



Study on children's involvement in judicial proceedings – contextual overview for the criminal justice phase – Cyprus

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Executive summary

Overview of the general elements of child-friendly justice in criminal proceedings

The Cypriot legal system may be disaggregated into two categories – the more modern legislation introduced to address the specific problems of domestic violence, child abuse and child trafficking and the older and rather obsolete legislation regulating the role of the Social Welfare Services (SWS) in the case of ‘children in need’ and addressing criminal offences in general. In the latter case, the Criminal Code provides nothing to address the vulnerable situation faced by a child in criminal proceedings. There is no juvenile court system and the practitioners coming into contact with or having a serious impact on children do not receive any particular training. Nevertheless, trained social workers of the SWS act in the capacity of a family counsellor or a probation officer. In addition, the Attorney General has an exclusive mandate to commence and terminate criminal proceedings, where victims, adult or child, do not have a role, to act for his/her protection or redress in the judicial process.

Overview of children’s involvement before, during and after judicial proceedings

The procedure in place for responding to crimes against children, which involves the police, the SWS and the appointment by the latter of a family counsellor, is designed mostly for violent crimes. In the case of non-violent crimes, the involvement of the SWS will depend on the degree of vulnerability of the child and each case will be assessed individually. The fact that the system prioritises the handling of violent crimes higher than other crimes is also evident from the fact that in the case of violent crimes a procedure for a step-by step inter-agency co-operation is set out in a special Manual regulating the role of the police, the prosecution, the SWS, the health and education authorities, whilst no such equivalent procedure is in place for non-violent crimes.

A special procedure is laid down for the taking of testimony of the child victim by the police, requiring the involvement of a police officer of the same sex in a specially adapted space; however it is often the case that none of these are available at the police station where the child is reporting the crime, whilst not all police officers have been trained to take testimony from children. A number of Court orders may be applied for in cases of violent crimes against children, targeting the curtailing of the professional activity of the perpetrator or removing the victim from the perpetrator’s care. Media regulations seek to regulate the conduct of the media as regards the representation of children involved in criminal proceedings, prohibiting the publication of any information that may lead to establishing the child’s identity.

Inside the Courtroom, a set of measures are in place for the child witness, such as in-camera proceedings, a separation screen, a closed circuit television and others, applicable also to the child victim and to the child defendant when they testify in Court. As these measures are discretionary upon the judge, there is no uniform application in all cases and there is no guarantee that these measures will be used in the case where the crime being tried is non-violent. The family counsellor appointed by the SWS will strive to ensure that the child receives the protection necessary under the circumstances, although the judge has the final word. Legal aid is available only for the child defendant who does not have the financial means or whose family lacks the means to engage a lawyer and provided the sentence prescribed for the offence exceeds one year of imprisonment. Children under 14 have no criminal responsibility. Children aged 14 or over can be arrested, questioned, remanded in custody and have a prison sentence imposed by the Courts, a measure reserved as a last resort only for grave offences and where no other measure is suitable. A detailed procedural system is in place regulating the arrest, interrogation and detention of children. The inter-departmental Committee for the Handling of the Juvenile Offenders has an advisory role in the handling of the child and, together with the institution of the family counsellor, continue to play a central role in the post-trial period, advising informing and guiding the child victim as well as the child perpetrator. Probation is available for the child offender under the supervision of the SWS which may include conditions of community work without pay or educational lessons.

Promotion and monitoring of a child-friendly approach to criminal justice, with an overview of strengths and potential gaps

The most basic gap flagged by national and international reports is the limited application of the principle of the best interests of the child, which is generally unknown in judicial proceedings and does not permeate all legislative instruments concerning children. Also, children's views are not always adequately heard or taken into consideration in all proceedings affecting them, whilst the absence of a juvenile criminal justice system has also received considerable criticism.

Delays in the investigative and particularly the judicial process which can take a number of years, have led to children having to re-live traumatic experiences several years after the event or having lost traumatic memories as a survival tactic. The lack of training of practitioners and their non-availability outside their working hours in emergency situations was also identified as a major problem, particularly when dealing with child victims of domestic violence. In the field of child-trafficking, all measures for the protection of the trafficked child depend on the identification of the child as a victim by a specialised and understaffed police unit, failing which the victim may fall through the system.

On the positive side, the setting up and operation of the inter-departmental Advisory Committee for the Prevention of Domestic Violence may set an example for the inter-agency handling of children in criminal proceedings *in general* and beyond domestic violence, through which trained professionals of the private sector have a major input towards policy making and in assessing and evaluating policy implementation.

Abbreviations

ACPDV	Advisory Committee for the Prevention of Domestic Violence
CA	Competent Authority
CoE	Council of Europe
EC	European Commission
EU	European Union
SWS	Social Welfare Services of the Ministry of Labour
CRC	UN Convention on the Rights of the Child

1 Overview of Member State's approach to children in criminal proceedings and specialised services dealing with such children

There is no integrated approach towards the role and position of children in criminal proceedings. For some special areas of criminal law, namely domestic violence, trafficking and sexual exploitation¹, modern and child-friendly regulations were enacted in the 2000s, giving particular priority to the needs and interests of the child. In general criminal law, however, children are treated no differently than adults, few protection measures are laid down for children, who are not perceived as a group in need of protection. The age of criminal responsibility is 14.

Legislation on domestic violence, trafficking and sexual exploitation was introduced or modernised during the 2000s as a result of lobbying from NGOs and MPs in light of the volume of cases of violence against children that came to light. Criminal offences which did not entail violence against children fall under the older and more general legislation (mostly the Criminal Code) which, as stated above, makes no special provision for children.

Seen from another perspective, there is little in the legislative framework about the protection of victims of crime, whether adult or child, as the whole system is orientated towards securing a conviction against the perpetrator rather than ensuring that the victim, whether adult or child, is protected and supported. Despite the fact that Cyprus has ratified the UN Convention on the Rights of the Child (CRC) since 1991, the best interests of the child do not permeate the key laws dealing with crimes and criminal procedures (except in the areas of domestic violence, trafficking and sexual exploitation) and are not seen as more important than the aim of securing a conviction. Nevertheless, Cyprus has a monist system of international law, with the result that the CRC is directly applicable in Cyprus and its provisions can be invoked in Courts. However, CRC provisions have not been invoked before the Courts so far. The 2012 Report on Cyprus of the UN Committee on the Rights of the Child expressed its concern over the fact that the concept of the best interests of the child is not widely known in Cyprus; it is not included in legislative measures, nor is it consistently applied².

There are no juvenile courts in Cyprus; children are tried or appear as witnesses in the district criminal court of the district where the offence in question was committed. If the child is a victim, then the child has no role in the criminal procedure and may not appear. A number of safeguards are in place for the protection of the child witness inside the Courtroom (which also apply to 'vulnerable' adult witnesses) which are, however, discretionary upon the judge but generally used in the cases of children. Lawyers and judges do not undergo training regarding the handling of cases involving children³ and case law is often permeated by a technical and legalistic approach that demonstrates little sensitivity towards children.

One key characteristic of the system is the vast discretion vested in the Attorney General, who has sole responsibility in deciding whether a criminal prosecution will commence or be interrupted. No rights are laid down for victims or even for the witness, whether adult or child.

¹ Child abuse outside the family is covered by the anti-trafficking law if it is sexual. If it is neither sexual nor 'domestic', violence is covered by two antiquated bodies of law, the Children's Law and the Criminal Code, both dating back to the colonial period.

² [Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Cyprus](#), dated 12 August 2012.

³ Honour Related Violence, European Resource Book and Good Practice, based on the European project "[Prevention of violence against women and girls in patriarchal families](#)", Kvinnoforum, Stockholm, 2005.

The role of the Social Welfare Services of the Ministry of Labour (SWS)

The organisation that is central to the protection and support of children throughout the judicial process is the Social Welfare Services of the Ministry of Labour (SWS), which operates services mostly on the basis of policies which are constantly reviewed and revised.

The system of protection and support run by the SWS for child victims of violence in the home and at school is basically recorded in the Manual for Interdepartmental Cooperation (hereafter 'the manual'), drafted by the Advisory Committee for the Prevention of Violence in the Family⁴ and adopted by the Council of Ministers for the purposes of implementing domestic violence legislation but having in practice wider application into other areas. The procedures described in the manual are legally non-binding, but are to a large extent followed, since the manual itself was largely based on existing structures and methods. The manual however provides guidance only for the administrative handling of a case, in the pre-trial and the post-trial phase; in the judicial sphere and space the two operating factors are the letter of the law and the judges' interpretation of it, which is not always permeated by the principle of the best interests of the child⁵.

Training

The SWS is the only body amongst those who come into contact with children in the judicial process whose officers are qualified and receive regular training and vetting in dealing with children. However, as far as vetting is concerned, this is of a general nature and does not specifically address their suitability to deal with children.

Training shortages have been observed in a number of other services and practitioners involved with children, including lawyers from the Attorney General's office and from private practice, judges and police officers. As a result, judges do not adequately take into account the principles of the UNCRC and do not have the best interests of the child as a yardstick in procedural and substantial issues. The lack of training of lawyers often means that the same issues are also not raised in court on behalf of the child.

Multidisciplinary approach

There is no inter-departmental manual on children in general or on children in any other area of the law. However, the SWS has general competence in all fields concerning children and a general supervisory role for children 'in need of care', who are automatically placed under the care of the Director of the SWS. The Director is under a duty to keep the child in his/her care for as long as the welfare of the child appears to him/her to require it, so as to protect the child from cruelty, neglect and exposure to physical and 'moral' danger⁶. Where the child appears to the SWS Director to be in need of care, the Director endeavours to secure that the care of the child is taken over as soon as possible either by a parent or guardian or by a relative or friend. The SWS performs a supervisory role as regards the foster care of 'children in need' and the powers of the police to arrest and detain child offenders.

Moreover in case of a crime committed by a child, the District Welfare Officer will report to the Committee for the Handling of Juvenile Offenders. The Committee for the Handling of Juvenile Offenders is an inter-departmental committee involving the police and the SWS and is composed of

- The Assistant District Welfare Officer for Families and Children.
- The Police Assistant Director for Operations of the District investigating the case.
- One expert (Psychologist, Criminologist) from the Police or the SWS, where the Committee considers his/her participation necessary.

⁴ This is a [special body](#) set up under the domestic violence legislation consisting of both governmental and non-governmental organisations.

⁵ See for instance the decision of the Supreme Court in the case of [Christodoulos Armeftis v. the Republic](#) (2008).

⁶ Law on Children, Cap.352 (1959).The sole use of the male gender in the phrasing was copied from the text of the law.

The Commissioner for the Rights of the Child

The Commissioner for the Rights of the Child, who has a general mandate to represent children in all procedures affecting them, also receives complaints in relation to the violation of children's rights. The law setting out the mandate of the Child Commissioner provides for the duty of the Child Commissioner to submit to the competent authorities for investigation, complaints for violations of children's rights, to follow the course of these investigation by the said authorities, even in case of complaints not forwarded through the Commissioner and to evaluate the outcome of the investigation carried out by any authority. In practice, the investigation carried out by the Commissioner takes the form of mediation with the authorities concerned. However, the Commissioner has no power to issue recommendations or impose sanctions. When the complaints submitted to the Commissioner involve crimes against children, then the Commissioner, like all members of the public, is bound to report these to the police.

2 Child-friendly justice before and during criminal judicial proceedings

2.1 The child as a victim

No holistic approach is followed as regards the position of the child victim in judicial proceedings, most protection measures inside the Courtroom being reserved for the child witness who has a crucial role to play in securing a conviction against the perpetrator. A child victim who is not a witness need not appear in Court for the hearing of the offence which victimised him/her. If the child victim (who is not a witness) nevertheless does choose to appear in Court, no special protection measures are in place for him/her apart from the general protection offered by the SWS to all children in need. For non-violent offences committed against a child, and provided that no issues of protection of the child victim arise, the SWS are unlikely to get involved in order to extend protection to the child during criminal proceedings. The child victim, as well as the adult victim, is not consulted in the decision as to whether proceedings will be commenced; this is an issue within the wide and sole discretion of the Attorney General. A victim, both adult and child, has the possibility of commencing a private criminal prosecution against the perpetrator; this is a procedure rarely used, which the Attorney General has the power to interrupt at any time.

