

CHILD-FRIENDLY JUSTICE



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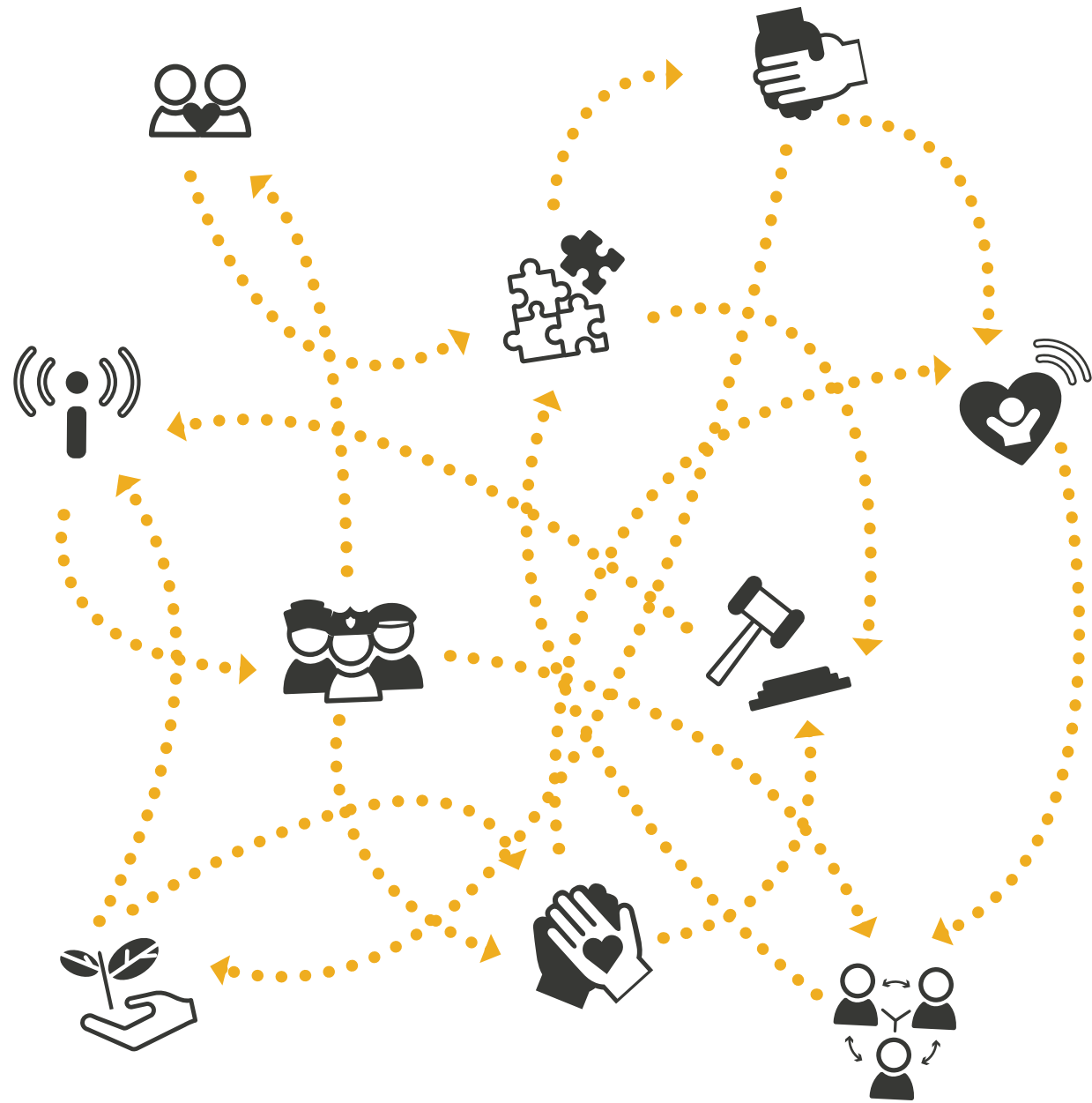
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Child Rights Centre

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WHO IS THIS BOOKLET FOR?

For you and your peers in Serbia to know your rights if as a victim, witness or perpetrator of a criminal offence you come into contact with the judicial system, e.g. with the police, prosecutor's office, court, social welfare centre.

