

P R O M I S E

# **At the Crossroads**

**Exploring changes to criminal justice proceedings when they intersect with child protection proceedings in cases involving child victims of violence**



**The PROMISE Project series** [www.childrenatrisk.eu/promise](http://www.childrenatrisk.eu/promise)

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# The Promise Barnahus Network

Recent legal obligations concerning child victims of violence in Europe drew inspiration, inter alia, from procedures and practices involving a multidisciplinary inter-agency model, Barnahus, which allows for the coordination of the criminal justice and child protection proceedings in a child-centred way under one roof.

The Barnahus was first established twenty years ago in Iceland and its use rapidly expanded across Scandinavia. Following the EU and Council of Europe instruments, the model is increasingly in the spotlight in Europe, and is currently being developed, piloted or implemented in over 20 countries.

Working with partners across Europe, the EU funded Promise project (2015–2017) established regional [Barnahus standards and guidance](#) to support the implementation of these legal instruments through the more widespread establishment of Barnahus. The [Promise compendium of law and policy](#) was also developed to provide a clear overview of the international and EU obligations concerned.

The Promise 2 project (2017–2020) had the goal of supporting national activities which address the different dimensions of establishing or developing a Barnahus, including through *national roundtables and expert seminars*.

Promise 3 (2020–2022) aims to ensure a systematic, accelerated, and sustainable effort to train staff and facilitate professional exchange and development across Europe, taking into account the combined need for training in forensic interviews and therapy and in multidisciplinary collaboration and case management. It will include establishing a European Competence Centre providing University-level/accredited training alongside national practice.

The Promise Barnahus Network, launched in November 2019, is a European professional network with activities which include the coordination of the European competence centre; training and education; facilitating exchange among members; developing practical tools, guidance, policy and analysis; undertaking research, data collection, monitoring and evaluation; facilitating meaningful, ethical and safe child participation; and advocacy and awareness-raising in close collaboration with the EU, the Council of Europe, the United Nations and other relevant European and international organisations.

***The Barnahus —  
an inter-agency and  
child centred approach to  
child victims of violence,  
under one roof.***

*For the purposes of the criminal proceedings, the Barnahus ensures that children are interviewed by specialised professionals with due process safeguards for the defence, providing recorded testimony for use in court proceedings. Some Barnahus also contain facilities which allow on-site forensic medical examination. For the purposes of the child protection proceedings, health and needs assessments of the child are typically undertaken at the Barnahus and therapeutic services will either be directly available on site or made available by immediate referral to other services.*

*These steps in the two proceedings are intertwined in the Barnahus model and managed together.*

## Purpose of this resource paper

This paper serves as a resource for reviews undertaken by stakeholders on what changes might be needed specifically to the criminal proceedings in cases involving child victims, taking into account related child protection proceedings, and recent European law obligations.

European law provisions relating to child victims in the criminal proceedings take the form of general obligations, leaving it to national measures to regulate in detail how safeguards for children should be implemented in national procedures. Although there are different models of criminal justice (and child protection) proceedings across Europe, they face common questions on how best to fulfil their obligations to children and they can benefit from regional exchange and the experience of practitioners.

This paper is the product of exchange of research, exchange of experience and knowledge in workshops, and discussions undertaken within the Promise 2 project. Its ambition is not simply to make recommendations on how to implement a Barnahus approach. Experience shows that progress often takes place in incremental steps and will have different pathways in different jurisdictions. Stakeholders and professionals involved in both child protection and criminal justice proceedings typically need to work together closely to identify opportunities for both immediate and more long-term change. This paper aims to support them to do this, by providing an overview of:

1. Key European law safeguards for child victims in criminal proceedings
2. General orientations on adaptations to the criminal proceedings, taking account of the child protection proceedings
3. Illustrative national practices concerning specific safeguards to be achieved in the criminal proceedings
4. Conclusion and resources on processes which have triggered change to criminal proceedings

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# 1. Key European law safeguards for child victims in criminal justice proceedings

1. **Right to be heard:** a victim has a right to be heard and give evidence in criminal proceedings. The right of child victims to be heard in criminal proceedings should not be precluded solely on the basis that the victim is a child or on the basis of the victim's age.
2. **Information, support and assistance** must be provided to the child and, in accordance with the role of the victims in the relevant legal system, legal representation.
3. **Individual assessments** of the special circumstances of each individual child victim must be undertaken to ensure that the children's needs and rights are identified and to ensure specific actions are taken to meet them.
4. **Medical examinations** should be kept to a minimum and carried out only where strictly necessary for the purposes of the criminal proceedings.
5. In relation to **interviews** carried out in connection with the criminal investigation, Member States will take necessary measures to ensure that they take place:
  - Without unjustified delay;
  - In premises designed or adapted for children;
  - Carried out by or through professionals trained for this purpose;
  - In the event of several interviews, they should be carried out by the same persons, if possible and where appropriate;
  - The number of interviews should be as limited as possible and are carried out only where strictly necessary for the purpose of the criminal proceedings;
  - With a legal representative and a person of their choice
6. **Video recording testimony:** It must be possible that interviews may be video recorded and that such video recorded interviews may be used as evidence in criminal court proceedings, in accordance with the rules under national law.
7. **Presence in the court room:** Member States shall ensure that it may be ordered that the child does not need to be present in courtroom to be heard; appropriate communications technologies be used for the victim to be heard in the courtroom; visual contact with the offender to be avoided where necessary.

**Further resources:** [The Promise Compendium of Law and Guidance](#) (European and International Instruments concerning Child Victims and Witnesses of Violence) provides a comprehensive view of the legal framework and authoritative guidance concerning the rights of child victims and witnesses across the EU, the Council of Europe and the United Nations. It contains profiles of the key instruments by provision. The Promise Compendium provides further detail on the guiding recitals of the EU and international measures, the full range of their provisions and the authoritative guidance which informs their implementation. [The European Barnahus Quality Standards](#) provides a helpful and detailed table linking the standards to relevant legal obligations.

## 2. General orientations on adaptations to the criminal justice proceedings, taking account of child protection proceedings

When a child is a victim of violence, two key State responsibilities arise, namely criminal justice and child protection.

A principal aim of the criminal justice proceeding is the investigation, prosecution and delivery of judgement concerning a crime, while respecting the rights of the victim. In Europe, typical steps in the criminal justice proceeding include report of a crime or the initiation by the police of an investigation, initial interviews, charge/indictment, pre-trial investigation, pre-trial disclosure of evidence relied on in court and trial in court.

The child protection proceedings aim to prevent and respond to violence, deliver support and access to necessary services and address safety, care and parental responsibilities if needed. Typical steps in child protection proceedings involve steps to promote reporting of abuse or disclosure by child, address any risk to the child, undertake interviews of child in a child-centred way, undertake appropriate medical examinations and individual assessment of the needs of the child and refer the child to necessary physical and mental health care services.