Domestic violence, sexual abuse, trafficking

The domestic violence legislation⁷ and the anti-trafficking legislation⁸, both of which essentially deal exclusively with violent offences against children, provide more extensive safeguards for children in judicial proceedings.

Other offences against the child

Beyond the above topical areas, certain types of violent conduct in relation to children are criminalised by the Criminal Code⁹. Additionally, all offences against the person laid down in general criminal law, violent or non-violent, can be committed against children and adults alike, for which the same procedure rules apply. In respect of these offences, no provisions are laid down in either the policy or the legal framework for the role or protection of the child victim in the course of the judicial proceedings. As stated above, for children who are victims of non-violent crimes and who already have a guardian (e.g. a parent), the SWS is unlikely to get involved, unless special circumstances call for protection or the child or the guardian requests it.

2.1.1 Reporting a crime

Police and SWS

Crimes involving children may be reported either by the child, the child's guardian or a third person at the police or at the SWS. When complaints or allegations for child abuse are

⁷ The [Law on Prevention of Violence in the Family and the Protection of Victims N.119\(I\)/2000](#) (hereinafter 'the domestic violence law') enacted in 2000. The scope of this law covers physical sexual and psychological violence inflicted from any family member against another is a crime. The term 'family member' includes children, natural or adopted, and grand-children of persons married or cohabiting or who had been married or cohabiting.

⁸ The Law Revising the Legal Framework Regulating the Protection of Persons who are Victims of Trafficking and Related Matters N.87(I)/2007 (hereinafter 'the anti-trafficking law'). Child trafficking, child pornography and sexual exploitation of a child are dealt with in a single legislation. This law is the one most frequently relied upon in order to convict a suspect who does not fit the definition of a member of the family under the domestic violence law.

⁹ The abduction of children (Article 246), abandonment or exposure (Article 181), stealing a child (Article 185), the killing of a child by its mother (Article 209), defilement of a young woman under 13 (Article 153) and defilement of a young woman under 17 (Article 154), abduction of a young woman under 16 (Article 149). Article 154 which prohibits defilement of girls under 17 was amended in 2002 to provide that intercourse with a girl under 17 shall be lawful if the perpetrator is the husband of the victim. This amendment came two years after the domestic violence law recognised and outlawed spousal rape. The Criminal Code also contains a set of duties for persons having other persons under their supervision or guardianship (Articles 221-223).

lodged with either of these departments, both have an obligation to inform each other as well as to inform the Law Office of the Republic, which is the Attorney General's Office¹⁰ and which will decide whether prosecution will be commenced and carry the case through the judicial process.

The investigation or prosecution of offences relating to child trafficking, child pornography or sexual abuse of a child, as indeed all other crimes, do not depend on a report or accusation made by the victim; the prosecutors may, acting on their own initiative, investigate and prosecute such instances even in the absence of a complaint¹¹. This relieves the victim from the duty of having to file a complaint in order to trigger the investigation and prosecution.

The first step in the process of investigation is to contact within 30 minutes one of the family counsellors of the SWS as well as the person in charge of the family counsellors' team. If the complaint or allegation is received outside working hours, then the family counsellor on duty will carry out most of the procedure on his/her own. If the information received is that a child is in immediate danger, then the police will be contacted immediately. The family counsellor will collect as much information as possible from the existing files of colleagues and associates, such as the teacher, the educational psychologist, the doctor and the child psychologist.

All citizens have the obligation to report incidents which come to their attention involving violence against children¹². Nevertheless, teachers who are faced with the case of a child obviously abused at home are often reported as abstaining from any action other than referring the case to the welfare services. Although there have been several cases of third parties reporting incidents of child abuse, mostly to the SWS, there is no system of assessing how many cases came to the attention of third parties and went unreported, nor was there ever a prosecution against a person for failing to report an incident of child abuse. If a child reports to the school authorities or to another authority that s/he suspects that another child is the victim of a crime, the practitioners who received the complaints must make sure to commend the child reporting the suspicion or incident and assure him/her that s/he has done the right thing by reporting it.

The next stage is the conducting by the family counsellor of interviews with the child, the members of the family, professionals who are in contact with the child or the family and other important persons, following which the family counsellor carries out a preliminary assessment of the information. The parents will be advised and informed by the family counsellors of the findings of the investigation and of the decision as to how to proceed thereafter. The counsellor will aim at securing their cooperation but not at the expense of the child's safety.

A written statement must be given to the police in a specially adapted room at police stations and to a police officer of the same sex as the child complainant. This measure however can have its negative aspects too, as not all police stations are staffed by officers of both sexes. In addition, only a small number of police officers have been trained in taking taped testimonies from victims of domestic violence. Also in many cases it is advisable that the child victim gives testimony to a police officer who is not of the same sex as the perpetrator. The rule that a child must give testimony to a police officer of the same sex is nevertheless rigidly [applied by the Courts](#) and failure to observe it may result in the perpetrator's acquittal.

¹⁰ Established by Articles 112-113 of the Constitution, this office is an independent institution headed by the Attorney General acting as legal advisor to the Republic, the President of the Republic and to the Council of Ministers, as well as to each of the Ministers. The Attorney-General has power, exercisable at his discretion in the public interest, to institute, conduct, take over and continue or discontinue any proceedings for an offence against any person in the Republic (article 113(2)) of the Constitution).

¹¹ Article 18 of the Law Revising the Legal Framework Regulating the Protection of Persons who are Victims of Trafficking and Related Matters N.87(I)/2007.

¹² Law on Prevention of Violence in the Family and the Protection of Victims N.119(I)/2000, Article 35A.

NGOs

Incidents of domestic violence may be reported to the Association for the Prevention of Domestic Violence, the only NGO offering victim support services to children domestically abused, through its 24-hour helpline (116111) for children facing a problem. Given that it is the only NGO in this field, it has been granted an institutional role which, among others, requires it to report child abuse cases to the Social Welfare Services or, outside working hours, to the police¹³. In practice, the helpline receives calls from teenagers rather than younger children. During the call, the NGO staff will try to secure from the caller as much information as possible in order to pass it on to the police and to the SWS. The Association is not entitled and does not offer advice to children over the phone nor does it otherwise come into direct contact with children, who are dealt with exclusively by the SWS and /or the police depending on the stage and the task at hand. Although there are NGOs advocating the rights of children, none of these offer support or other services to children in need.

Discretionary prosecution

The procedure for the investigation of all violent crimes is initiated by the police following a complaint by a victim, irrespective of age, submitted either directly to the police or to the SWS. The police are also the body that is responsible for identifying victims of trafficking, in order to trigger the application of the protection offered by the anti-trafficking law. Prosecution is in all cases discretionary and is often based on whether the prosecuting authority believes that sufficient evidence is available to secure a conviction. There is no requirement for the best interests of the child to be considered before a decision is made as to whether to prosecute the perpetrator or not. The final decision as to whether to prosecute or not rests with the Attorney General, who has discretion in this field.

When to report a crime

Although there is no explicit duty for victims, including child victims, to report a crime *immediately* after it is committed, a delay in reporting a crime may affect the victim's credibility in Court and can in practice result in the acquittal of the defendant¹⁴. This Court practice is disputed by psychologists who believe that a child victim may delay reporting an incident of abuse for a number of legitimate reasons.

¹³ [Manual of inter-departmental procedures for the handling of domestic violence](#), prepared by the Advisory Committee for the prevention of violence in the family, set up under the domestic violence law to assist for the better implementation of the law. The Manual was adopted by the Council of Ministers in 2002.

¹⁴ In the case of *Doros Georgiades v. the Republic* (Criminal Appeal No.7243, 14.01.2003), the Appeal Court reversed a trial court conviction against a well-known musician for sexually abusing minors when he was delivering music lessons to them because, inter alia, the complainants did not report the incidents immediately. The judge rejected the trial court's finding that it is not easy for girls aged 14-15 in Cyprus' small society to accuse a celebrity of having committed sexual abuse; the judge stated instead that 'the law expects victims of criminal acts to report incidents immediately' and especially where there is sexual abuse involved. He did not quote any particular law for that, nor does such a requirement exist anywhere in the law. The only law invoked by the judge for this contention, allegedly in evidence of how important it is for a complainant to report the complaint immediately, is Article 10 of the Evidence Law Cap.9. However this provision does not require victims and especially victims of sexual abuse, to report incidents immediately. It merely provides that the Court may accept as evidence details of a complaint or statement made by the complainant immediately after the commission of the criminal act. Similarly, in the case of *Christodoulos Armeftis v. the Republic* (Criminal Appeal No. 56/06, dated 13.03.2008) the Appeal Court reduced the appellant's sentence for rape from ten years to five years because this was not a "case of rape in the ordinary sense". One of the considerations leading the judge to this conclusion was the fact that the complainant reported the incidents 3 weeks after the last time she had sexual contact with the perpetrator, although the Court did not offer any explanation for such contention. This factor was also taken into consideration in the case of *Savvas Evangelou v. the Republic* (Criminal Appeal No. 152/2007, 09.06.2008) where, in quashing the perpetrator's conviction, the Appeal Court took into consideration the fact that the victim did not report the eight incidents of sexual abuse until two years after they took place and ignored the testimony of the clinical psychologist who testified that in her expert opinion victims of sexual abuse may delay to report such traumatic incidents.

2.1.2 Provision of information

No specific rules apply as to who informs the child victim of his/her rights and of the procedures to be followed. Depending on the child's age and perceived level of maturity, the SWS determines what kind of information, and in what form, is provided. Generally speaking, once a complaint is submitted, the family counsellor who is trained in child sensitive approaches assumes a leading role vis-à-vis the child: s/he will guide and support the child throughout the whole process before, during and after the trial, providing information as regards the judicial process and the child's rights in a child friendly manner.

Police officers also have a role to play: as prosecutors, they guide the child through the pre-trial stage as well as during judicial process, particularly as regards the delivery of the child's testimony.

A child victim is not entitled to legal aid for criminal proceedings against his/her perpetrator. The child victim is guided through the judicial process by the family counsellor and the lawyer appointed by the Attorney General to handle the case in Court.

2.1.3 Protection from harm and protection of private and family life

If the family counsellor deems, on the basis of a preliminary investigation, that a child is being subjected to violence or is at risk of being subjected to violence, then the family counsellor will contact the police officer specialising in child abuse cases to decide the mode of the investigation to follow and to agree upon whether the police will be involved or not at this stage. In most cases of physical and sexual abuse, a medical examination by a specialised paediatrician at the paediatric section of a hospital is necessary to obtain general information about the child's condition and to verify the allegations of violence.

If it is deemed that a child is being subjected to violence or is at risk of so being and/or the behaviour of the parents is such that creates concerns as to a child's safety, then immediate protection measures will be taken by either removing the parent from the family home whether voluntarily or by a [court order](#), or placing the child in foster home or if necessary by hospitalising the child. Within a maximum of 7 days from the filing of the complaint, the family counsellor and the head of the family counsellors' team will decide on further measures, which may include the convening of the inter-disciplinary team of experts to assess the risk for the child, the measures to be taken for its protection and possible self-control treatment for the perpetrator¹⁵.

Although this aforesaid procedure is in theory laid down for domestic violence cases, it is more or less followed also in the cases of non-domestic violence against children, since the Manual from which these procedures derived was based on existing institutional structures. In cases of non-violent crimes against children, the SWS will assess individually the degree of vulnerability of the child and decide accordingly on what measures to be taken, if any; unless there is a risk of harm, it is unlikely that any of the measures set out above will be adopted.