WHAT IS CHILD-FRIENDLY JUSTICE?

It is a judicial system that guarantees respect and efficient implementation of all the rights of the child at the highest possible level.

THE JUDICIAL SYSTEM CONSISTS OF ALL THE COURTS OF ONE STATE, AND THE COURTS ARE PUBLIC BODIES WHOSE FUNCTION IS TO RESOLVE VARIOUS DISPUTES.

TO WHAT AND TO WHOM DOES CHILD-FRIENDLY JUSTICE APPLY?

- To every child up to the age of 18.
- To the child's rights before, during and after court proceedings.

THERE ARE CERTAIN PRINCIPLES THAT ADULTS MUST OBSERVE IN CONTACT WITH THE CHILD. IT IS IMPORTANT FOR YOU TO REMEMBER THEM AND REQUEST THAT THEY BE APPLIED AND RESPECTED.



PARTICIPATION

All children who participate in **court proceedings** should be provided with adequate access to the judicial system and informed about their rights, consulted and heard in proceedings involving or affecting them.

COURT PROCEEDINGS ARE PROCEEDINGS REGULATED BY LAW IN WHICH THE RIGHTS AND OBLIGATIONS OF CERTAIN PERSONS (INCLUDING CHILDREN) OR CRIMINAL CHARGES AGAINST A CERTAIN PERSON ARE DECIDED.



BEST INTERESTS OF THE CHILD

When making decisions concerning a child, adults must make sure that their decision is best for the child in the given circumstances. Article 3, paragraph 1 of the Convention on the Rights of the Child provides that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.



DIGNITY

Every child, regardless of the nature of his or her contact with the law, deserves to be respected. The child should be respected, may not be insulted or belittled.

THE CHILD CAN COME INTO CONTACT WITH THE LAW IN DIFFERENT WAYS, FOR EXAMPLE IN CASES OF DOMESTIC VIOLENCE, PROTECTION OF THE CHILD FROM ABUSE AND NEGLECT, DEPRIVATION OF PARENTAL RIGHTS, DETERMINING CUSTODY OF THE CHILD, MAINTENANCE, DIVORCE, ADOPTION, GUARDIANSHIP, AS WELL AS IN CASES WHERE THE CHILD COMMITS A CRIMINAL OFFENCE.



PROTECTION FROM DISCRIMINATION

The law prohibits discrimination on the basis of any personal characteristic, such as race, colour, ancestry, citizenship, nationality or ethnic origin, language, religious or political beliefs, sex, gender identity, sexual orientation, property status, birth, genetic characteristics, health status, disability, marital and family status, conviction, age, appearance or any other actual or presumed personal trait.

EVERY CHILD IS DIFFERENT, BUT NO ONE MAY EXCLUDE, LIMIT, HUMILIATE OR PUT HIM OR HER IN AN UNFAVOURABLE POSITION BECAUSE OF THAT. DISCRIMINATION REFERS TO MAKING ANY UNJUSTIFIED DIFFERENCE OR TREATING DIFFERENTLY CERTAIN INDIVIDUALS OR GROUPS BASED ON A PERSONAL CHARACTERISTIC THAT MAKES THEM "DIFFERENT". SIMPLY PUT, DISCRIMINATION IS ESSENTIALLY UNEQUAL TREATMENT OF EQUALS AND EQUAL TREATMENT OF UNEQUALS.



RULE OF LAW

The presumption of innocence should be guaranteed to every child. This means that everyone is innocent until proven otherwise. The rule of law also means that everyone has the right to a fair trial, the right to legal advice, the right to access to courts and the right to appeal.