The criminal justice and child protection proceedings are typically governed by distinct legal and policy frameworks, led by different actors, often involving different timeframes. But clearly, they also intersect. Both are concerned with the same situation of the child from different perspectives. The two proceedings may begin simultaneously, or one might trigger the other. Professionals involved in one proceeding may play a role in the other. In practice, they may depend on each other significantly. Without child protection proceedings, a child might never be in a position to be heard and a criminal proceeding may never be initiated. Equally, criminal proceedings may be vital to stopping abuse and ensuring the child can properly take a path to recovery. Indeed, recent European laws explicitly acknowledge the need for a comprehensive approach to addressing abuse of children, through provisions concerning both the criminal justice and child protection responsibilities of the State.<sup>1</sup>

*“In all aspects of the work being undertaken we should never lose sight of the underlying aim. That is to secure a justice system which allows the guilt or innocence of an accused to be determined on the basis of the best possible quality of evidence available, in a manner that does not cause undue distress or harm to any participant in the process, and which is transparently fair, efficient and effective.”*

*–Lady Dorrian  
Lord Justice Clerk  
Scotland 2017*

Where the different steps in the two proceedings are operated without coordination, considerable challenges tend to arise for both. For example, a child may be interviewed multiple times, for different purposes, by different actors, over a period of years, pending the final court judgement. Practices like this potentially jeopardise the reliability of the child’s testimony. They also run counter to the best interests of the child if they traumatise the child or where they delay therapeutic interventions for the child.

In contrast, there are significant opportunities to enhance the experience of the child and the outcomes of each proceeding where they take proper account of each other. European obligations explicitly require the State *inter alia* to provide information, support and assistance and to avoid further traumatising of the child

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<sup>1</sup> Council of Europe Lanzarote Convention Recitals: “Taking into account the need to prepare a comprehensive international instrument focusing on the preventive, protective and criminal law aspects of the fight against all forms of sexual exploitation and sexual abuse of children and setting up a specific monitoring mechanism”; Directive 2011/93/EU of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, Recital 6: “Serious criminal offences such as the sexual exploitation of children and child pornography require a comprehensive approach covering the prosecution of offenders, the protection of child victims and prevention of the phenomenon. The child’s best interests must be a primary consideration when carrying out any measures to combat these offences in accordance with the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of the Child.”

victim in the criminal justice proceedings. Actors in the criminal proceedings are acknowledged to have a role in ensuring that the conduct of criminal proceedings ensures respect for the rights of child victims. However, in practice, it is also clear that they may rely on input—or action—from child protection professionals to ensure this occurs in an effective way. And, as will be explored further below, if properly implemented, these safeguards should operate not only to respect the rights of the child; they will also allow the criminal proceedings to achieve best evidence.

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## Reflection Points

The need for—and benefit of—specialised skills and settings for child victims in the criminal justice process, and the need for more active case management to take account of child protection proceedings concerning these children, is increasingly apparent. However, innovations to improve the experience of children in criminal proceedings remain varied across Europe.

A cautious approach to reform may arise from the fact that the criminal justice process is a highly regulated proceeding, with specific steps and timing, with legal professionals in the principal roles focussed ultimately on delivering a judgement, in a courtroom setting. Consequently, progress will usually depend on carefully considering legitimate concerns about the settings, responsibilities and processes which are most appropriate to address the situation of child victims, in complex procedural territory, with finite public resources.

It is important that the different professionals involved in the criminal justice and child protection proceedings can have frank discussions, based on a clear understanding of each other's roles and responsibilities, on how to make progress. A critical issue will be to ensure that the interests at stake in each proceeding are not compromised. In this regard, a fundamental concern of the criminal proceedings is to safeguard the rights of the defence and to avoid miscarriages of justice. The child protection proceedings will be centred on guaranteeing the safety and promoting the recovery of the child.

As a reference point for such discussions, it is useful to bear in mind different phases and actors involved in both proceedings, while underlining that the specific steps/roles of actors in each country will depend on national procedures and authority or service organisation. As can be seen from the overviews on the following page, key aspects on which the two proceedings—and professionals involved—may be associated will concern: (a) how the child can exercise his or her right to be heard; (b) how individually tailored procedures for children are put in place; (c) how medical examinations are undertaken; (d) how interviews with children are undertaken with the right skills and under appropriate conditions; (e) how a setting adapted to the needs of children is used for interviews. Illustrative national practices concerning these elements will be explored in Section 3 below. And as initial background to exploring necessary adaptations to criminal proceedings, we identify some key issues that arise in this regard.



<b>Criminal Justice</b>	
<b>Police</b>	Detecting crimes, receiving reports, investigating
<b>Prosecutor</b>	Decision to prosecute and conduct of the prosecution, sometimes oversight or guidance of police investigation
<b>Judge</b>	Presiding over court proceedings; in some countries, a judge will direct or supervise the criminal investigation
<b>Prosecuting counsel</b>	Leading the prosecution case in court proceedings
<b>Defence counsel</b>	Supporting the defendant in the criminal investigation and representing the defendant in court proceedings
<b>Victim's counsel</b>	In some jurisdictions, the victim may be represented by counsel
<b>Non-offending caregiver(s)</b>	Exercising parental responsibility, such as consent for certain procedures such as medical examinations, support for child
<b>Guardians</b>	Exercising parental responsibility, in the absence of parents or where parental interests conflict with those of the child
<b>Expert witnesses (e.g. social and health professionals)</b>	Participating in investigation and court proceedings
<b>Victim support organisations</b>	Support before, during and after criminal proceedings
<b>Relevant professional organisations/agencies /Ministries</b>	E.g. bar associations, oversight over—and support for—professionals involved in criminal proceedings

<b>Child Protection</b>	
<b>Social professionals</b>	Involved in contact with child & family, information to child, decisions on protection of child such as removal of the child
<b>Health professionals (medical and mental) including doctors, nurses, psychologists and therapists</b>	Physical examinations, individual assessments, treatment of physical and mental health needs
<b>Police</b>	If necessary, separating and protecting children from those who are abusing them
<b>Family judge</b>	Decisions on care and parental responsibility arrangements
<b>Social professionals/ psychologists for interviews/ assessments</b>	Interviews with children, individual assessments, referrals to services for recovery
<b>Therapists</b>	Delivery of therapy
<b>Non-offending caregiver(s)</b>	Exercising parental responsibility, such as consent for certain procedures such as medical examinations, support for child
<b>Guardians</b>	Exercising parental responsibility, in the absence of parents or where parental interests conflict with those of the child
<b>Victim Support organisations</b>	Support for the child in terms of information and support services
<b>Relevant professional organisations/agencies /Ministries</b>	Oversight and support for professionals, processes involved

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## Key issues to consider

### Right to be heard

The criminal proceeding may become very focused on the account of the child as evidence and on the need to achieve best evidence for the purpose of reaching a judgement in the criminal case against the accused. However, the child's general right to be heard extends beyond the provision of forensic evidence. It also relates inter alia to being supported to make a disclosure in the first place, potentially making a complaint to authorities, and hearing the child's views in relation to any procedural safeguards in the criminal proceedings and any assistance provided to them in the child protection proceedings. In some jurisdictions, there is also a practice to allow victim impact statements in court.