In general, whenever a child is a victim or at risk, the Director of the SWS steps in to provide support and protect the child; the measures are set out in detail [here](#). In the vast majority of cases,¹⁶ the SWS acts immediately, with particular attention to the specific needs of the child

¹⁵ [Manual for Inter-Departmental Co-ordination for the Prevention and Handling of Domestic Violence](#). The Manual provides the guidelines for the handling of child abuse from the point of identification until the preparation of the case to be presented in Court, i.e. up until the taking of testimonies. Also, the manual provides guidelines for accommodating victims in shelter run by NGOs.

¹⁶ No record is available to evaluate the performance and responsiveness of the SWS to requests for help and the views of professionals in the field differ. However, in 2003 in the case of *Attorney General v. Eleniloannou*, the Supreme Court in an unusual intervention in administrative processes, the Supreme Court criticised the SWS' failure to protect a child victim who was repeatedly and severely beaten up and humiliated by her mother despite the repeated requests over the years from a child psychologist to whom the victim who applied to for assistance. The said child psychologist had written to the Attorney General about the case, complaining that the last time she had seen the victim was seven years earlier and yet during all these years the Welfare Services did not provide adequate protection to the victim.

(basic and psycho-emotional), in safeguarding the child's rights (religious convictions, communication in language understood, and representation before administrative procedures). The SWS officers involved are trained professionals and the decision-making process takes into account the best interest of the child.

Domestic violence

In cases of domestic violence, the SWS will first try to support the mother in abusive circumstances; however, if the mother is reluctant to escape the abusive circumstances, for instance due to fear or dependency, then the SWS will intervene in order to secure the rights of the child and protect it from being a witness to domestic violence. The institution of the always on-call family counsellor is particularly significant in protecting and supporting the child victim before during and after the judicial procedure. The domestic violence law also lays down:

- restriction [orders](#) against the perpetrator/suspect or removal of a child from the home;
- placing the accused on probation custody in order to undergo self-control treatment¹⁷;
- empowering the Court to convict the accused upon the testimony of the victim only, if it is not possible under the circumstances to secure corroboration¹⁸;
- aggravated sentences where acts of violence are committed by a family member to another.

Note that for the purposes of the domestic violence legislation, a family member is broadly defined to include persons married or who used to be married, persons co-habiting as a couple or who used to co-habit and any persons living under the same roof with the aforesaid; however, the definition does not extend to intimate partners who have never shared the same roof or to homosexual partners, shortcomings which the legislator is yet to address.

Family counsellors

For domestic violence cases, the SW appoint a 'family counsellor' from amongst its ranks with the task of:

- hearing complaints of violence and carrying out investigations;
- advising, guiding and mediating for the resolution of problems in the family which may have lead or may lead to violence;
- making arrangements for immediate medical examination and escorting the victim if deemed necessary;
- reporting the issue to the police in order for the latter to investigate the possibility of a criminal offence having been committed;
- carrying out investigations upon order from the Court regarding the economic situation of the family in general and of the perpetrator in particular in case an restriction order is sought;
- carrying out investigations and making arrangements for the accommodation of the accused or the family in case an exclusion order is issued by the Court;
- making all necessary arrangements for the medical examination of a child where there is reasonable suspicion for abuse;
- carrying out any other task directed by the Minister of Labour¹⁹.

¹⁷ Law on Prevention of Domestic Violence and Protection of Victims 119(I)/2000, Article 25(1).

¹⁸ Law on Prevention of Domestic Violence and Protection of Victims 119(I)/2000, Article 16.

¹⁹ Law on Prevention of Domestic Violence and Protection of Victims 119(I)/2000, Article 6.

Child trafficking

Third-country nationals, irrespective of age, who are victims of trafficking are allowed a 'reflection period' enabling them to recover and escape the influence of the perpetrators of the offences, so that they can take an informed decision as to whether to cooperate with the competent authorities. An unaccompanied child may be granted reflection periods of such duration until arrangements are made for his/her return²⁰.

However, the reflection period may be revoked if the victim has reconnected with the perpetrators of the trafficking offences or for reasons relating to public order and national security²¹; or if the victim's stay is no longer necessary for the purpose of facilitating the judicial procedure; or if the victim has demonstrated a lack of willingness to co-operate²²; or where the criminal procedure is interrupted²³. The residence permit will not be renewed if the criminal procedure has meanwhile been completed²⁴.

On many occasions victims are voluntarily or involuntarily repatriated as soon as the prosecuting authorities have no use for their testimony, before they have the chance to exercise any of the rights granted to them by the law. The provisions regarding the reflection period are not adhered to in practice; in addition, victims of trafficking are not consistently identified as such by the police, in which case they are not afforded any protection under the law²⁵. Victims of trafficking are not made aware of their right to file for asylum applications and have never filed such applications²⁶.

Court orders to curtail the activity of the perpetrator

In cases of child trafficking or the sexual abuse of a child, the Court may at any stage of the proceedings issue a temporary or permanent order preventing the perpetrator from exercising professional activities related to the education, care and supervision of children.

A failure to comply with these orders constitutes a criminal offence²⁷.

A legal person convicted of child trafficking or involvement in child pornography or in the sexual abuse of a child is committing any offence punishable by imprisonment or fine²⁸.

²⁰ Law Revising the Legal Framework Regulating the Protection of Persons who are Victims of Trafficking and Related Matters N.87(I)/2007, Article 37(4).

²¹ Law Revising the Legal Framework Regulating the Protection of Persons who are Victims of Trafficking and Related Matters N.87(I)/2007, Article 30(5).

²² Law Revising the Legal Framework Regulating the Protection of Persons who are Victims of Trafficking and Related Matters N.87(I)/2007, Article 32.

²³ Law Revising the Legal Framework Regulating the Protection of Persons who are Victims of Trafficking and Related Matters N.87(I)/2007, Article 33(2)

²⁴ Law Revising the Legal Framework Regulating the Protection of Persons who are Victims of Trafficking and Related Matters N.87(I)/2007, Article 33(1).

²⁵ Information supplied by the NGO Stigma which does support work with trafficked victims.

²⁶ In any case, there is no system in Cyprus examining asylum application from unaccompanied minors, who are allowed to remain in the country until they become of age and apply for asylum as adults, thus causing them to lose all the rights they would have been entitled to as unaccompanied minors seeking asylum.

²⁷ It is punishable by imprisonment not exceeding three years or fine not exceeding five thousand pounds (€8,474) or to both such sentences. Article 17(1) of the Law Revising the Legal Framework Regulating the Protection of Persons who are Victims of Trafficking and Related Matters N.87(I)/2007.

²⁸ It is punishable by a fine not exceeding three hundred thousand pounds (€5,084), and the court may, in addition to any other penalty, order:

- The temporary or permanent disqualification from public benefits or subsidies;
- The temporary or permanent ban on commercial activities;
- The imposition of judicial supervision;
- The dissolution of the legal person;
- The temporary or permanent closure of establishments used for committing the offence;
- The seizure of any object or instrument which was used for the commission of the offence.

Orders against parents or guardians

In cases of domestic violence, the Courts may issue [removal or exclusion orders](#), removing a victim from the care of the perpetrator for any time length the court deems fit²⁹. The SWS can intervene, monitor or remove the children from home and place them in a State children's home on the basis of the best interests of the child.

If the father or the mother violates their duties as guardians, the Court, if requested by the parent or the Director of the SWS, may remove parental responsibility from one parent in whole or in part and award such responsibility to the other parent³⁰.

The State, and in particular the Director of SWS will intervene only if a child is under 16 and is an orphan, is deserted, or where the child's parents or guardians cannot provide proper accommodation, maintenance or upbringing and there is no available person capable and willing to take the child under his/her care. In such a case, the Director of SWS will receive the child into his care³¹.

Accommodation of the child victim

If it appears to the SWS that the child needs to be accommodated outside his/her home, the option of temporarily placing the child in a shelter is investigated. There is only one such shelter that is used by the SWS, which is operated by an NGO (the Association for the Prevention of Violence in the Family) and is partly funded by the State. Even though it is the only shelter in Cyprus offering protection to victims of domestic violence, it has a very small capacity (12 persons) and is normally working at full capacity. Child victims cannot be accommodated at the shelter alone; they have to be accompanied by their mothers³². If accommodation at the shelter is not possible, then the SWS will explore the option of placing the child in a foster home.

Removal or remand of a child under the age of sixteen to a place of safety

A welfare officer or a police officer or any person specially authorised by a Court may take to a place of safety any child under 16 in respect of whom a crime has been committed, or a child who has been any of the following: neglected, ill-treated, abandoned, forced into prostitution, used for begging, exposed to the risk of fire or who is about to be brought before the Court. The child may be kept there until they can be brought before the Court.

If a Court, before which any child under the age of sixteen is brought, is not in a position to decide whether any and if so what order ought to be issued, it may issue such interim order as it thinks fit for the child's detention or continued detention in a place of safety or for his/her committal to the care of a fit person whether a relative or not who is willing to undertake their care. The interim order should not remain in force for more than twenty-eight days; but if at the expiration of that period the Court deems it expedient to do so, it may issue a further interim order.

A Court which considers it expedient to issue an interim order may order the child be kept under observation or be medically examined or that suitable social and personal investigations be made so as to furnish the Court at the next hearing with any reports considered necessary for the Court to deal with the case³³.

Failure to comply with such orders shall carry a fine not exceeding one hundred thousand pounds (€169,491).

²⁹ Law on Prevention of Domestic Violence and Protection of Victims 119(I)/2000, Article 21(1).

³⁰ Law on relations between parents and children N.216/90, Article 18(1).

³¹ Children's Law Cap 352, Article 3(1).

³² According to the Child Commissioner, as a result of overcrowding of this shelter, in practice many victims remain at their family home if no other solution can be found. Other solutions can include short accommodation in hotels or with relatives which, according to the Child Commissioner, often fail to offer the child victim the necessary support and guidance. See the [2011 report](#) of the Child Commissioner to the UN Committee for the rights of the child.

³³ [Law on Children Cap. 352](#), Article 68.

Conduct of the media

Media outlets are prohibited from presenting children as witnesses or victims of crime from news broadcasts or other media channels. Such presentation is permitted only in exceptional cases where it is necessary to inform the public and does not cause pain or injury to the personality of the child and only after obtaining the written permission of the guardian. Also the disclosure of the names of children involved in police or judicial proceedings and the transmission of any information that may lead to the disclosure of their identity is prohibited³⁴. The relevant regulations affect all children under 18.

2.1.4 Protection from secondary victimisation and ensuring a child friendly environment

Generally speaking, it is for the institution of the family counsellor to ensure that a child is in a child friendly environment and is protected from secondary victimisation.

The areas where the child is mostly at risk of secondary victimisation are: the home, the medical examination, the judicial process including the pre-trial stage and the media.

For the protection of secondary victimisation at the home, the family counsellor will endeavour, where necessary, to secure alternative accommodation and have [court orders](#) issued against the perpetrators.

The medical examination of the child victim is carried out by a specialist doctor of the same sex as the victim, if possible, at a hospital's paediatric section and if necessary in the presence of the family counsellor.

A number of protective measures are in place seeking to minimise the secondary victimisation of the child during the judicial process. These are set out [here](#).

There is a series of regulations in place, some binding some voluntary, governing the depiction of children in the media; see previous section, [above](#).

The evaluation carried out on the implementation of the Manual's provisions aimed at avoiding secondary victimisation of the child by or through the judicial procedure, revealed that the majority of protective measures are not implemented or not implemented properly, mostly as a result of lack of training or heavy workload of the persons involved.

Courts and the 'consent' of a child

Court practice requires victims to report the incident of sexual abuse immediately after this has taken place, or else their credibility as witnesses is at stake³⁵. Courts appear to be "reading" *consent* into a sexually abused child's behaviour when the child does not report the abuse immediately or when the child does not resist the sexual act or has consensual sexual relationships with another child after the sexual abuse³⁶. Judicial precedent has also acquitted perpetrators of sexual abuse of a child because lack of consent was not proven³⁷.