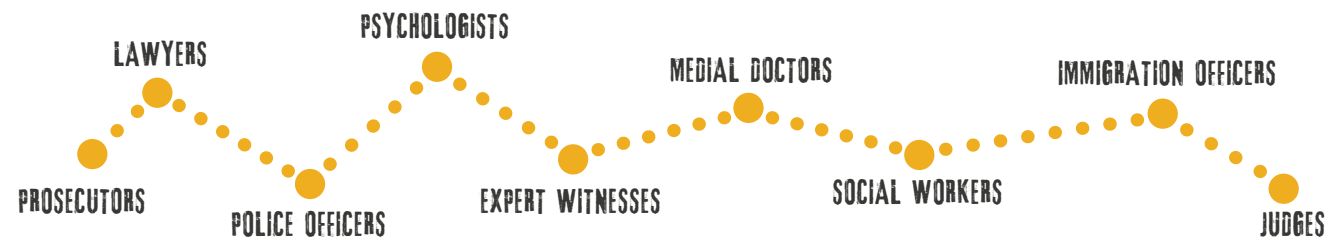
LEGAL ADVICE CONSISTS OF THE ANSWERS PROVIDED BY PROFESSIONALS (LAWYERS) TO QUESTIONS REGARDING SPECIFIC PROBLEMS RELATED TO THE CHILD'S RIGHTS AND OBLIGATIONS.

IT IS ALSO VERY IMPORTANT TO REMEMBER THAT:

All professionals who talk to the child within court proceedings must:

- ▶ respect all rights of the child;
- ▶ treat the child with respect and in accordance with his or her age, maturity and needs, taking into account the needs of children with physical and mental disabilities, as well as the needs of children with communication difficulties;
- ▶ act in a child-friendly environment.

Professionals with whom the child could talk within the judicial system are:



NOW THAT WE KNOW WHAT CHILD-FRIENDLY JUSTICE IS, LET'S SEE WHAT ITS BASIC ELEMENTS ARE:



INFORMATION

Children and their parents, from the first contact with the judicial system or relevant institutions, such as the police, immigration services, educational, social or health institutions, have the right to be adequately informed about their rights in a child-friendly language.



PROTECTION OF PRIVATE AND FAMILY LIFE

The personal data of children, their identity, images, detailed description of the child, name and surname, address, audio or video recordings, etc. may not be made available or published, particularly in the media, except in situations where necessary, respecting the best interests of the child.



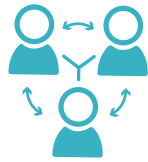
SECURITY/SAFETY

Children are entitled to the protection of their security and safety. In accordance with the Convention on the Rights of the Child, Serbia is obliged to provide protection to every child from injuries, intimidation, retaliation and further accusations.



TRAINED PROFESSIONALS WORKING WITH CHILDREN

All professionals working with children should receive necessary training on the rights and needs of children of different age groups. Those who have direct contact with children should also be trained in communicating with them at all stages of court proceedings.



MULTIDISCIPLINARY APPROACH

Close cooperation between different professionals should be encouraged in order to obtain a comprehensive understanding of the child, and an assessment of his or her legal, psychological, social, emotional, physical and cognitive situation.



DEPRIVATION OF LIBERTY

Deprivation of liberty should be used only as a measure of last resort and be for the shortest appropriate period of time.



Children should be held separately from adults, except in cases where it is in the best interests of the child to be detained with adults.



Children must be allowed to maintain regular contact with parents, family and friends and to communicate with them via text messages, except in cases where it is not in the best interest of the child. Restrictions on this right must never be used as a punishment.



Children should receive appropriate education, professional development, training, medical care, and enjoy freedom of thought, conscience and religion and access to leisure, including physical education and sport.



Children have the right to access programmes that prepare them in advance for their return to their communities, with full attention given to them in respect of their emotional and physical needs, their family relationships, housing, schooling and employment possibilities.

CHILD-FRIENDLY JUSTICE COMPRISES THREE LEVELS

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CHILD-FRIENDLY JUSTICE BEFORE JUDICIAL PROCEEDINGS

In the legal system of the Republic of Serbia, a child under the age of 14 cannot be held criminally responsible. This means that no criminal proceedings can be instituted against that child and that no criminal sanction can be imposed on him or her.

CRIMINAL SANCTIONS ARE PENALTIES PRESCRIBED BY LAW AND IMPOSED ON THE PERPETRATOR OF A CRIMINAL OFFENCE WITH THE AIM OF COMBATING CRIME.

It is necessary to use alternative dispute resolution procedures instead of court proceedings, such as mediation, whenever it is in the best interest of the child.

MEDIATION IS A FORM OF CONFLICT/DISPUTE RESOLUTION WHERE A RESOLUTION ACCEPTABLE TO BOTH PARTIES IS SOUGHT WITH THE ASSISTANCE OF AN IMPARTIAL AND NEUTRAL THIRD PERSON.