It is important to consider the extent to which criminal proceedings accommodate or hamper the general right of the child to be heard. Is there a need for special measures to empower or enable children to exercise their right to be heard? Is this fully recognized and facilitated by the criminal justice proceedings? For example, is the child's right to be heard supported by professionals working around the child (including social workers, health professionals or education professionals)? Are protocols or specific practices in place to support the child in being heard, while ensuring the reliability of any forensic evidence is preserved? (This could include, for example, a practice of stopping certain questions related to the offence by professionals not involved in criminal investigations, if an abuse is disclosed.)

### Individually tailored procedures

To what extent are individually tailored procedures available for children in the criminal proceedings and are they fit for purpose? Do rules or practice directions exist as regards undertaking individual assessments to identify the specific needs of a child? What practices exist to undertake individual assessments of children's situations and put in place specific measures? Is it clear what actor leads the process for carrying out individual assessments and what role other professional actors play? More generally, is promoting a more victim-centred and child-centred approach to criminal proceedings explicitly viewed as benefiting the wider interests of public justice and consequently prioritized in the criminal justice system (in terms of training, practices, resources)?

### Type of inquiry

Interviewing victims for the purposes of taking evidence often follows a process whereby questions are asked and responses are probed by the law enforcement or prosecution to test their evidentiary quality (pre-trial). The testimony of the victim is then open to challenge by the defence counsel (pre-trial or during the criminal proceedings). However, in both the criminal investigation and the court proceedings, it may be important to consider whether the interview with the child should become more of a "truth" seeking inquiry and to focus on obtaining as full as possible an account from the child, using particular techniques to elicit information and to ask follow up questions. If such a process is used, might investigators have concerns that the child's account has been properly tested ("how to tell if the child is lying")? In the court room, should long established defence counsel techniques (especially in the adversarial proceedings) of vigorously challenging the testimony and credibility of the witness be adapted or excluded in the case of children?

### Timing

What changes may be needed to the timing and steps within the criminal proceedings to ensure that the child is not required to be available as a witness over a protracted period? For example, how to ensure that there is no impediment to the provision of therapeutic services to the child, prior to the completion of the criminal justice proceedings?

## Specialised interview skills and conditions

What interview protocols/guidance are in place, which professionals should be involved in the interview and what special knowledge, skills, experience and training is needed and available?

The question of which professionals are involved often generates a lot of discussion across jurisdictions. To what extent is specialised training available to the law enforcement professionals, prosecutor, the defence lawyer or the judge who traditionally elicit testimony from a child? Do interviews in criminal justice cases involve non-legal professionals such as social workers or psychologists in interviewing roles? If so, are measures in place to address concerns that may arise as to the competence and impartiality of such professionals when playing a role in the legal proceedings?

## Technology

To what extent are modern technologies available and successfully deployed for the criminal investigation and child protection proceedings? Have they been appropriately tailored to meet the requirements of the justice system?

*“With the advent of modern technology especially video recording, we have the ability to improve the system which makes it above simply fit, but one which meets public expectations with greater force”*

—[Lord Carloway](#),  
Scotland.

## Settings

If the testimony of a child is solicited outside of the courtroom, there may be a concern that the command of the process has been handed over to actors outside the justice proceeding and that evidential responsibilities are engaged in, externally to the courthouse. Can measures be put in place to ensure these concerns are addressed?

## Ensuring balance in the procedure; equality of arms

When procedures are adapted to fulfil the rights of the child and avoid traumatising of the child victim (such as video recording provided as testimony), are new steps in the process also developed to ensure that the rights of the defence are rigorously maintained? What types of measures or practices are needed to ensure these procedures function effectively?

## Avoiding that the demands of criminal justice take precedence over child protection proceedings

What measures must be avoided—or put in place—to ensure that the intersection of criminal justice and child protection does not lead to a focus on the needs of the criminal justice system? For example, is access to services for victims, including health services, in any way dependent on the ongoing criminal justice proceedings, or prioritized in relation to proceedings which are going to court, whether in practice or in terms of resources available? Are support services for the child still put in place or maintained if a prosecution is not initiated or discontinued?

### 3. National practices: illustrative examples of specific procedural elements

Illustrative examples of national practices around key elements of the procedure, taking into account the issues raised above, are outlined below.

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#### Information, support and assistance

The rights to receive information, support and assistance is often discharged by social professionals, including legal counselling, with legal representation depending on the role of the victim in the criminal proceedings which varies across jurisdictions.<sup>2</sup> As set out in the EU Directive on combatting sexual abuse, sexual exploitation of children and child pornography, the purpose of legal counselling is to enable victims to be informed and receive advice about the various possibilities open to them. Legal counselling should be provided by a person having received appropriate legal training without necessarily being a lawyer.

To date, limited comparative information is available on what national practices exist in Europe, including on specific measures concerning legal representation for child victims, for example, in relation to proceedings for victim compensation. This is an area to be explored further in the future.

Social services often coordinate the information provided to the child. In the US, victim advocates play an important role in providing information, support and assistance to children and their non-offending family member.<sup>3</sup> In this regard, the National Children's Advocacy Center (NCAC) notes:

*"An investigation of child abuse and possible legal proceedings are stressful for child victims and their families. As the criminal justice system was designed for adults, it can be a confusing, frightening and frustrating experience for a child and their family. Professionals have expressed concern that a child may experience secondary trauma from the very process originally intended to be helpful and protective.*

*Victim Advocates are uniquely positioned to provide information and support to children and families who often have a host of concerns and needs during the legal process. Victim advocates provide crisis intervention, education about the investigation and criminal justice process, ongoing support and help to connect families with resources."*<sup>4</sup>

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#### Individual assessments

The obligation to undertake individual assessments and to fulfil the rights of victims to support and assistance both before, during and after the criminal proceedings should prompt close consideration on the need for coordination at different moments of each proceeding and between different professionals involved. How to undertake these individual assessments, and who should undertake them, is not specified under EU and international law. However, EU law does include specific provisions on training for law enforcement and

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<sup>2</sup> The Victims' Rights Directive notes that "the role of victims in the criminal justice system and whether they can participate actively in criminal proceedings vary across Member States, depending on the national system, and is determined by one or more of the following criteria: whether the national system provides for a legal status as a party to criminal proceedings; whether the victim is under a legal requirement or is requested to participate actively in criminal proceedings, for example as a witness; and/or whether the victim has a legal entitlement under national law to participate actively in criminal proceedings and is seeking to do so, where the national system does not provide that victims have the legal status of a party to the criminal proceedings. Member States should determine which of those criteria apply to determine the scope of rights set out in this Directive where there are references to the role of the victim in the relevant criminal justice system."

<sup>3</sup> See for example <https://www.nationalchildrensalliance.org/ncas-standards-for-accredited-members/>

<sup>4</sup> <https://www.nationalcac.org/victim-advocacy-training/>

court staff, as well as lawyers, judges and prosecutors.<sup>5</sup> The growing international recognition and guidance on the need for a multidisciplinary and inter-agency approach in undertaking individual assessments and determining and delivering safeguards for child victims is referenced in the [Promise Legal Compendium](#). This guidance points to the provision of integrated services in the same location, standard operational procedures among professionals to foster cooperation, coordinating mechanisms and case management systems involving both child protection, health, law enforcement and justice professionals. The [Barnahus Quality Standards](#) provide insight into how can be achieved.