³⁴ The Radio and Television Channels Regulations of 2000, issued under the Law on Radio and Television Channels, article 32(3)(c) and (d).

³⁵ Doros Georgiades v. the Republic, Criminal Appeal No.7243, 14.01.2003.

³⁶ Savvas Evangelou. the Republic, Criminal Appeal No. 152/2007, 09.06.2008.

³⁷ In the case of *Kyriakos Kailis v. the Republic*, Criminal Appeal No. 7490 (21.04. 2004), the perpetrator's sentence was quashed by the Appeal Court which found that the lack of consent of a 14-year-old girl to sexual intercourse with an adult, who drove her into a remote area and had sex with her, had not been proven. The Court found that because of the sexual nature of the offence and the young age of the victim, additional supportive evidence is necessary to convict the perpetrator and that little emphasis may be placed on the fact that immediately after the event the victim was seen by her friends and her mother in a very distressed condition (bleeding, looking upset, unable to walk, with dusty and muddy clothes). According to the judge, the victim was upset not because she was raped but because she had consensual sex with the perpetrator and subsequently regretted losing her virginity.

Judicial delays

Trial of domestic violence cases must be conducted without delay³⁸. The right to a trial within a reasonable time for all cases is guaranteed in the Constitution. However it is a right afforded to a person awaiting trial rather than the victim of a crime. There is no equivalent provision in any areas beyond domestic violence.

Also, when the child testifies in court several years after the event, it is often the case that s/he does not remember or does not want to remember the details of the traumatic incident, as a result of which the child's testimony is deemed by the court as inadequate to convict the perpetrator³⁹. Although it is possible for an audio-visual recording of the interview with the child to be presented in Court by the police, this does not relieve the child from the obligation to be examined, cross-examined or re-examined by the prosecutor and the defence lawyer respectively.

In November 2007 the Parliament's Legal Affairs Committee examined the issue of the unjustifiable delays in trying cases involving the abuse of children⁴⁰. Data presented at the Committee showed that there were 141 cases pending for trial at the time, involving violence within the family, including sexual abuse of children, which had been delayed for two years or more. In her 2011 report to the UN Committee for the Rights of the Child, the Cypriot Child Commissioner points to the delays in the administration of justice often leading to the re-victimisation of children, years after the incident has taken place, when they have to stand as witnesses in Court. The Commissioner had received complaints relating to cases where children had to relive their traumatic experience, as witnesses in judicial proceedings, as late as four years after the incident⁴¹.

Balancing the right of the accused to a fair trial and the rights of the child victim

The complaint of a child who was a victim of violence should be taken by a police officer of the same sex, unless otherwise requested by the victim or by the family counsellor⁴². However, not all police stations are manned with officers of both sexes. Narrow interpretations of this provision may result in acquitting perpetrators of sexual abuse. As an example, in 2009 the Supreme Court quashed the conviction of a father who had been sexually abusing his son because his son's taped testimony was taken by a female police officer rather than an officer of the same sex⁴³. The police argued that they thought that under the circumstances the boy's taped testimony (which was the incriminating evidence against the father) should more appropriately be taken by a female police officer instead of an officer of the same sex, in violation of Article 9 of the domestic violence law, because the complainant was more likely to feel comfortable with and confide in a woman. This did not dissuade the Court which refused to consider that, given that the child was abused by an adult male, he might have felt the presence of an adult male police officer as intimidating. The Court accepted the argument that the perpetrator's right to a fair trial was breached because the accused was denied the chance to have the victim examined by a coroner of

³⁸ Cyprus has had several convictions from the ECHR regarding delays in judicial procedures. Only in 2009 there were three ECHR judgments that found Cyprus in violation of the right to a fair hearing within a reasonable time, as provided by Article 6 of the European Convention on Human Rights. In light of warnings that it may be placed under the supervision of the Committee of Ministers of the Council of Europe for its long and unjustifiable court delays, in 2010 a new law was enacted providing that the right to a hearing within a reasonable time is actionable and that the litigant affected may sue the Republic demanding remedies. This however does not apply to criminal cases.

³⁹ Information supplied by the Social Welfare Services.

⁴⁰ J. Theodoulou (2007) "Shocking delays in child abuse trials" in *the Cyprus Mail*, 09.11.2007.

⁴¹ [Report of the Commissioner for Children's Rights in Cyprus to the UN Committee on the Rights of the Child](#), September 2011.

⁴² Law on Prevention of Violence in the Family and the Protection of Victims N.119(I)/2000, Article 9.

⁴³ A.A. v. The Republic, Criminal Appeal No. 159/2006, 27.02.2009.

his choice⁴⁴; the fact that a traumatised boy should not be subjected to a second anal examination by a coroner was not a consideration for the judge.

2.1.5 Protecting the child during interviews and when giving testimony

The judicial process itself provides fewer safeguards than the administrative process. Even though the family counsellor may accompany the child throughout this process, considerable discretion is placed upon judges who have undergone no training in child-sensitive approaches. There are no Juvenile Courts and no special rooms or other safeguards for children at the Courtroom. However, the family advisor will endeavour to ensure that the child and the accused will not meet face to face in the Court building. The only safeguards available in the Courtroom are the measures intended for the [protection of witnesses, which a child victim can benefit as witness of the offence](#). These are subject to the judges' discretion, but in recent years generally used in the cases of children who are victims of violence.

The testimony of children under 16 must always be taken by the police in the presence of the parent or guardian or officer of the SWS or other competent person (e.g. School Principal or his/her representative) as the case may be. The testimony must, where possible, be taken in a private room where there is no audience other than the person accompanying the child.

A number of protective measures come into operation from the point where one of the competent agencies receives a complaint or a report that a child was subjected to or is at risk of being subjected to violence. All persons involved in the handling of domestic violence cases are under a duty of confidentiality. The manual for inter-departmental coordination for domestic violence provides that the taking of the testimony of children and especially those under 10 must be avoided, but where such testimony is necessary an inter-departmental meeting or a consultation with competent officers from the Child Psychology section of the Health Services and the Family counsellors of the Welfare Services must take place first. The child's testimony is taken at the police station in a room where confidentiality is ensured, by specialised police officers of the same sex, and in the presence of the family counsellor or any other person whom the child considers important. If it emerges that a child has suffered or is likely to suffer violence to the extent that his/her physical and psychological health are at risk and the parent does not cooperate, then measures for the child's safety will be taken, such as the removal of the suspected perpetrator either voluntarily or by [Court order](#), or the obligatory placement of the child in a hospital or the [placement](#) of a child in a foster family or in a children's home.

An inter-scientific unit operates in every district, comprised of a child psychologist, an educational psychologist, a clinical psychologist, a Family counsellor, etc. which examines each case, assesses the degree of the risk for the child and examines therapeutic measures for both the child and the perpetrator. Where it emerges that there are no direct concerns regarding a child's safety but the family nevertheless requires support, then the Family counsellor cooperates with the family and where necessary the inter-scientific unit and the parents, where possible, in order to assess the circumstances and agree on common aims for the child's safety and development. The publication or otherwise disclosure of the identity of the witness is prohibited.

No special procedures are laid down for children who are victims of non-violent crimes. Depending on whether the child is deemed to be at risk or in a vulnerable position for other reasons, the SWS may appoint a family counsellor to guide and support the child through the judicial process. Generally speaking, the institution of the family counsellor is intended for

⁴⁴ In Cyprus a coroner is considered a more effective witness for testifying in court than a medical expert per se, who can only report on a medical condition. Because a coroner has both medical and legal expertise, s/he can assess and evaluate evidence according to the rules of evidence, and testify on its relevance or admissibility in a criminal case.

the ‘child in need’. There is no procedure or manual of inter-agency involvement for children in judicial proceedings, who are not victims of violent crimes or otherwise ‘in need’.

Inside the Courtroom

A number of protective measures are available for ‘vulnerable’ persons testifying in Court as witnesses⁴⁵. A witness may be declared by the Court as a person in need of assistance, where such person is, inter alia, a child (under 18). In such cases, the Court has power to order for a number of protective measures to be used:

- The proceedings may be conducted partly or wholly behind closed doors⁴⁶;
- The protected witness may testify without the accused being present but measures need to be taken in order for the accused to be subsequently informed of the contents of such testimony⁴⁷;
- A separation panel can be installed⁴⁸;
- A closed circuit television can be used⁴⁹;
- Any other means can be used to ensure that the accused is not visible by the witness and vice versa⁵⁰;
- The Court has the power to decide to accept video recordings of the main examination, although it may refuse to do so where it deems that this is not in the interest of justice⁵¹.

A witness protection scheme⁵² is available, extending protection also to the family members of the witness. The protection measures under this scheme may include the provision of guards, the moving of the witness and his/her family to another city, village or country, the change of identity of the witness and his/her family. The decision as to who will be placed under the witness protection scheme and which particular measures will be taken rests with the Attorney General. The UN Committee on the Rights of the Child expressed its concern over the fact that the lack of information on the age of the victims, the type of crimes and the details of offenders does not enable an evaluation of the efficacy of the protection programme⁵³.

If a child reports to a psychologist or a counsellor that s/he has been a victim of violence, then the testimony in Court may be delivered by the psychologist or counsellor in lieu of the victim, in spite of the hearsay evidence rule⁵⁴. However, an accused may not be indicted solely on the basis of such testimony. The judge may intervene during the proceedings in order to prevent the harassment of the victim due to an aggressive manner of questioning⁵⁵. The law criminalises the harassment of a witness or of a member of his/her family by the accused or by a person acting on his/her behalf and provides for a term of imprisonment⁵⁶.

⁴⁵ These are set out in the Witness Protection Law N.95(I)/2001.

⁴⁶ The Witness Protection Law N.95(I)/2001, Article 5(1)(a).

⁴⁷ The Witness Protection Law N.95(I)/2001, Article 5(1)(b).

⁴⁸ The Witness Protection Law N.95(I)/2001, Article 5(2)(a).

⁴⁹ The Witness Protection Law N.95(I)/2001, Article 5(2)(b).

⁵⁰ The Witness Protection Law N.95(I)/2001, Article 5(2)(c).

⁵¹ The Witness Protection Law N.95(I)/2001, Article 9.

⁵² The Witness Protection Law N.95(I)/2001, Articles 17-19.

⁵³ [Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Cyprus](#), dated 12 August 2012.

⁵⁴ The Witness Protection Law N.95(I)/2001, Article 17.

⁵⁵ The Witness Protection Law N.95(I)/2001, Article 19.

⁵⁶ The Witness Protection Law N.95(I)/2001, Article 32.

Court orders

The interim order

The Court may, upon application by a member of the family or by the police or by the prosecutor or by the Attorney-General or by a family counsellor or by another person acting on behalf of any of the above, issue an *interim order* restraining the suspect or for the removal of the child victim until a criminal case against the accused for the criminal offence of violence is filed and tried⁵⁷.

The application for the interim order must be accompanied by a statement of fact sworn by the victim (affidavit) or, in the case of a child victim, by any other person who is in a position to have direct knowledge of the facts or any other evidence, of an apparent (*prima facie*) risk of use or repetition of violence, including statements of the victim or other persons in any form.

The interim order is valid for up to eight days from the day of its service to the suspect and expires on the time and day specified by the Registrar. On such day and time the Court will hear the suspect and/or any affected or interested person who appears, and will decide whether to terminate the validity of the order or to extend it up to eight additional days. The Court may further extend the order up to eight days, in each case, provided that the total validity of the order must not exceed twenty four days before the filing of the criminal charge against the suspect.

The restraining order

The Court may, after the filing of the criminal charges against the suspect, issue or extend an order to restrain or remove a child victim to be valid until the trial of the case. This order is valid for such period and upon such conditions as the Court may impose, prohibiting the suspect from entering or remaining in the marital home. For the issuance of a restraining order, it is required that it is proved to the satisfaction of the Court that the accused has a history of repeated acts of violence against members of his/her family or that s/he has two convictions in the last two years for similar offences; or the violence used has caused such actual bodily, sexual or mental harm, as to endanger the life, integrity or sexual or mental health of the victims; or the accused refuses to be submitted to self-control treatment imposed as a condition.

