the rights of children in contact with the judicial system.

The research shows that none of the standards of juvenile justice covered by the research, guaranteed by the UN Convention on the Rights of the Child, the Council of Europe Guidelines on Juvenile Justice and other international documents, as well as the provisions of the Law on Juvenile Offenders and Criminal Protection of Juveniles, is not sufficiently achieved.

The lowest level of achievement of standards of child-friendly justice exists in relation to the child's right to information, the right to safety of the child and the right to dignity.

The standards of child-friendly justice clearly define that from the moment the child first comes into contact with the judicial system and other competent authorities including during the proceedings, the child must be informed of his or her rights in the proceedings, as well as the process itself i.e. the procedures, methods of hearing, available services and support mechanisms, exercise of compensation claim and other. The information provided to children must be adapted to the child's age and maturity, in adjusted language so that the child can understand it and be sensitive to its gender and cultural context.

However, the results of the research unequivocally show that the child's right to information is not sufficiently exercised, neither in relation to informing about the rights a child has in the proceedings, nor in relation to informing about the reasons why he/she was summoned to one of the institutions within the judicial system and

the process itself. Thus, only 1/2 of the respondents indicate that when they arrived at the institution, they were fully explained why they were summoned and what the proceedings will look like, while 1/5 of the respondents were not explained or were minimally explained these matters. Also, only 1/3 of the respondents were fully explained which rights they have in the proceedings, while 1/2 of the respondents were not explained or were minimally the rights they have.

Research suggests that when addressing children, the professionals often do not use language that is sufficiently adapted to the child. Thus, almost half of the respondents indicate that they are not satisfied or are minimally satisfied with the way they were given information and report that they could not fully understand them.

Insufficient exercise of the right to information also exists in relation to the communication of decisions made in the proceedings. Namely, only 60% of respondents indicate that the decision was fully explained to them, while 1/5 of respondents were not explained the decision or it was explained to them minimally. Incomplete information regarding the decision is further reflected in the exercise of the right to a legal remedy, so the results of the research indicate that 42% of children believe that they did not have the opportunity to appeal the decision made.

Research shows that young people generally do not know what rights they have if they come into contact with the judicial system, neither in relation to criminal nor in relation to civil proceedings. Thus, only 9% of respondents from the general population fully know what rights they have in criminal proceedings in case they are victims or witnesses of criminal offences or offenders, while only 12% of children know exactly what rights they have in civil proceedings. Most respondents do not know their rights or know them minimally.

Although the standards of child-friendly justice require that children are provided with all relevant information using child-friendly material, the research indicates that the most important resources children in the general population use to learn what rights they have in the judicial system are parents/guardians, schools and the media. In addition, young people learn about their rights through independent research and through various websites.

With all this in mind, it is necessary to continuously work on improving the child's right to information through the development of various contents using language tailored to the child, which contains information on child-friendly justice, the rights that children have in the judicial system and the process itself. Given that children and young people refer to school classes, digital media and social networks as the best ways to increase their awareness of the rights they have in the judicial system, further increasing of their knowledge on their rights in the judicial system should be performed through education in school and development of digital online platforms.

With regard to compliance with safety and security standards, the results of the research are distressing. Child-friendly justice standards clearly provide that a child

should be protected from all harm during the proceedings, including violence, intimidation and secondary victimization. However, the research shows that only 1/2 of the respondents, who were in contact with the judicial system and who are placed in juvenile justice institutions, felt safe or somewhat safe during the proceedings. A large number of respondents, as many as 40%, indicated that they did not feel safe or that their sense of safety was minimal.

Reasons why children do not feel safe in the proceedings can only be justified in a small number of cases by their fear of the educational measure, while in most cases the fear is related to violence by professionals they experienced or may have experienced during the proceedings or insufficient interest and a lack of understanding by professionals. The fact that one respondent indicated during the research that he had been beaten and two respondents that they were shouted at in the police station is of particular concern. The standards of child-friendly justice clearly provide that a child should be protected from all harm during the proceedings, including violence, intimidation and secondary victimization.

The results of the research demonstrate worrying results in relation to the respect for the dignity of children during the proceedings. Although the standards of child-friendly justice clearly provide that a child must be treated with respect during the proceedings, more than a half of the respondents indicated that some professionals did not treat them with respect or treated them with minimal respect during the proceedings. Bearing in mind that members of the police, and to a lesser extent prosecutors and social workers are most frequently mentioned by the respondents as professionals who do not respect the child sufficiently, this should be kept in mind in further development of capacity building programs for professionals working in this field.

Research illustrates that there are also various challenges in terms of adhering to standards related to hearing of a child. The most problematic aspect indicated by the research results is that the hearing of the child is mostly performed in premises that are not adapted to children. Thus, almost 2/3 of the respondents indicated that the premises in which they were interrogated during the proceedings were not adapted for children. Likewise, the fact that it still happens that a parent/guardian or the professionals who are legally obliged to attend the hearing are not present at the hearing of a minor is worrying. Namely, two respondents stated that they were alone in the premises where they were interrogated, one of them was alone all the time during the interrogation, while the other reported that a lawyer arrived during the interrogation.

Research also demonstrates that a small number of children receive some form of psychosocial support after the proceedings. Thus, only 1/3 of the respondents stated that they received some kind of medical or psychological support after the proceedings.

When it comes to the realization of individual rights of children who are in institutions (Educational-Correctional Institution in Krusevac, Institute for Education of Children and Youth in Nis, Institute for Education of Children and Youth in Belgrade,

Institute for Education of Children and Youth in Knjazevac), research shows that many guaranteed rights of the child are not fully exercised and that their further improvement should be continued. This particularly refers to the right to health care, in relation to which 2/5 of the respondents consider not to be respected or to be minimally respected. Intensive work should also be done to improve the child's right to protection from violence and the prohibition of torture, which was pointed out by 1/4 of the respondents. Further work should be done to improve the right to education, especially in relation to training for a specific craft or occupation.

Enabling the participation of children through this research is an important step in the process of developing the judicial system and provides important information to professionals on the level of respect for the standards of child-friendly justice from the perspective of children and youth. Improving the child-friendly justice requires that all the challenges highlighted by children and young people in this study be considered and taken into account in its further development in order to ensure the full exercise of children's rights in contact with the judicial system and respect all guaranteed standards of child-friendly justice.

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