Coordination between the two proceedings is at the heart of the Barnahus model. In the Barnahus, case management meetings take place to ensure that the special circumstances of the child are considered in both the criminal justice and child protection proceedings. Individual assessment is a critical part of case management. Case management typically involves social workers, health professionals, law enforcement and the prosecutor/judge. It occurs through an initial planning meeting, with subsequent planning meetings to prepare the interview with children and then to look at the findings and to determine the responses following the interview. Case management—and the individual assessment embedded in it—is an ongoing process throughout the proceedings and will lead to concrete practical measures being identified and put in place for the child. For example, in certain cases, in the Barnahus model where the child must receive immediate crisis support and therapy before the investigation is complete, a forensically sensitive form of therapy is applied.

Worth underlining in this context is the recognition in the [English Crown Prosecution Service Guidance on Therapy: Provision of Therapy for Child Witnesses Prior to a Criminal Trial](#) of the central importance of the child's best interests in decisions concerning the conduct of criminal proceedings that are contained, when it notes that, "If there is a demonstrable need for the provision of therapy and it is possible that the therapy will prejudice the criminal proceedings, consideration may need to be given to abandoning those proceedings in the interests of the child's wellbeing". Consequently, in exceptional circumstances, individual assessments of a child's needs may give rise to significant effects on the criminal proceedings.

Throughout such case management, discussions between different professionals will need to respect confidentiality obligations pertaining to their respective responsibilities. Of interest in this regard is the protocol on exchange of information between professionals in the context of inter- agency case meetings in the Netherlands.<sup>6</sup>

Further developments in the mechanisms for coordination between the criminal justice and child protection proceedings will likely be spurred through the implementation of the [recent EU law in relation to procedural safeguards for child suspects and accused](#) introducing, inter alia, the obligation to undertake individual assessments (which "shall be carried out by qualified personnel, following, as far as possible, a multidisciplinary approach").<sup>7</sup> New regional initiatives, such as the FOCUS Project, involving several Promise partners, will be exploring more closely existing practice on individual assessments for both child victims and child accused or suspects and developing practice tools in 2020–2022.

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<sup>5</sup> For example, Article 25 of the EU Victims' Rights Directive requires Member States to "ensure that officials likely to come into contact with victims, such as police officers and court staff, receive both general and specialist training to a level appropriate to their contact with victims to increase their awareness of the needs of victims and to enable them to deal with victims in an impartial, respectful and professional manner." Member States shall also request those responsible for the training of judges and prosecutors involved in criminal proceedings to make available both general and specialist training to increase the awareness of judges and prosecutors of the needs of victims. Article 25 (3) also provides that "With due respect for the independence of the legal profession, Member States shall recommend that those responsible for the training of lawyers make available both general and specialist training to increase the awareness of lawyers of the needs of victims."

<sup>6</sup> [Barnahus Quality Standards](#), page 71-73. Find a copy of the protocol [here](#)

<sup>7</sup> Article 7.4 The individual assessment shall serve to establish and to note, in accordance with the recording procedure in the Member State concerned, such information about the individual characteristics and circumstances of the child as might be of use to the competent authorities when: (a) determining whether any specific measure to the benefit of the child is to be taken; (b) assessing the appropriateness and effectiveness of any precautionary measures in respect of the child; (c) taking any decision or course of action in the criminal proceedings, including when sentencing.

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## Medical examinations

EU law provides that medical examinations should be kept to a minimum and carried out only where strictly necessary for the purposes of the criminal proceedings. By extension, having to undergo separate medical examinations in different settings for the purposes of the criminal proceedings and the child protection proceedings may also prove problematic. Coordination to avoid this clearly may benefit child victims.

Nonetheless, whilst recognising the need to avoid invasive examinations to the extent possible, paediatric health professionals have also shared interesting experience in the [Promise webinars](#) on the importance of medical examinations to reassure children and their parents in the wake of violence to them, for example, in relation to the impact of the abuse (reassuring children that they are physically healthy and normal) or to determine the physical recovery needs. This understanding highlights the role that medical examinations may play precisely in reducing traumatisation and alleviating stress of a child victim, which in turn can prove important to achieving best evidence in the criminal proceedings.

Other interesting practice as regards the significance of medical examinations for criminal proceedings emerged from Barnahus where children may also be given dental examinations (for example in Norway). These may be overlooked or not typically budgeted for in the criminal setting but may provide an important forensic indicator in cases of violence, neglect and abuse.

More generally the importance of specialised knowledge for forensic medical examinations was emphasised in presentations at a study visit during Promise 1 to the multidisciplinary interagency centre in Haarlem, by referencing cases where specialised knowledge permitted the examining doctor to conclude that injuries were not consistent with sexual abuse, but instead arose from other injuries.

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## Interviewing the child

It is clear that the interview with the child victim is often at the heart of a criminal proceeding. The child's testimony may play a key role in the prosecution case. The interview with the child may also provide important information for further investigative purposes. Interview conditions should take into account the sensitive issues involved in interviewing children, both for the purposes of achieving best evidence and avoiding (re-)traumatisation, as follows:

- Evidence from a child sometimes suffers from concerns about their credibility, on the basis that, unlike an adult, a child is not fully developed cognitively and psychologically. The child's abilities as regards memory and recall, and their suggestibility, may be called into question.
- The impact of attachment and abuse related trauma on testimony may need to be taken into account.
- There may be concerns about fabrication of testimony by a child, whether deliberate or inadvertent.
- Experience shows that it can be crucial to establish trust in the process and provide emotional support during the interview to children who are reluctant to disclose.<sup>8</sup> Professionals cite difficulties for children in disclosing abuse, arising out of shame, fear of not being believed, fear of consequences such as being removed from family and fear of the perpetrator.
- Research suggests that interviewing children in stressful settings or situations may lead to failure to disclose certain evidence.
- Repeatedly interviewing children may lead to inconsistencies in their testimony. A child may suffer (re-)traumatisation through repeated interviews.
- Unjustified delays in the proceedings should be avoided. Children experience time in a different way to adults and waiting for their involvement in court proceedings to be over can be very arduous for them.

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<sup>8</sup> This has been recognised in the restructuring of the NICHD Protocol to move up the trust building phase (see further on the NICHD Protocol below).

The fact that childhood is a moment of significant physical, cognitive and psychological development can heighten the negative impact of any delay.

- Questions can arise as to the reliability of a child's testimony if it takes place post therapy. However, there should be no requirement to delay any necessary therapy until after the court proceeding nor any requirement to interview the child in court post therapy, thus jeopardising the benefit of the therapy.<sup>9</sup>

Key questions in relation to best interview procedures are addressed below.

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## How are interviews of child victims undertaken and by whom? Use of protocols, knowledge and skills

In several jurisdictions, detailed guidance and protocols must be used in the interview with a child. For example, the *NICHD Protocol* has been “developed with reference to child development issues, including linguistic capabilities, memory, suggestibility, forensic needs, interviewer behaviour, and the effects of stress and trauma .. It is the product of an interdisciplinary team that included researchers, forensic interviewers, police officers, and legal professionals seeking an evidenced-based approach to forensic interviewing.” It details different phases of structured interviews (introduction—rapport building and narrative training—explaining and practising ground rules—further rapport building and episodic memory training—substantive phase—disclosure information and ending the interview.) It is periodically revised and updated.