In the restraining order, the Court fixes a date before the expiration of the restraining period, for the purpose of examining the possibility of its extension or variation. During such examination, the Court will hear the views of the accused or of the complainant and any other person affected by the issue of the order, except where they are children and it is not considered expedient that they shall testify against the accused, as well as the views of the competent services.

All Court orders require a court hearing; no other authority is competent to issue any such orders. Generally speaking, hearings for such orders are fast and dealt with as emergency cases, but in practice gaps in protection are always possible. The evaluation report of the ADPVF⁵⁸ criticises the fact that Courts will issue such orders only within their working hours (Monday to Friday 8am-2.30pm excluding public holidays), which inevitably causes delays and gaps in protection. On average, orders take a few days to be issued (approximately between 2-10 days).

⁵⁷ The term of imprisonment cannot exceed 3 years and/or a fine of CYP1500 (Euro equivalent: 2,563). In the case of a victim residing in a home/shelter a term of imprisonment not exceeding 5 years and/or a fine of CYP3000 (Euro equivalent: 5,126) may be imposed: Article 22(1) of the Law on Prevention of Domestic Violence and Protection of Victims 119(I)/2000.

⁵⁸ The evaluation report was published in January 2004 and examined the implementation of the Manual for inter-departmental Co-operation.

In addition to the aforesaid, a number of Court orders may be obtained in the cases of sexual abuse of children or child trafficking in order to curtail the professional activity of the perpetrator, which were detailed [above](#).

2.1.6 Right to be heard and to participate in criminal proceedings

Child victims do not have any special status or enjoy any special rights in Court and they cannot participate in the judicial proceedings in any manner other than by testifying as witnesses, given that the criminal case is strictly between the State and the perpetrator. The UN Committee on the Rights of the Child has expressed concern over the fact that the views of children are not always taken into account in judicial proceedings⁵⁹. The Commissioner for the Rights of the Child places particular importance on this gap, indicating that the right of children to be heard and to participate in any procedure affecting them is “the least understood and accepted of children’s rights and the least implemented in practice”, which has not yet been mainstreamed into most legislation affecting children⁶⁰.

Testifying as witnesses cannot be equated to a right to be heard in the proceedings, as a witness can only answer the questions put to him/her.

2.1.7 Right to legal counsel, legal assistance and representation

There is no right to legal aid for child victims. This is only made available to children accused of an offence and is subject to the family’s means. In lieu, the prosecutor appointed by the Attorney General’s office to handle the case in Court and the family advisor will offer their assistance to the child as regards the judicial process. The prosecutor will advise the child as regards his/her rights as a victim and as a witness.

Subject to the means of the family, legal aid is however available for the defendants in procedures before the Family Court⁶¹, which issues Court orders for the removal of parental care from parents who have neglected their duties as guardians⁶². Legal aid is also available for violations of the law ratifying the Convention for the Rights of the Child but no proceedings have ever been initiated under this law.

2.1.8 Remedies or compensation exist for violation of rights and failure to act

Judicial review of administrative actions

All acts or failures of the administration are subject to judicial review⁶³. This means that the Supreme Court is given exclusive jurisdiction to decide whether a decision, an act or omission of any organ, authority or person, exercising any executive or administrative authority is unlawful because it is contrary to any of the provisions of this Constitution or of any law or is made in excess or in abuse of powers vested in such organ or authority or person. A person whose existing legitimate interest is adversely and directly affected by such decision or act or omission may apply to the Supreme Court to set aside and annul such a decision, act or omission. There is a time limit of 75 days from the date when the decision or act was published or, if not published and in the case of an omission, when it came to the knowledge of the person filing for the recourse. Upon such recourse the Court may:

- a. confirm, either in whole or in part, such decision or act or omission; or
- b. declare, either in whole or in part, such decision or act to be null and void and of no effect whatsoever, or

⁵⁹ [Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Cyprus](#), dated 12 August 2012.

⁶⁰ [Report of the Child Commissioner to the UN Committee for the rights of the child \(2011\)](#).

⁶¹ [Law on Legal Aid N. 2002 \(165\(I\)/2002\)](#), Article 6.

⁶² Law on relations between parents and children N.216/90, Article 18(1).

⁶³ Article 146 of the Constitution.

- c. declare that such omission, either in whole or in part, ought not to have been made and that whatever has been omitted should have been performed.

The Court's decision is binding on all courts and all organs or authorities in the Republic. The person who succeeds in setting aside an administrative decision in Court may institute legal proceedings for the recovery of damages or for being granted other remedy and to recover just and equitable damages to be assessed by the court. No legal aid is available for applications for judicial review of administrative acts, the cost of which and the time limit laid down may be prohibitive for a victim.

Duty to report violence against a child

Failure by any person to report an incident of violence against a child that came to his/her attention is a criminal offence⁶⁴. However, actors or agencies failing to act as and when necessary in order to prevent or address a case of child abuse enjoy a certain type of immunity, as no measures are taken against persons failing to report child abuse or against departments failing to provide adequate care to abused children⁶⁵.

Right of trafficked victims to compensation

A victim of trafficking (whether adult or child) has the right to compensation from the perpetrator⁶⁶. The trafficked victim is also entitled to compensation from the State⁶⁷. The SWS are under an obligation to inform victims of their right to compensation from the perpetrator but there is no obligation to inform the victim of the right to compensation from the state⁶⁸. The victim's repatriation must be done in a manner that will not adversely affect any procedure for claim of compensation from the perpetrator⁶⁹, but there is no duty to inform the victim in the process of repatriation of the procedure for claiming compensation from the state. There are no precedents of trafficked victims claiming or receiving compensation⁷⁰.

Penalties under the Witness Protection law

Any person who fails to comply with the obligation not to reveal the identity of a victim of domestic violence, sexual abuse or sex trafficking, or the obligation not to reveal the content of a witness testimony regarding these two laws, is guilty of an offence⁷¹.

Any person committing an act intended or likely to prevent a person included in a witness protection scheme from testifying in a criminal procedure is committing an offence⁷². The

⁶⁴ The penalty for such an offence is imprisonment for up to two years to a fine of up to 1,000 Cyprus pounds (article 35A of the domestic violence law).

⁶⁵ In an interview to the press in 2007, the superintendent heading the police's domestic violence and child abuse bureau, responsible for the co-ordination and supervision of domestic violence and child abuse reports, said that although failure to report child abuse is a crime, most people are not aware of it and fail to report it, as they are unwilling to get involved in "other people's business": A. Saoulli (2007) "Speak about child abuse", in *the Cyprus Mail* (20.05.2007).

⁶⁶ The Law Revising the Legal Framework Regulating the Protection of Persons who are Victims of Trafficking and Related Matters N.87(I)/2007, Article 22.

⁶⁷ The Law Revising the Legal Framework Regulating the Protection of Persons who are Victims of Trafficking and Related Matters N.87(I)/2007, Article 23.

⁶⁸ The Law Revising the Legal Framework Regulating the Protection of Persons who are Victims of Trafficking and Related Matters N.87(I)/2007, Article 29(2)(f).

⁶⁹ The Law Revising the Legal Framework Regulating the Protection of Persons who are Victims of Trafficking and Related Matters N.87(I)/2007, Article 44.

⁷⁰ The NGO Stigma, which focuses on trafficked victim support, has reported that no victim was ever able to make use of the compensation right, because as soon as the criminal trial against the perpetrator is finished, the victims are deported or 'repatriated voluntarily'. The NGO stated that this constitutes an inconsistency in the law, which should provide for the victim's right to a residence visa in order to pursue her right to compensation.

⁷¹ The offence is punishable with imprisonment not exceeding three years and/or a fine of up to three thousand Cyprus Pounds (€5,084): Witness Protection and Related Matters Law, N. 95(I)/2001, article 15.

revelation of the name, address or any other information likely to lead to the identification or location of a person included in a witness protection scheme is also an offence⁷³.

European Convention for the Compensation of victims

The State is under a general obligation to compensate victims of violent crimes or their dependents where the victim or his/her dependents are unable to secure compensation from the perpetrator or from any other sources⁷⁴.

Violent crime is defined⁷⁵ as an intentional act committed within the Republic of Cyprus involving violence which results in death or grievous bodily harm or shuttering of health and includes murder by intent, attempted murder, rape, attempted rape, kidnap, kidnap of a girl under 16⁷⁶, deeds aiming at causing grievous bodily harm, grievous bodily harm, attempted grievous bodily harm by explosives, malicious poisoning, injury, attack causing bodily harm, other attacks, offences against personal freedom, arson.

2.2 The child as a witness

To a large extent, the legislative and policy framework remains the same as that applied to child victims of crime, described in the previous section. In the case where the witness is also a victim, then the legislative and policy framework for the two identities of the child is identical; in most cases of child victims of crime, the testimony of the child itself is necessary to secure a conviction, so the child victim becomes also a child witness. Where the child is a witness but not a victim, different provisions and safeguards may apply at particular instances.

The Court may examine a young child without oath when in the opinion of the Court the child does not understand the nature of the oath⁷⁷. It follows from this that persons of any age are capable of testifying in court, either with or without oath. Every person is a capable of being a witness unless the Court decides that this person is prevented, inter alia due to young age, from understanding that s/he must tell the truth or from understanding the questions put to her/him or from giving rational answers⁷⁸. Therefore age is not the determining factor but rather the child's ability to understand the significance of telling the truth, as this is assessed by the Court⁷⁹. A child's testimony is sufficient to convict a suspect.

2.2.1 Reporting a crime

The procedure followed is that described in [2.1.1](#) above.

2.2.2 Provision of information

The same system as in [2.1.2](#) applies here.

⁷² The offence is punishable with up to 10 years of imprisonment: Witness Protection and Related Matters LawN. 95(I)/2001, article 19(1).

⁷³ This is punishable with two years of imprisonment: Witness Protection and Related Matters LawN. 95(I)/2001, article 19(2).

⁷⁴ Under the Law on Compensation of Victims of Violent Crimes N.51(I)/1997, as amended by Law 126(I)/2006, which was enacted pursuant to the European Convention for the Compensation of Victims of Violent Crimes.

⁷⁵ Law on Compensation of Victims of Violent Crimes N.51(I)/1997, as amended by Law 126(I)/2006.

⁷⁶ Criminal Code Article 149 specifically refers to girls. Boys are not mentioned in the text of the provision.

⁷⁷ The Criminal Procedure Law Cap 155, Article 55(I)

⁷⁸ The Evidence Law Cap. 9, Article 13.

⁷⁹ In the case of *Aristos Tziamalis v. the Republic*, Criminal Appeal No. 245/2006 (16.07.2008) the Court decided that the testimony of a 15 year old girl who had been sexually abused by her horse riding instructor was truthful and sufficient to convict the accused, because the Court had established, from questioning the victim, that the latter understood the significance of telling the truth.

2.2.3 Protection from harm and protection of private and family life

Where the child witness is also the child victim, the same protection measures applicable to child victims of crime, as set out in [2.1.3](#), apply.

Where the child witness is not the child victim, depending on the degree of vulnerability, a family counsellor will most likely be appointed for a child witness even if the child is not the victim⁸⁰. If the child witness is not deemed to be in a vulnerable position (e.g. at risk of violence, or in need of protection), then s/he will be guided through the judicial process by the prosecutor appointed from the Attorney General's office.

Also, [media regulations](#) as to how children in judicial proceedings should be presented in the media apply equally to child witnesses as well as to child victims.

However, the protection provisions laid down under the anti-trafficking law, the scope of which covers child trafficking, child pornography and child sexual abuse, are restricted to child victims and do not extend to child witnesses. The reflection period available for victims of trafficking is not available to child witnesses who testify in Court against traffickers.

2.2.4 Minimising the burden of proceedings and ensuring a child friendly environment

The procedure followed is that described in [2.1.4](#) above. No special rules or measures apply to child witnesses.