Children should be thoroughly informed and consulted on the opportunity to solve a dispute either in court proceeding or outside court settings. An expert/lawyer should explain to children the possible consequences of each option.

IN SERBIA, A CHILD VICTIM OF CRIME HAS THE RIGHT TO BE HEARD IN A SPECIAL ROOM IN THE PRESENCE OF A PSYCHOLOGIST, PEDAGOGUE OR OTHER PROFESSIONAL AND WITHOUT THE PRESENCE OF PARTIES AND OTHER PARTICIPANTS IN THE PROCEEDINGS IN THE SAME ROOM, AND BY USING TECHNICAL DEVICES FOR TRANSMITTING IMAGES AND SOUND. THE HEARING MAY BE CONDUCTED IN A COURT, IN THE CHILD'S HOME OR SOME OTHER ROOM, OR IN AN INSTITUTION SPECIALLY EQUIPPED FOR THE EXAMINATION OF MINORS.

- The interviews with the child should be carried out by the same person, in order to ensure coherence of approach in the best interests of the child.

The number of interviews should be limited and their length should be adapted to the child's age and attention span.

Direct contact, confrontation or any type of communication between a child victim or witness with alleged perpetrators should be avoided, unless at the request of the child victim.

Children should have the opportunity to give evidence without the presence of the alleged perpetrator.

If in the best interests of the child, it should be possible for a judge to allow a child not to testify.

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CHILD-FRIENDLY JUSTICE AFTER JUDICIAL PROCEEDINGS

AT THIS STAGE, IT IS IMPORTANT TO KNOW THE FOLLOWING:

- ▶ The child's lawyer, legal representative (parent/guardian) or judge should communicate and explain the given decision or judgment to the child in a language adapted to the child's level of understanding. They should also give the necessary information on possible measures that could be taken, such as appeal.

- ▶ After judgments in high-conflict divorce cases, children and their families should be provided with support by specialised services, ideally free of charge.
- ▶ Victims of neglect, violence, abuse or other crimes should be provided with health care and appropriate social, therapeutic measures, as well as appropriate psychosocial support, ideally free of charge. Children and their parents/guardians should be informed immediately and adequately about the availability of such services.

HIGH-CONFLICT DIVORCES OCCUR WHEN PARENTS FAIL TO PUT THEIR PARTNERSHIP PROBLEMS ASIDE AND BUILD A PARENTAL RELATIONSHIP, BUT CONTINUE WITH PERSONAL CONFLICTS IN WHICH THE CHILD'S NEEDS FALL INTO THE BACKGROUND.

FINALLY...



...IT IS IMPORTANT



THAT YOU NEVER FORGET THAT YOU ARE NOT ALONE, THAT ADULTS ARE OBLIGED TO RESPECT YOUR RIGHTS IN ALL SITUATIONS, INCLUDING IF YOU COME INTO CONTACT WITH THE JUDICIAL SYSTEM AS A VICTIM, WITNESS OR PERPETRATOR OF A CRIMINAL OFFENCE. REMEMBER ALL THE PRINCIPLES AND STAGES OF CHILD-FRIENDLY JUSTICE AND DEMAND THAT THEY SHOULD BE CONSISTENTLY RESPECTED.



CHILD-FRIENDLY JUSTICE

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THE CHILD RIGHTS CENTRE IS AN ASSOCIATION OF CITIZENS ESTABLISHED IN 1997 WITH THE MAIN AIM OF IMPLEMENTING CHILD RIGHTS IN SERBIA IN ACCORDANCE WITH THE UN CONVENTION ON THE RIGHTS OF THE CHILD. THE MAIN COURSE OF ACTION OF THE CENTRE IS AIMED AT CREATING A FAVOURABLE LEGISLATIVE, STRATEGIC AND INSTITUTIONAL FRAMEWORK FOR THE FULL ACHIEVEMENT OF CHILD RIGHTS IN SERBIA THROUGH ACTIVITIES FOCUSED ON THE INTRODUCTION AND IMPLEMENTATION OF LAWS, POLICIES AND PRACTICES THAT ENABLE THE IMPROVEMENT OF THE WELFARE OF THE CHILD, THE PROTECTION OF THEIR RIGHTS AND THEIR FULL PARTICIPATION IN SOCIETY.



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