*“.. Participation in criminal proceedings by child victims should not cause additional trauma to the extent possible, as a result of interviews or visual contact with offenders. A good understanding of children and how they behave when faced with traumatic experiences will help to ensure a high quality of evidence-taking and also reduce the stress placed on children when carrying out necessary measures”*

*—Recital 30, Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography*

In some jurisdictions, the interviews are conducted by law enforcement officers who have undertaken special training. However, the availability of training will not in itself address the issue. A review in England of the implementation of guidance on achieving best evidence found that “*The starting point is to ensure that those most suited to this type of evidence gathering are trained and accredited by their force. However, police forces should cease training large numbers of officers who do not take part in sufficient interviews to maintain or improve their skills.*” [Achieving Best Evidence in child sexual abuse cases—a joint inspection, England.](#)

In Norway, forensic interviews are undertaken by specialist law enforcement officers, who have both special training and experience, being dedicated to such cases. The “[Collaborating Against Child Abuse: Exploring the Nordic Barnahus Model](#)” publication reports that “*the basic education for all police officers in Norway is the NPUC’s three-year bachelor’s degree as a foundation level. Officers might apply for formal specialisation within investigation (“advanced level”) after a minimum of a year’s duty in the police service. Education at the advanced level starts with a 420 h (part-time) study in general investigation... From this advanced level, one of the formal specialisations an investigator could apply for is “investigative interviewing”. The investigators specialising in investigative interviews of children and minors are provided with a part-time study approximately 420 h over a period of three-quarters of a year. The study is divided into face-to-face training at NPUC and self-study at the police district where the interviewer is employed. After conducting at least fifty investigative interviews with children (under the age of 16 years), the interviewers are entitled to apply for further specialisation. This comprises 280 h of part-time study, focusing on vulnerable persons.*”

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<sup>9</sup> A very useful discussion of the effect of therapy on the criminal proceedings is contained in the English [Crown Prosecution Service Guidance on Therapy: Provision of Therapy for Child Witnesses Prior to a Criminal Trial](#) which outlines different types of therapy and the issues to which it may give rise should it be undertaken prior to the child's testimony.

The scope of any training in terms of the subject matter covered is an important practical consideration. For example, training in interview protocols will involve inter alia training on child development. Training on children's rights and victims' rights is also important. In this regard, the Northern Ireland Commissioner for Children and Young People recommends that *"all legal and judicial staff should receive regular expert training on children's rights as well as sexual offences, including child sexual abuse and Child Sexual Exploitation. In addition to this, expert input for all legal personnel and jury members should be provided at the beginning of each trial to address key issues such as the power dynamics of sexual abuse and grooming and to include 'myth busting'."*

In Iceland the interviews are undertaken by specialised forensic interviewers (for example with a background in child psychology and therapy), following specific evidence-based protocols.

In Croatia, the interview by a clinical psychologist may also be the basis for an expert report to court on the ability of the child to testify or the credibility of their testimony.

**Further Resources:** Promise [Forensic interview webinar mini-series](#)

In other jurisdictions interviews are undertaken by intermediaries who are frequently legal professionals with special skills and/or experience in interviewing vulnerable witnesses (e.g. Scotland).

They may also be undertaken by law enforcement and social professionals jointly (e.g. in some areas of England, Ireland and Scotland).

*"But the most important factor in my mind is the expertise of the interviewers in Barnahús, without them the idea of Barnahús would have been shortlived. They are extremely experienced and have conducted hundreds if not thousands of interviews. Their knowledge and training in child psychology ensures that the interviews are appropriately conducted as regards age and developmental level, including linguistic abilities, they are gender sensitive and sensitive also to issues related to disabilities or disorders of the victim. This expertise exceeds what is to be expected from a judge or police, even if specially trained. Through the presence of the parties during the interviewing, who are hearing and seeing the witness testimony at the same time, the legal requirements of a direct testimony before the courts are met. This procedure also exceeds the value of otherwise important written or oral testimony of external experts that courts in general have to rely on in other specialized cases."*

—Judge Hjörtur O. Aðalsteinsson,  
Héraðsdómur, Suðurlands, Iceland  
<https://www.childrenatrisk.eu/promise/budapest-region-discusses-barnahus-integration-with-hungarian-justice-system/>

### Child Specialist Interviewing—the Irish experience

The intention of the Garda Síochána (police) and Tusla (child protection agency) at the outset of embarking on child specialist interviewing was to have a single joint-agency interview conducted by a trained social worker and a trained garda member. This effectively removed the need to conduct two separate agency interviews with the same child. The presence of a social worker at a joint interview can be an important factor, as they may know the family and the child... Tusla and the Garda Síochána are required to create a joint interview plan to ensure that both the criminal and child safety aspects of a case are covered. The usual practice for interviewing a child is that two specialist interviewers are required to be present. One interviewer conducts the actual interview on a one-to-one basis with the child and the other interviewer acts as an observer, to take notes and where necessary, to prompt the lead interviewer to clarify a point or to obtain more information.... [Garda inspectorate review](#)

What emerges from reviews of interviewing practices (such as the review in the Garda Inspectorate Review) is that the timely availability of professionals to interview children is critical. In the absence of available trained interviewers for the criminal investigation purposes, the child protection proceedings are typically placed on hold. This can occur for lengthy periods where there are shortages of specialised professionals or where they are not dedicated to interviewing tasks but rotate in and out of other roles.



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## Interview Setting

Council of Europe, EU and international law also provide that interviews of child victims should take place, where necessary, in premises designed or adapted for this purpose. In 2018, the Scottish Faculty of Advocates noted in submissions to the Justice Committee *“It is now well established that child witnesses benefit significantly from giving evidence in a different environment: away from the antiquated, and sometimes intimidating, environs of the courtroom”*.

In different jurisdictions, interviews with children may take place in settings other than standard interview rooms in the police station or in the court room. This may include specially equipped rooms (so-called blue rooms) in police stations or courthouses or special premises outside of these locations, such as Barnahus. Each of the settings has in common the purpose of sparing the child from the traditional court room setting and ensuring that visual contact with the offender is avoided. The different settings each have a different impact on both the child and the professionals involved, as well as on the scope of coordination between criminal proceedings and child protection and the services available. Consequently, it is important to consider the environment of the interview as a whole in terms of the physical aspect of the interview room, the availability of professionals to attend interviews at such premises and other services available to the child at the location.

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## Limiting the number of interviews in the criminal proceedings; video recording of interviews

Limiting the number of interviews demands careful planning as regards the interview purpose, participants, and the questions to be asked, as well as the way in which questions are asked. It is important to verify whether the information available ahead of the interview is sufficient to ensure that the right questions can be put to the child, so as to avoid, to the extent possible, having to hold follow up interviews. Equally, the way in which interviews are recorded and available as evidence in court or available to the child protection proceedings will play an important role in reducing the need for the child to be interviewed again by a different professional.