2.2.5 Protecting the child during interviews and when giving testimony

Where the witness is also the victim of violence, the measures are those applicable in the case of child victims, as set out in [2.1.5](#) above.

Where a child is summoned to testify in criminal proceedings without being a victim, then the same [protective measures](#) laid down for child victims also apply to the witness and his/her family. The SWS may still appoint a family counsellor for the child witness who is not a victim of violence him/herself if the circumstances are such that they deem it necessary, e.g. where the witness is a sibling of the child victim, or because of the young age of the witness or because it is assessed that the witness is at risk of harm by the suspect. The [Court orders](#) laid down for victims of domestic violence, however, will not be issued in respect of child witnesses who are not the victims themselves, unless the Court deems that they are at risk and/or in need of protection.

2.2.6 Right to be heard and to participate in criminal proceedings

No separate right is laid down for children as witnesses. As is the case with child victims, child witnesses have no right to be heard or participate: see [2.1.6](#) above.

2.2.7 Right to legal counsel, legal assistance and representation

There is no separate right to counsel or legal aid for children witnesses who are not at the same time the victims of violence; legal aid is reserved only for perpetrators of crime, not for victims or witnesses. The child witness is informed of his/her rights and is guided through the judicial process by the prosecutor from the Attorney General's office: see [2.1.7](#).

2.2.8 Remedies or compensation for violation of rights and failure to act

A child witness who is also the victim of violence is entitled to the remedies listed in [2.1.8](#) above. A witness who is not the victim, can avail him/herself of the constitutional right of [judicial review](#) for administrative acts or omissions; if successful, this process will have the effect of cancelling the administrative decision complained of.

⁸⁰ In such a case, the child witness may be covered by the scope of the Law on Children Cap 352 as a child 'in need of care and protection'. Although this law makes no provision for child witnesses, it is possible that the child sensitive approach of the SWS will consider a child witness to come under the scope of this law and thus provide such child with the protection measures laid down under the law.

The Witness Protection Law sets out a number of [penalties](#) for breach of its provisions which however do not entitle the witness to compensation.

2.3 The child as a suspect/ defendant

Although the protection offered to the child suspect is narrower than that offered to the child victim, the following issues need to be borne in mind:

- A child suspect who will appear in Court either in order to provide evidence or to provide facts to mitigate his/her sentence is entitled to [protection as a witness](#), in the same way as a child victim or a child witness. These measures are discretionary and are granted by the Court only where a significant degree of vulnerability is at play. However, it may often be the case that the child suspect requires protection in Court for a number of reasons, including but not limited to the psychological condition of the child, the volume of sensationalist media coverage of the event and the presence of agitated relatives of the victim in Court.
- The general framework as regards children, which dictates that children in need must be protected by the SWS⁸¹ and that primary consideration should be given to the best interests of the child⁸², can be used in favour of the child suspect/defendant.

2.3.1 Age of criminal responsibility

Children under the age of 14 are not criminally responsible for any acts or omissions⁸³. There are no exceptions to this rule. A child aged 14 or over will be tried in the same way and by the same Court as adults even for serious offences⁸⁴; there are no juvenile courts in Cyprus and no comprehensive juvenile criminal justice system. A child under 14 who has committed an offence may be placed under the supervision of the SWS, if the Committee for the Handling of Juvenile Offenders so recommends; the procedure and schemes available for this category of children are detailed below.

2.3.2 Provision of information

The Committee for the Handling of Juvenile Offenders has an advisory role towards the child and towards his/her family, with advice and recommendations serving a pre-emptive function and acting as a link, in a way, between the child and the child's family on the one hand, and the judicial system on the other.

In the event that a child is arrested, the police officer carrying out the arrest, is under a duty to inform the suspect of the crime s/he is suspected of and of the suspect's rights. The Child Commissioner as well as the SWS may also be relatively easily accessed in order to supply information and support to the child and to his/her family. Primarily and more commonly, it is the lawyer appointed to defend the child, either by the Court or by the child's parents or guardian, who provides most of the information as regards the judicial process. In the post-trial period, and provided a probation order is issued by the Court, the probation officer informs, advises and supports the child throughout the probation period.

2.3.3 Immediate actions following first contact with police or other relevant authority

Non-traffic offences

When the police receive a complaint or become aware that a child has committed an offence (other than a traffic offence), the case is recorded in the police's Register of Crimes

⁸¹ Law on Children, Cap. 352 (1959).

⁸² Convention on the Rights of the Child, Article 3.

⁸³ The Criminal Code, Article 14.

⁸⁴ This is one of the points identified by the UN Committee on the Rights of the Child as problematic in the Cypriot legal system: [Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Cyprus](#), dated 12 August 2012.

according to the type of the offence and the police director in the district concerned is informed. The police director then immediately notifies the SWS to prepare a report so that the investigation of the case and the preparation of the report run concurrently.

The District Welfare Officer will report to the Committee for the Handling of Juvenile Offenders within two months at the latest. This is an inter-departmental committee involving the police and the SWS and is composed of:

- The Assistant District Welfare Office for Families and Children.
- The Police Assistant Director for Operations of the District investigating the case.
- One expert (psychologist, criminologist) from the police or the SWS, where the Committee considers his/her participation necessary.

During its sessions, if deemed necessary, the Committee for Handling Juvenile Offenders may invite the child and the parents or guardians to participate in a meeting to hear the facts and be given the opportunity to express their views.

The Committee may recommend the supervision of the child by the SWS. In these cases, the child and the parents or guardians must give a written undertaking that they will cooperate with the competent Officer.

The Committee must submit its recommendations to the Police Headquarters within a month from completion of the criminal investigation and must therefore convene every month. Following the report of the Committee, the file is transferred to the Police Headquarters, unless there are exceptional reasons for not pursuing a criminal prosecution. In such a case, the file will be handed to the Attorney General to decide if there are indeed exceptional reasons for not pursuing a criminal prosecution. The recommendations of the Committee are advisory in nature. The decision as to whether to prosecute a child or not rests with the Attorney General.

Children who are accused of an offence together with adults must receive as equal treatment by the Committee as the adults.

Whenever a complaint is filed with the police against a child (under 16 years of age) the parent or guardian as well as the Police Director must be informed immediately by the police. The child also has the right to contact his/her parent or guardian immediately after arrest, except where there is reasonable suspicion that such contact may lead to the destruction or concealing of evidence relating to the offence under investigation, or prevent the arrest or questioning of another person related to the offence or damage the interests of security of the state of constitutional or public order or interfere with the delivery of justice; in such a case, the right of a child to contact his/her parent may be postponed for a maximum of 12 hours⁸⁵.

Although there is no explicit provision for the right to remain silent, there is no regulation requiring the child or adult defendant to answer a question.

Traffic offences

Generally speaking, children suspected of a traffic offence are referred to the Court, unless there are exceptional reasons for their non-prosecution. In such a case, the file of the case is sent to the Attorney General to decide whether prosecution will commence or not.

Notification of parents, guardians and the SWS

In case of an arrest of a person under 18 years, the police must immediately inform the parent or the guardian about the event of the arrest, the reasons for this and the Police Station where the child will be held. The same information must be given to the SWS, when this is deemed expedient or necessary in the interest of the arrested person, especially as regards unaccompanied children who are foreigners. Notification may be delayed for a

⁸⁵ Law on the rights of persons under arrest and in custody N. 163(I)/2005, article 3(2).

period not exceeding 12 hours if there is reasonable suspicion that immediate notification may:

- result in the destruction or concealment of items related to the solving of the crime; or
- prevent the arrest or questioning of another person in connection with the offence; or
- lead to escape of this person; or
- lead to the commission of another offense or death or bodily injury of any person; or
- jeopardise the security of the Republic or the constitutional order or public policy or lead to interference with the administration of justice⁸⁶.

2.3.4 Conditions for pre-trial detention/ custody

A number of considerations are taken into account in order for the Court to issue a warrant for the arrest and detention of a child. Primarily, the Court must be satisfied that there is a risk that the child will not appear for the trial. The seriousness of the offence, the child's ability to influence witnesses and the chances of securing a conviction are also taken into consideration by the Court in order to decide on the issue of detention.

Bail by police officer

Where a person apparently under the age of sixteen years is arrested and cannot be brought immediately before a Court, a police officer must inquire into the case.

It should be noted that where a child is arrested the use of handcuffs is to be avoided except when the child is deemed dangerous, considering his/her physical size and the chances of escape. Children under 14 should not be handcuffed and should not be arrested, given that they have no criminal responsibility. However there is nothing in the police regulations forbidding the use of handcuffs on children under 14; additionally, there have been instances highlighted by the media where the police did handcuff children under 14.

Following the initial inquiry, the police may decide to release the child on bail with or without a guarantee. The amount of the guarantee must be such so that, in the opinion of the police, secure the attendance of such person in Court. The child will not be released where:

- the charge is one of homicide or other grave crime;
- it is necessary in the interest of the child to be removed from association with any undesirable person; or
- the police officer has reason to believe that his/her release would defeat the ends of justice.

If the child is not released on bail, the police will detain him/her in a police station until s/he has been brought before a Court⁸⁷.

Remand by Court

The court may order the child arrested to be placed in custody in a police station for the period for which s/he is remanded or until the trial. If a child proves to be of such an 'unruly' or 'depraved' character that s/he cannot be suitably detained in a police station, s/he may be committed to prison⁸⁸. In such a case the child will be detained in a special section of the central prison where young persons (aged 18-22) are detained. Officers from the SWS are permanently stationed at the central prison, in order to supervise children in detention.

⁸⁶ Police Regulations N. 5/18.

⁸⁷ [Juvenile Offenders Law Cap.](#) 157, Article 6.

⁸⁸ [Juvenile Offenders Law Cap.](#) 157, Article 7.

Association with adults during detention in custody

Whilst in custody, the police must make arrangements for preventing, in so far as is practicable, a detained child in custody in a police station from associating with an adult charged with an offence, other than a relative⁸⁹. Children cannot be detained with adults in the same cell.⁹⁰

Children in detention

Children in detention have all the rights which adults have in detention⁹¹. In addition they have the following rights:

- The police must inform the parents or guardians of a detained child (under 18 years) of their right to visit the detainee for a total of one hour daily.
- The questioning of a person under 18 years old who is under arrest must be made in the presence of his/her lawyer. If the detainee is under 18, questioning must take place in the presence of both his/her lawyer as well as his/her parents or guardians.
- Prisoners under 18 years old must stay in separate cells from the cells from other detainees.

Prisoners under 18 who will be subjected to a medical examination, treatment and follow-up are entitled to have their parents or guardians present during such procedures.

No special rules apply to children as regards the length of detention. The applicable rules are those applying to adults, i.e. once arrested they must be brought before a judge within 24 hours. The judge must within 3 days from such appearance either release the person arrested or, where the investigation into the commission of the offence for which s/he has been arrested has not been completed, remand him/her in custody for a maximum of eight days at any one time. The total period of the remand in custody must not exceed three months from the date of the arrest⁹².

2.3.5 Protection of private and family life

Media outlets are prohibited from broadcasting the name of a child involved in police or judicial proceedings or any information which may lead to the revelation of the child's identity⁹³.

The questioning and taking of statements from children, who are not in custody must be conducted in the presence of parents or guardians. If the child is a student, the police have a duty to avoid arrest and interrogation at school. If the arrest or interrogation at school is

⁸⁹ [Juvenile Offenders Law](#) Cap. 157, Article 8.

⁹⁰ Law on the rights of persons under arrest and in detention N.163(I)/2005, article 20.