Different jurisdictions have different approaches to the interview of a child in a criminal proceeding and may include a range of different interview steps.

It is worth bearing in mind that, within Europe, there are essentially two basic models of a criminal proceeding: an *inquisitorial* system and an *adversarial* system. In the former, the criminal investigation by law enforcement is typically led or supervised by a judge before going to court (usually presided over by another judge). In contrast, the adversarial procedure does not involve a judge at the investigation stage and ultimately pits the prosecutor and the defence case against each other in front of an impartial judge.

*“The adversary or adversarial system is attributed to operate as a contest. The judge acts as a natural intermediary between the State and the defendant. Cases can be settled at any time before or during trial. Judges do not search for facts. During the proceedings, judges only intervene to assure proper presentation of evidence and legal arguments.”*<sup>10</sup> During the pre-trial phase, it generally requires that each side disclose relevant evidence to each other, with the defence counsel playing a more active role during the investigation phase to challenge or gather evidence. In the inquisitorial procedure, the judge typically engages in a fact-finding inquiry and traditionally the defence plays a less confrontational role during the investigation.

Under both models, specific rules define the nature of the defence role in interviews (and more broadly their access to the investigation file) as well as how the right of defence is exercised to challenge statements made by the victim which will be relied on as evidence against the defendant, for example, through cross examination in court.

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<sup>10</sup> “Adquisitorial: The Mixing of Two Legal Systems”, Kafayat Motilewa, Prof. Dr. Hunud Abia Kadaouf, Prof. Dr. Mohammad Naqib Ishan Jan, Asst. Prof. Dr. Mohd. Iqbal Abdul Wahab and Asst. Prof. Dr. Haniff Ahamat, International Journal of Humanities and Management Sciences (IJHMS) Volume 3, Issue 1 (2015) ISSN 2320–4044 (Online)

Examples of interview steps from across Europe include the following:

An **exploratory interview** may be undertaken by a child protection or health professional to detect whether there is a likelihood that some form of violence may have occurred. In some settings, it will be stopped if disclosure occurs or appears likely, so as to ensure the involvement of law enforcement professionals.

A **first interview** (with the involvement of the law enforcement/prosecutor and/or judge) where the child is formally interviewed about abuse that is known or believed to have occurred. This may happen pre or post a charge being made against a suspect.

In some jurisdictions, a formal first interview will be a **joint investigatory interview** and serve a dual function of an interview for the criminal justice proceedings and also for the child protection proceedings. In these situations, social workers, alongside law enforcement actors, will typically participate.

In some national proceedings, there is/may be a **second interview**, which is then attended by the defence lawyer. For example, in Norway, the defence is provided with the interview transcript/ recording and has a one-week window to request any further clarification. Any additional interview is done with the child by the same interviewer in the same venue.

In the event of new evidence coming to light before the case, there may be a need for a **subsequent interview** of the child prior to any court proceedings.

Children may need still to give **evidence in court**, or if the recording serves as evidence in chief, to be available for cross examination in court. Sometimes it is possible to undertake cross examination prior to the court hearing and also video record it.

In some jurisdictions, the examination of the witness or cross examination in the court room are the subject of prior hearings which provide instructions on the type of questions that can be put to the child witness and the manner in which they can be posed (so-called **ground rules hearings** in the UK).

The child may need to be **separately interviewed for the child protection proceedings**.

Clearly, practices around video recording of testimony will be a key pillar in reducing the number of interviews and may avoid the need for the presence of the child in court.

The advantages of video recording arise from the fact that:

- Testimony can be recorded at an early stage of the investigation when the child has better recall.
- Giving testimony at an early stage in the criminal proceedings diminishes the risk of efforts to intimidate the victim.
- The interview can be done in a child friendly setting, rather than the courtroom, thereby reducing the stress a child might feel and reducing the risk of inaccuracy.
- Outside of the court room, it may be easier to involve a skilled non-legal professional in undertaking the interview. The interview can be supervised by a judge, or prosecutor.
- The interview can also take the form of a truth-seeking process, using evidence-based protocols, such as the NICHD protocol. It can take a more expansive form and take into account the circumstances of the child as a whole, in comparison with the typical examination in court which will be more focussed on the facts relevant to the charge against the offender.

*In oral evidence to the Scottish Justice Committee, a representative from Barnardo's Scotland suggested that delays in taking a child's evidence could impact on how that evidence was perceived by the court: "We know of young people who had offences committed against them when they were 14 but were 16 and a half by the time they presented at court, by which point they were very different people from who they were as 14-year-olds. Because of the trauma that they have experienced, they can be involved in a lot of behaviours that are not seen to be positive. What the court sees is a difficult, belligerent, drug-addicted, alcoholic young person instead of the child they were when the offences happened."*

- In contrast with other methods for recording investigative interviews, video recording may be more accurate and provide the most complete representation of the interview.
- It is a method which frees those interviewing to concentrate on eliciting information, rather than also recording it.
- The recording can be watched by the defendant and his legal representative, at the time of the recording, and subsequently be available to and challenged by the defendant.
- Recording the interview allows better advice from the prosecutor to the police on whether the prosecution case meets the necessary evidentiary standards before court proceedings are initiated against a defendant.
- The recording will show the child as they were around the time of the offence and not as they are during a subsequent court proceeding which might take place months and sometimes years later, by which time they may have developed and look or behave differently.
- Allowing the recording to be used as evidence can avoid delay in therapy beginning for the child.
- The interview and recording can be structured to include information that can be used for child protection assessment and other services, avoiding the need for separate interviews.

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## Addressing sensitivities that may arise when adapting interview procedures

As noted in the general reflection points above, adapting interview procedures as regards the professionals involved, the setting of the interview or the fact that it is recorded, may evoke a range of public interest and professional concerns. Some of these will be clear and explicitly voiced, whereas others may not be articulated but may manifest in hostile undercurrents to particular reforms. It is important not to ignore concerns and indeed no procedure can ever exclude all risks. Concerns may relate to<sup>11</sup>:

- The impact, if any, which the non-court setting may have on the nature of the testimony, in particular the fact that the comparable informality of the setting, and the absence of the judge and jury<sup>12</sup>, which may mean that the child is not sufficiently conscious and sensitive to the gravity and import of the interview;
- The competence of non-legal professionals involved to elicit all the material facts and their impartiality, in particular that there may be bias of interviewers towards child; whether non-legal professionals are sufficiently rigorous in testing the evidence and whether there will be a greater risk of false testimony;
- Whether juries may be biased in favour of pre-recorded evidence by the child;
- Whether the defence is able properly to challenge the testimony of the child because they are not able to confront the child directly, and may be required to put their questions at an earlier stage in the proceedings than is typical;

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<sup>11</sup> This section draws on concerns which were identified in discussions between professionals in workshops in the Promise 2 and from the materials reviewed, inter alia, from submissions concerning the introduction of a new law in Scotland on procedures concerning vulnerable witnesses (see Section 5 below).

<sup>12</sup> In many EU jurisdictions, criminal courts are composed of judges only. Within the EU, a traditional jury system exists within Austria, Belgium, Ireland, Malta, Norway (only in serious appeal cases), Spain and the United Kingdom (England, Wales, Scotland and Northern Ireland). EU member states with a collaborative jury system which comprises a combination of jurors and judge include Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Norway (in most cases), Poland, Portugal, Serbia, Slovakia, Slovenia, and Sweden. Under the collaborative system, the professional judges and the jurors determine together all questions of law and fact, the issue of guilt and the sentence.

- That the courtroom is the place to hear testimony given that it is only at that moment that the prosecutor and defence are up to date on all of the investigation, and that the child can be examined in light of all the facts;
- How changes to longstanding procedure and practice of lawyers in the conduct of the defence potentially affect the workload (and compensation) of lawyers.

Clearly, concerns of this nature need to be addressed carefully in any procedural or practice developments. It may be important to focus on research and evidence to determine the validity of concerns and how best to address them. Choosing the process which will work best in most cases is an important choice for each jurisdiction to make. The way in which case management is undertaken may be a driving element.

Some practices which may address these concerns have also been noted in discussions and consultations as follows.

**Supervision of testimony to ensure that admissible evidence is secured and that the rights of the defence and the victim are observed:** In court, the giving of testimony is supervised by the presiding judges. Some jurisdictions permit the involvement of a presiding judge in the conduct of any interviews prior to trial to ensure that the recorded evidence is equivalent to that given in court proceedings. In cases where a judge is permitted to supervise an interview outside of the courtroom proceedings, if the presiding judge is involved, their impartiality may nonetheless be subsequently called into question. Accordingly, it may be necessary to consider the involvement of a separate judge to ensure the rights of the defence and to ensure evidence is elicited in an appropriate way.

**Agreement on conditions of video recording:**

International and EU law does not go into detail on how or when the recording should happen, or who should be involved. Consequently, at national level, the procedural issues concerning video recording need to be defined carefully. Using audio visual recording will require certain practical issues to be addressed, including agreeing the recording parameters so that a complete visual of the child is recorded so that the judge and/or jury and/or defence can observe the complete posture and demeanour of the child and confirm that there is no one else in the room. There must also be a means to prove authenticity of the recording and restrict access to it. IT infrastructure issues need to be addressed, including compatibility of equipment with courtroom equipment, availability of the necessary IT support and ensuring adequate storage is available. See further [practical insights from organisations involved in providing the IT infrastructure and support](#).

*“A sustained effort must be made to expedite the process of pre-recording evidence, particularly for child witnesses. Otherwise there is a real risk that, in practice, a witness’s evidence will still be pre-recorded a long time after the reported events have taken place. This will significantly undermine the intended benefits of pre-recording evidence, in terms of enabling the witness to recount events more accurately and to recover from them more quickly.”*

*Scottish Justice Committee Report*

**Generating admissible evidence:** Specialised interviewing techniques can be used to ensure that the interview harnesses the child’s testimony as evidence in chief in court (i.e. by putting proper questions which are not in leading form, relevant and admissible evidence in court) and also gathers other information for the investigation itself, in terms of uncovering and being able to follow up on particular forensic details. There may be a need to create bookmarks in the recordings of interviews before it is shown in court, so that only the relevant and proper parts are shown. This could involve a further pre-trial step whereby the prosecution and defence agree the bookmarking.

**Mitigating the risk of false accusations being brought before a court:** The use of the NICHD Protocol (or other evidence-based protocols) is generally recognised as an effective mechanism for obtaining more complete and accurate disclosures from victims, which may in turn support defence assertions in some cases. In this regard, a clinical psychologist from Iceland who has years of experience in forensic interviews notes that the use of the protocol in fact helps prevent false testimony, as a structured interview makes false testimony difficult because children have a very hard time accurately reporting their own stories during a structured interview when they are not true.

**Exercising rights of the defence:** Where the defence is not allowed directly to put questions to the victim, the traditional defence strategies of vigorously challenging the credibility of the witness, accuracy of what they are saying, and their motives will be unavailable. However, it is widely accepted that common adversarial mechanisms to test a witness will not be appropriate in the case of a child.

The European Court of Human Rights in the case of S.N. v. Sweden (Application no. 34209/96) noted the special features of criminal proceedings concerning sexual offences. "Such proceedings are often conceived of as an ordeal by the victim, in particular when the latter is unwillingly confronted with the defendant. These features are even more prominent in a case involving a minor. In the assessment of the question whether or not in such proceedings an accused received a fair trial, account must be taken of the right to respect for the private life of the perceived victim. Therefore, the Court accepts that in criminal proceedings concerning sexual abuse certain measures may be taken for the purpose of protecting the victim, provided that such measures can be reconciled with an adequate and effective exercise of the rights of the defence ... In securing the rights of the defence, the judicial authorities may be required *to take measures which counterbalance the handicaps under which the defence labours..*" (our emphasis)

Clearly, one of the counter measures must be to guarantee the ability for the defence to cross examine effectively (via an intermediary or directly). This underlines the need to complete other elements of the investigation in a timely way. Consequently, the practice relies on all material facts being both available and quickly disclosed to the defence so as to allow the victim to be examined in light of the case as a whole.

**Prior hearings:** In some jurisdictions, the examination of the witness or cross examination in the court room are the subject of prior hearings which provide instructions on the type of questions that can be put to the child witness and the manner in which they can be posed. The child may need to give evidence during the trial but can do so via a video-link.

**Enhanced status in the credibility of the witness who has pre-recorded their evidence:** There does not appear to be proof of the risk of the credibility of the witness being enhanced if video-recorded, as is sometimes asserted. Equally the contrary assertion is also not proven, namely that video recorded testimony leads to the breaking of the connection (and empathy) between the presiding judge and/or jury and witness, given that they will not see the victim in person.

*The Scottish Faculty of Defence lawyers submitting evidence in the review of a new bill including audiovisual recording: "It is considered essential that there is timeous disclosure of all available and relevant evidence prior to cross-examination. The Faculty believes that a systemic failure to do so represents the single most significant obstacle to the success of this legislation. ... Unfortunately, at the present time it is not uncommon for late disclosure, particularly of material such as telephone and computer records, or medical and social work records, to be made available to the defence at a very late stage in the proceedings. This problem is identified as regularly occurring in sexual offence cases. Provision of this late material undoubtedly impacts on the ability to cross examine witnesses, as it often results in the need to instruct expert reports and to make applications under sections 274 and 275 of the Criminal Procedure (Scotland) Act 1995. Such late disclosure would be difficult for any Judge to ignore ..."*

## Conclusions & resource listing

Concrete measures needed to adapt criminal proceedings taking account of related child protection proceedings vary from country to country. Depending on the jurisdiction concerned, there may be a specific need for reform of laws and procedures. For example, is there a gap in the law obliging actors to avoid (re)traumatisation of child victims? Are actors permitted to work together to avoid (re-)traumatisation?

Criminal laws clearly may need attention but so also may laws which regulate the way in which social or health services are provided or those laws which regulate professional activities, which can sometimes constrain new ways of working. For example, legal requirements on the physical space in which medical professionals may undertake their work may have the effect of limiting the possibility for medical examinations for forensic purposes to take place in a different setting, albeit one which has been specifically designed for children.