⁹¹ These are, in brief: Police cells must be of satisfactory size with satisfactory light and ventilation and basic comforts and conditions of hygiene; no mobile furniture is permitted; cells must be clean and the detainee must be provided with clean linen; detainees must always have access to facilities for personal hygiene; detainees' complaints must be thoroughly investigated and where necessary measures must be taken; upon arrest the police can remove from the detainee items that can be used for self-injury or escape; women detainees must be searched by women officers; detainees can have the food delivered from friends or relatives but no alcohol is allowed; right of communication with an attorney and his/her relatives; right to be informed in a language s/he understands of the reasons of his/her arrest and of his/her rights to an attorney; right to be facilitated in order to exercise his/her rights; right to have a lawyer present during questioning; right to send and receive letters unopened; right to be visited by relatives; right of foreigners to communicate with their embassies; freedom from torture and right to dignified treatment, right of mothers to breastfeed; right of pregnant women to facilities so as for the pregnancy not to be adversely affected from detention; right to medical examination and treatment by doctor of his/her choice (whose fees must be covered by the detainee); rights of detainees to be posted on the wall of each cell in Greek English and Turkish; list of rights in detention to be handed to each detainee upon arrest in a language s/he understands:

⁹² Articles 11(5) and 11(6) of the Constitution.

⁹³ The Radio and Television Channels Regulations of 2000, issued under the Law on Radio and Television Channels, article 32(3)(d).

nevertheless necessary, this is done with the consent and in the presence of the school principal or his/her representative and the police officers must wear civilian clothes and go to the school in an unmarked police vehicle.

Once inside the Courtroom, the child defendant who will testify, if only to answer charges, is entitled to the witness protection measures available to all witnesses, which are set out [here](#).

2.3.6 Alternatives to judicial proceedings

No alternative is provided as regards criminal offences, which must be tried either by the Criminal Courts or the Assize Court. No Juvenile Courts operate in Cyprus. There are no mediation or extra-judicial procedures in place as regards criminal offences.

2.3.7 Minimising the burden of proceedings and ensuring a child friendly environment

Depending on the degree of vulnerability, a child defendant is entitled to the protection measures available for child victims and child witnesses. Outside the courtroom, these measures are discretionary upon the SWS. Inside the courtroom, they are discretionary upon the judge trying the case. However, the Convention on the Rights of the Child applies to child suspects equally and, irrespective of the intentions of the Cypriot legislator, the best interests of the child are paramount.

2.3.8 Protecting the child during interviews and when giving testimony

As stated in the previous section, since specific protection measures are discretionary, these will be adopted depending on the degree of vulnerability of the child concerned. In addition, police regulations require that the testimony of children under 16 must always take place in the presence of the parent or guardian or officer of the SWS or other competent person and in a private room with no audience, applies only to children who are not the offenders⁹⁴. The Judge has the right to accept an audio-visual recording of the child's interview by the police. Children under arrest and in detention have all the rights that adults have in the same position, including the right to call the lawyer of his/her choice. The presence of the child's lawyer during the police interview is mandatory⁹⁵.

Bona fide representatives of a newspaper or news agency may be allowed to remain in the Court room where a child is being tried, unless excluded by a special order of the Court. However no person shall publish the name, address, school, photograph, or anything likely to lead to the identification of the child or young person before the Court, save with the permission of the Court or in so far as required by the provisions of the law. A person who acts in contravention of this provision is liable to a fine⁹⁶.

2.3.9 Right to be heard and to participate in criminal proceedings

When a child is brought before the Court for any offence, the Court has the duty as soon as possible to explain to him/her in simple language the substance of the alleged offence, following which the Court asks the child whether s/he admits to the offence. If the child does not admit to the offence, the Court hears the evidence of the witnesses. At the close of the evidence in chief of each of such witness, the child is asked if s/he wishes to put any questions to the witness.

If the child, instead of asking questions, wishes to make a statement, s/he shall be allowed to do so. The Court may put to the child such questions as may be necessary to explain anything in the statement of the child.

If it appears to the Court that a prima facie case is made out, the evidence of any witnesses for the defence will be heard and the child or young person will be allowed to make a statement or to give evidence on oath. In the case of the latter, the child will be liable to

⁹⁴ Police Regulation N. 5/18.

⁹⁵ Law on the rights of persons under arrest and in detention N.163(I)/2005, articles 3 and 10.

⁹⁶ [Juvenile Offenders Law Cap. 157](#), Article 5(4).

cross-examination. During the proceedings, the Judge may intervene in order to prevent the harassment of the child following from an aggressive manner of questioning⁹⁷.

If the child admits the offence or the Court is satisfied that it is proved, s/he shall then be asked if s/he desires to say anything in extenuation or mitigation of the penalty or otherwise. In order to enable it to deal with the case in the best interests of the child, the Court may obtain such information as to his/her general conduct, home surroundings, school record, and medical history, as it may deem necessary, and may put to him/her any question arising out of such information. For the purpose of obtaining such information or for special medical examination or observation, the Court may remand the child on bail or in custody⁹⁸.

2.3.10 Right to legal counsel, legal assistance and representation

Legal aid is available to defendants in criminal cases, but this is subject to family means-testing and the offence for which the dependent is charged must carry a prison sentence exceeding one year⁹⁹. No exceptions are made for children. Legal aid is also available to defendants in family law cases, including domestic violence, a crime tried via a criminal proceeding, and which may involve the issue of restraining and interim orders issued by the Courts, as described [above](#). A child can choose a lawyer from a list of lawyers who have agreed to offer their services on a legal aid basis.

It is nowhere expressly stated that a child's defence is mandatory; the Constitution describes defence as a right rather than an obligation¹⁰⁰. Legislation regulating the procedure before a Juvenile Court (which has not yet been established in Cyprus) also does not render defence mandatory, although it does provide for the hearing of evidence in Court and for statements to be made by the child¹⁰¹. Although there are no Juvenile Courts operating in Cyprus at the moment, the procedure is nevertheless laid down in the law in order to apply to all courts where children appear.

The Court will grant a request for legal aid if it deems that: (a) Based on the socioeconomic report of the Welfare Service, the financial circumstances of the applicant, and if the applicant is a dependent member of a family, e.g., a child, then the financial circumstances of the family are such that do not allow him/her to secure legal representation, taking into consideration the applicant's real and expected income and expenditure for basic needs of him/herself and his/her family. (b). Due to the severity of the case or other circumstances of the case, it is in the interest of justice that legal aid be granted¹⁰².

If the child or the child's family own any property whatsoever, then applications for legal aid are turned down, irrespective of whether the said property is saleable or tradable¹⁰³.

2.3.11 Remedies or compensation for violation of rights and failure to act

Police officers who are in breach of regulations as regards arrest, detention, the implementation of the rights of detainees are guilty of a disciplinary and/or criminal offence. All decisions of criminal district courts are subject to appeal at the Supreme Court. The appeal can be directed against the verdict of the district court decision or against the penalty imposed by such court. The Supreme Court has the power to review evidence and draw its own conclusions, hear and accept new evidence and hear again witnesses already heard by the trial court. The Supreme Court can also order a re-trial by the trial Court¹⁰⁴. A child aged

⁹⁷ The Witness Protection Law N.95(I)/2001, Article 19.

⁹⁸ [Juvenile Offenders Law Cap. 157](#), Article 10.

⁹⁹ [Legal Aid Law N. 165\(I\)/2002](#), Article 4.

¹⁰⁰ The Constitution of the Republic of Cyprus, Article 12(5).

¹⁰¹ Juvenile Offenders Law Cap. 157, Article 5.

¹⁰² [Legal Aid Law N. 165\(I\)/2002](#), Article 7.

¹⁰³ Information supplied to the author by the Association for the Prevention of Violence in the Family.

¹⁰⁴ Courts of Justice law N. 14.1960, article 25(3).



above 14 can appeal any first instance decision of the trial criminal Court in his/her own name.

Moreover, all acts of the administration are subject to [judicial review](#) by the Supreme Court.

3 Child-friendly justice after judicial proceedings

3.1 The child as a victim or offender

The institutions which are in place in the pre-trial period and during the trial, primarily the family counsellor and the Committee for the Handling of Juvenile Offenders, continue to be in place in the post-trial period.

3.1.1 Provision of information

In the case of a child victim, the family counsellor remains the main source of information. However, NGOs and the Child Commissioner may also provide information when requested.

In the case of the child offender, in the event that s/he is serving a prison sentence, there are SWS officers permanently stationed at the central prison who have a policy of placing child prisoners as their first priority. If the child has had a probation order issued by the Court, then the [probation officer](#) in charge will provide information and general assistance and support. The Committee for the handling of Juvenile Offenders may also assist child offenders who are not in prison.

3.1.2 Sentencing

If the child admits the offence or the Court is satisfied that it is proved, and the Court decides that a remand is necessary for the purposes of inquiry or observation, the Court will record that the charge is proved and that the child has been remanded¹⁰⁵. Where a court is satisfied of the guilt of a child offender, it has the option to either dismiss the charge, or trigger the probation procedure (below), or commit the child to the care of a relative or other fit person, or order the child to pay a fine, damages or costs or sentence him/her to imprisonment. Imprisonment should however be a last resort and should not be imposed if any of the other options are available and suitable¹⁰⁶.

Probation order

If the Court deems fit, after having considered the circumstances of the commission of the offence and the personality of the accused, it can issue an order of probation, according to which the accused is placed under the supervision of a probation officer for a period fixed in the order, which cannot be less than a year or longer than three years. The choice of the terms of the order is left at the Court's discretion. Having regard to the circumstances and the family situation of the accused (through a report prepared by the SWS), the Court will impose such terms as it deems necessary to ensure good conduct on the part of the accused or the prevention of the repetition of the offence or of another offence.

Probation order with educational conditions

The law also provides for probation combined with educational lessons of content and duration to be fixed by the Court; however there is no system in place for such an option and hence this provision has never been implemented. This provision requires that the offender consents, that the competent Ministers (Education, Labour and Social Insurance) have made arrangements for the lessons chosen by the offender and have ascertained that the offender has the necessary skills to follow these classes, following a report from the SWS.

Probation order with conditions for community work without pay

A court order may be issued for probation with the requirement for community service without pay. In order for such an order to be issued, the offence must not carry a specific sentence by law, the offender must consent to the community work, and the Ministry of Labour and Social Insurance must have informed the Court that arrangements have been

¹⁰⁵ [Juvenile Offenders Law Cap. 157](#), Article 10.

¹⁰⁶ Article 12, The Juvenile Offenders Law Cap 157.

made for community work in accordance with the terms of the Court order in the district where the offender lives.

The possibility of attaching the community work requirement to the probation bears a number of advantages for children, for whom this may be the first structured experience of productive work which may in the medium and long term activate the children towards a more smooth integration into the labour market, whilst at the same time provide therapeutic occupation that can contribute to the prevention of anti-social behaviour.

Probation officer

The probation officer, appointed by the SWS, has a duty to visit the child or receive reports from him/her at regular intervals (determined by the Court or decided by the probation officer), to ensure that the offender complies with the terms of the probation order, to submit reports to the Court about his/her conduct, advise, assist and support the child, securing work and providing assistance as regards his/her education and training.

The person under probation must present him/herself to the probation officer, inform the probation officer of every change of address and attend the lessons determined by the Court and the probation officer. Failure of the person under probation to observe any of the conditions of the Court order or in the event that s/he is arrested for the use of drugs or other addictive substances, the probation officer prepares a new report and the person under probation is brought before the Court which may impose a fine or cancel the probation order and treat the person as if s/he had just been convicted of the said offence.

Order for conditional or unconditional discharge

When a Court convicting a person of an offence is of the opinion that under the circumstances the imposition of a sentence or the issue of a probation order is not expedient, the Court has discretion to discharge the accused unconditionally or on the condition that the accused will not commit an offence for a period not exceeding 12 months from the issue of the order. In the event that the conditions of the discharge are breached, the discharge no longer applies and the offender will be punished for the offence for which the discharge order was issued.

Fine to be paid by the guardian

Where a child has been charged with the imposition of a fine, damages or costs, the Court may order that the fine, damages or costs be paid by the parent or guardian instead, unless the Court is satisfied that the parent or guardian cannot be found or that s/he has not conduced to the commission of the offence by neglecting to exercise due care of the child¹⁰⁷.