In some countries, new practices should be the driving force for progress (and these may initially be built from the ground up in terms of case management tools), often hand in hand with the reshaping of professional cultures and enhanced mutual trust and cooperation between the criminal justice and child protection proceedings. In these settings, mutual exchange and learning may be important catalysts for progress.

In all cases, improving the experience of child victims in the justice system involves building or reinforcing robust procedures and properly resourcing their application. Change begins on paper and may sometimes be conceived of in incremental phases to avoid disruptions to the criminal justice system. Nonetheless, it is vital to be clear-sighted about essential elements needed to produce the intended effect. As we have seen, a key learning from recent experience in Europe is that it is important that specialised professionals emerge from proper training in interviews and that they are available in a timely way at the right location. In other words, even if new procedures become available, chronic delay and lack of support for their proper implementation will undermine this potential for improvements.

There are many different processes which can achieve improvements in criminal proceedings involving child victims. In some cases, change started with reviews arising from sexual abuse cases. The impetus for change may arise from a review of existing procedures, for example, on interviewing vulnerable witnesses in general. Such reviews—which identify the many practical problems that can arise and provide detailed recommendations—may prove invaluable to driving progress forward in the daily lives of children and professionals and to meet longer term goals. Developments may also be triggered by new international provisions to address the rights of all victims of crime. Increasing awareness of children’s experiences in general across justice settings tends to promote a more child centred approach. New ways of working may also emerge from practical experience in the use of new technologies in the courtroom.

Many of these initiatives involve different actors from both criminal and child protection fields. Sometimes they arise out of activities of national ministries and national agencies and human rights bodies, such as the children’s ombudsmen. They draw from the experience of legal professionals involved in criminal investigations and/or court proceedings as well as that of health and social professionals when involved in criminal investigations and/or court proceedings. They frequently involve professional associations such as national bar associations or NGOs such as advocacy and victim support groups. Some actively seek to take into account the perspectives and experiences of children.

It is helpful to connect the different types of opportunities—and imperatives—for change at national and regional level in the field. This may have a considerable effect both on the pace and scope of change that can be carried out. As we have seen, in some European jurisdictions, progress in fulfilling child victims’ rights has been made through specific changes to existing criminal procedures, whereas in other jurisdictions it has occurred through more transformative steps such as a “Barnahus” model.

*This is a living document. Please contribute to our effort to compile useful regional resources by sharing your experience and further relevant materials with us. Recent examples include:*

Review of the Barnahus model in the Nordic countries “[Collaborating Against Child Abuse: Exploring the Nordic Barnahus Model](#)”, in particular—for these purposes—Part II, the Forensic Child Investigative Interview

Introduction of a [Scottish law on vulnerable witnesses](#), which involved an [inquiry by the Justice Committee of the Parliament](#) and included submissions from many different stakeholders including Defence Advocates and NGOs working with children.

Introduction of a law establishing a Barnahus in Denmark; see further <https://www.childrenatrisk.eu/promise/law-as-one-enabling-factor-for-the-barnahus/>

EU funding and Council of Europe technical support the Slovenian authorities to set up and implement the Barnahus (Children’s House) response model for child victims and witnesses of violence. <https://www.coe.int/en/web/children/slovenia>

Responding to Child Sexual abuse, a follow up in Ireland [Garda inspectorate review](#) report (an independently chaired inter-agency Implementation Group was established to examine and drive forward the implementation of recommendations in the follow-up report)

Periodic review of practice guidance (for example, [review of Achieving Best Evidence in Child Abuse Cases in England](#)).

Review of pilot practices (e.g. [Process evaluation of pre-recorded cross-examination pilot \(Section 28\)](#) in the UK provide

New digital practice in the court has led to important [practical insights from organisations involved in providing the IT infrastructure and support](#). It has also warranted new digital strategies for the justice practice (e.g. [Scottish Courts Digital Strategy](#)).

Development of tools, such as case management mechanisms to allow different actors work more smoothly together during criminal investigations, including social, health and law enforcement professionals (e.g. the confidentiality protocol in the Netherlands which allowed agencies to work together, see further the [Barnahus Quality Standards](#), page 71-73).

Diverse research, undertaken by academics and practitioners, broadly on the [perspectives of children in justice proceedings](#) undertaken by the EU Fundamental Rights Agency, or on more specific issues such as English research in relation to the frequency of false allegations of child sexual abuse (Journal of Child Sexual Abuse 2018 vol. 27)

Northern Irish Commissioner for Children and Young People [advice](#) to an independent review of law and procedures for sexual offences; Regional conferences including keynote speeches from judges on reform in the area, including a [conference](#) organised by the office of the Northern Irish Commissioner for Children and Young People; [Report](#) of the English Children’s Commissioner on Barnahus: improving the response to child sexual abuse in England

Exchange of experience with justice, health and social professionals about the criminal proceedings has been very important to gain a clearer understanding of the experience and needs of the child which are necessary both for criminal justice and child protection. See for example Promise [Forensic interview webinar mini-series](#) and Promise [Mini-series on medical evaluation](#) – a key criteria for the Barnahus and similar setups

Reports in projects in adjacent areas of criminal justice (insights into use of video-recording) “[Procedural rights observed by the camera – Audiovisual recording of interrogations in the EU \(ProCam\)](#)”, coordinated by the Hungarian Helsinki Committee

Professional exchange through study visits: for example, members of the Scottish Justice Committee law undertook a study visit to the Icelandic Barnahus.

Training: investing in ensuring judges, prosecutors, defence lawyers and law enforcement gain a very concrete and common understanding of victims' rights and/or children's rights.

Guidance from the European Commission on Victim's Rights: [DG Justice Guidance document related to the transposition and implementation of Directive 2012/29/EU](#)

### **Promise Resources:**

[Reports, tools and guidance](#)

[Webinars](#)

For more information please visit <https://www.childrenatrisk.eu/promise>.



## Implementing the Barnahus Quality Standards throughout Europe

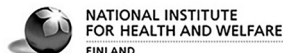
PROMISE is supporting Europe to adopt the Barnahus model as a standard practice for providing child victims and witnesses of violence rapid access to justice and care. We undertake this work to fulfil the PROMISE vision: a Europe where the human rights of children to protection from violence, support and to be heard are fulfilled.

A Barnahus provides multi-disciplinary and interagency collaboration to ensure that child victims and witnesses of violence benefit from a child-friendly, professional and effective response in a safe environment which prevents (re)traumatisation. With the formal support from national authorities, PROMISE provides opportunities to translate national commitment into action and engage internationally in the process. In addition, regular networking and strategic communications continually activate our growing network of professionals and stakeholders who are committed to introducing and expanding Barnahus services nationally.

The first PROMISE project (2015-2017) set European standards and engaged a broad network of professionals. The second PROMISE project (2017-2019) promoted national level progress towards meeting the standards and formalised the PROMISE Barnahus Network. Future work will expand these activities to include University training, case management tools, and a European accreditation system.

PROMISE is managed by the Children at Risk Unit at the Council of the Baltic Sea States Secretariat in close collaboration with Child Circle.

**Access the PROMISE tools and learn more at [www.childrenatrisk.eu/promise](http://www.childrenatrisk.eu/promise)**



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