3.1.3 Deprivation of liberty

At the pre-trial stage, a child may be detained either in a police station or at the central prison: [see above](#).

A child sentenced to imprisonment or committed to prison shall not, as far as is practicable, be allowed to associate with adult prisoners. The rights of children in detention are set out [here](#).

3.1.4 Criminal records

Whenever a child receives a prison sentence, this is registered in his/record. The record is erased after a period of time which depends on the length of the prison sentence. For sentences set out in the left column, the 'period of rehabilitation' of persons under 18 is set out in the right hand column. The term 'period of rehabilitation' refers to the period at the expiration of which the record is erased.

¹⁰⁷ [Juvenile Offenders Law Cap. 157](#), Article 16(1).

Length of sentence served	Period for rehabilitation for persons under 18
Between 1-2 years	1.5 years
Between 6 months and 1 year	1 year
Up to 6 months	Immediate rehabilitation
Imposition of a fine	Immediate rehabilitation

Persons to whom a sentence exceeding two years has been imposed may nevertheless be rehabilitated with an order of the Court, applied for eight years after the passing of the sentence.

In order for a person to be entitled to rehabilitation provisions, s/he must have completed his/her sentence and must not be in any of the situations below:

- s/he failed to pay a fine or other amount imposed with the sentence;
- s/he failed to observe an obligation of keeping the order and showing good behaviour
- s/he failed to observe any other condition imposed with the sentence

Any order issued by the Court in relation to a child offender (including imprisonment, probation or committing the child to a relative or other fit person, or placing a child under the supervision of a welfare officer or a probation officer) is seen as a 'sentence' for the purpose of the above.

Rehabilitation is excluded in the cases of life imprisonment or imprisonment exceeding 2 years; in the latter case, however, rehabilitation is possible by an order of the Court applied for eight years after the sentence is passed. All other sentences are subject to extinguishment. A person who, in the course of his/her professional duties has knowledge of a sentence extinguished and reveals such information to a third party is guilty of a criminal offence¹⁰⁸.

¹⁰⁸ Law on the rehabilitation of indicted persons N.70/81.

4 Strengths and potential gaps

The Report on Cyprus of the UN Committee on the Rights of the Child¹⁰⁹ points to gaps in the following areas:

- The fact that the principle of the best interests of the child is not widely known, appropriately integrated and consistently applied in all legislative and judicial proceedings.
- The views of children are not always taken into account, having regard to age and maturity, in judicial proceedings.
- Children above the age of 14 can still be tried as adults for serious offences.
- Cyprus lacks a juvenile criminal justice system that ensures appropriate treatment of children at all stages of its judicial proceedings.
- In spite of the child victim and criminal witness protection programme in place, lack of information renders an evaluation on the efficacy of this programme impossible. The Commissioner for the Rights of the Child refers to the right of children to be heard and to participate in any procedure affecting them as the least understood and accepted of children's rights and the least implemented, expressing concern over the fact that it has not been mainstreamed into legislation affecting children¹¹⁰.

A new legislative framework on juvenile justice is under discussion among the responsible Ministries and the House of Representatives, with a draft of the law circulating between the various competent bodies for the two to three years.

Court delays

The Commissioner for the Rights of the Child has pointed to significant delays in judicial proceedings leading to the re-victimisation of children, years after the incident has taken place, when they have to stand as witnesses in Court and recall the traumatic events as late as four years after they took place¹¹¹.

Restraining or other orders are issued only by the Court and require a court hearing; there is no administrative authority competent to issue any such orders. Gaps have been observed in the speed of judicial proceedings for the issue of such orders as Courts will issue such orders only within their working hours (Monday to Friday 8am-2.30pm excluding public holidays), which inevitably causes delays and gaps in protection.

Domestic violence

The major characteristic of the Cypriot system is that significant resources have been devoted towards strengthening the framework for addressing domestic violence, which can include violence towards a child from within the family. Two strengths have been identified in this area:

- Aggravated sentences are laid down for acts of violence committed by one family member towards another family member. The setting up of the Advisory Committee for the Prevention of Domestic Violence (ACPDV) presents a unique example (for Cyprus) of interdepartmental cooperation. Encompassing expertise from both the public sector and the NGO sector, this body has significantly contributed to raising the level of the debate and of the standards. The evaluation has demonstrated that a lot still needs to be done towards achieving an efficient and effective inter-departmental cooperation but the fact that gaps and impediments are identified is an important step forward.

¹⁰⁹ [Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Cyprus](#), dated 12 August 2012.

¹¹⁰ [Report of the Child Commissioner to the UN Committee for the rights of the child \(2011\)](#).

¹¹¹ [Report of the Child Commissioner to the UN Committee for the rights of the child \(2011\)](#).

However, a number of weaknesses are also evident:

- The definition of a ‘family member’ is restricted to persons married or who used to be married and persons co-habiting; it does not include intimate partners who have never shared the same roof or homosexual partners.
- Not all police stations are staffed with police officers of both sexes and therefore it is not always possible for the testimonies to be taken by police officers of the same sex as the child victim. Only 16 police officers have been trained in taking taped testimonies from victims of domestic violence.
- Teachers who become aware of an abused child often take no action other than to refer the case to the welfare services.
- Some of the measures adopted by the Ministry of Education such as the setting up of Groups for the Prevention and Handling of Domestic Violence have not been realised in practice.
- Shortages in specialised personnel have been noted in the Attorney General’s office, whilst officers appointed especially for the handling of domestic violence often do not handle incidents due to heavy workload.

Although this focus on domestic violence (as reflected also in this document) is by all means a commendable effort, in a country with limited human and financial resources such as Cyprus this has meant that crimes against children beyond the home remain inadequately addressed.

Lack of training of practitioners

The 2011 report of the Child Commissioner has stressed the need for the training of judges, including Supreme Court judges, on the legal requirement to always take into consideration the provisions and principles of the UNCRC and, in particular, the best interest of the child as a procedural and substantial issue. Cases dealt with by the Commissioner, for instance the trial and conviction of a migrant child without the representation by a lawyer or a Supreme Court judgment where in a case of conviction of a father for raping his child, the term of imprisonment was reduced on the ground that the child (eight years old at the time) consented to the sexual abuse, indicate clearly the need for training as above. The lack of training of lawyers is largely responsible for the fact that the UNCRC is hardly ever before courts. It ought to be noted that the Supreme Court, responding to a proposal of the Commissioner, supported a training seminar organized by the Commissioner and the Cyprus Bar Association in 2010 on a “Child Friendly Justice System”, addressed to members of the Judiciary, the legal profession and officers of government departments having responsibilities relating to children issues.

In her 2011 report, the Child Commissioner received and investigated complaints in relation to the treatment by the Police of child offenders or child witnesses that indicate the lack of proper training.

Several training gaps emerge from the Government’s Periodic Report amongst professionals dealing with children in vulnerable situations. Several of the administrative services concerned, such as the Health Services and Immigration and Asylum Services, deal in a horizontal manner with issues affecting children, including particularly vulnerable groups of children, which may come into play in criminal proceedings, e.g., medical examination of injuries sustained for the purposes of gathering evidence, detention., etc. From complaints submitted to the Commissioner, it is evident that these services do not take into account in their decision making process the best interests of the child and the non-discrimination principle, thus resulting in serious deficits in the protection of the rights of children.

Legal aid and legal advice

Legal aid is available to defendants in criminal cases, but this is subject to family means-testing and the offence for which the dependent is charged must carry a prison sentence

exceeding one year¹¹². There is no obligation in law for the state to ensure that a child involved in judicial proceedings receives legal advice.

The Attorney General's discretion

A child victim is not consulted in the decision as to whether proceedings will be instituted against a perpetrator or not; neither is the child's guardian or legal representative. The decision rests solely within the unfettered discretion of the Attorney General, who also has the right to interrupt private criminal proceedings brought by individuals. The best interests of the child do not necessarily permeate such discretionary decisions.

The 'consent' of a child

There is considerable case law indicating that under certain circumstances the Courts are prepared to "read" consent into a sexually abused child's behaviour and thus acquit the perpetrator accordingly.

Alternative to judicial proceedings

No alternative to court proceedings, such as mediation or extra-judicial procedures, are provided as regards criminal offences.

¹¹² [Legal Aid Law N. 165\(I\)/2002](#), Article 4.

Conclusions

Cyprus does not follow a holistic and integrated plan to address the position of children in judicial proceedings. Although the Convention on the Rights of the Child was ratified in 1991, the principle that primary consideration must be given to the best interests of the child is not streamlined into the legislative and policy framework, where the primary consideration is to secure a conviction against the perpetrator. The absence of a Juvenile Court and the lack of a clear set of guidelines on the treatment of children in judicial proceedings have meant that children appear in the same Courts as adults and are tried by and faced with practitioners in the judicial profession with little or no training in dealing with children. Already, a body of case law is emerging where judges read 'consent' to sexual abuse into a child's actions or inactions and challenge the child's credibility as a result of not reporting a crime immediately.

Where the child is a witness, a role usually existing concurrently together with another role such as that of a victim or a defendant, a number of protective measures are triggered, which are however discretionary upon the judge and as such do not constitute rights per se. A number of Court orders may be applied to remove a child from one or both parents or to send a child to a place of safety. Beyond such measures, there are few safeguards or rights for the child victim, the child witness or the child defendant; prosecutions are discretionary upon the Attorney General, whose prosecutors are often the only advisors to the child victim and the child witness as regards the judicial process. Legal aid is available only for the child defendant but with restrictions attached: the offence must carry a sentence of over a year and the child or the child's family must not have sufficient means.

The legislator's effort to modernise legislation and bring it in line with international and European norms has focused largely on domestic violence and trafficking laws to a lesser extent; nevertheless, the Attorney General and the judge hearing the case have a wide discretion.

The legislative and policy framework also affords wide discretion to the Welfare Services of the Ministry of Labour, whose officers provide the only support available to children, guiding them before during and after the judicial process. However, the services of these officers are available to children who are deemed to be 'in need' or 'at risk' and not to all children victims of crime, suggesting that young age per se is not in itself seen as a marker of vulnerability.

A child can be arrested and remanded in custody in police detention facilities, or in the central prison if particularly 'unruly'. Although detailed procedures are laid down for dealing with children liable to arrest, most of these can be set aside if the police think that the suspect may destroy evidence, escape, commit another offence or endanger the security of the Republic. Children found guilty of an offence may be imprisoned, asked to pay a fine, placed in the care of a relative or other fit person, or be placed in a probation scheme, with or without conditions attached.

Annex – Legislation reviewed during the writing of this report

- Police Regulations N. 5/18, 27 November 2009 as amended on 18 August 2010, 3 September 2012 and 30 July 2013
- The Law Revising the Legal Framework Regulating the Protection of Persons who are Victims of Trafficking and Related Matters N.87(I)/2007
- Law on the rights of persons under arrest and in custody N. 163(I)/2005
- Law on Legal Aid N. 165(I)/2002
- The Witness Protection and Related Matters Law N.95(I)/2001
- The Radio and Television Channels Regulations of 2000
- The Law on Prevention of Violence in the Family and the Protection of Victims N.119(I)/2000
- Law on Radio and Television Channels N. 7(I)/1998 as amended until 2013
- Law on Compensation of Victims of Violent Crimes N.51(I)/1997, as amended by Law 126(I)/2006
- Convention on the Rights of the Child (date of signature: 5 October 1990; date of ratification 7 February 1991)
- Law on relations between parents and children N. 216/1990.
- Law on the rehabilitation of indicted persons N.70/1981
- The Constitution of the Republic of Cyprus 16 August 1959
- Law on Children, Cap.352, enacted on 18 August 1956, as amended until 2013
- The Criminal Procedure Law Cap 155, enacted on 15 December 1948.
- Juvenile Offenders Law Cap. 157, enacted on 20 December 1946, amended by N. 94/1972
- Evidence Law Cap.9, enacted on 8 August 1946, as amended until 2011
- The Criminal Code Cap. 154, enacted on 1 December 1929 as amended until 2012