



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

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Executive summary

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

In general, the same criminal law applies to both adults and children and there are no separate courts dealing with children. However, the legislation in Finland includes separate provisions on the rights and the protection of children. The age and level of development of the child needs to be taken into consideration in examinations and a multi-professional approach is emphasised. The age limit for criminal liability is 15 years of age. Younger children committing criminal acts may be subject to child welfare measures.

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

Children who are younger than 15 years of age rarely participate in court proceedings. Instead, they are heard in pre-trial investigations. In courts, they are represented by guardians, who are in general the parents or other legal representatives. If the victim/witness turns 15 before the court proceedings, he or she must participate and give testimony even if it has been recorded earlier. Children who are victims or defendants can have counsels to assist them in the judicial process, including appeals. In most cases state funds are available for this, based either on a specific law or on legal aid in general. For child defendants, child welfare officials are involved both during and after criminal proceedings, although it is not automatic.

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

Under Finnish legislation, children are taken into consideration at the different stages of criminal justice proceedings. The child's age and stage of development must be taken into consideration during investigations, legal counsel and support workers must be provided and a legal guardian appointed where needed. Potential gaps could come into play when carrying out the process in practice. A child-friendly result may depend on the training and experience of the relevant actors, the readiness for multi-professional co-operation, and for example, the availability of persons who could act as legal guardians. With regard to multi-professional co-operation, initiatives such as 'Anchor' and the training provided for state officials seem promising.



Abbreviations

CA	Competent Authority
CoE	Council of Europe
EC	European Commission
EU	European Union
NICHHD	National Institute of Child Health and Human Development

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

In Finland, criminal cases are investigated by the police and adjudicated by general district courts, courts of appeal and the Supreme Court.¹ There are no specialised juvenile courts to adjudicate cases where child offenders are involved. The legislation applicable to criminal cases is for the most part the same for adults and children, though there are some specific provisions on children. The Criminal Investigations Decree (575/1988) provides that children must be treated according to their age and level of development during the criminal investigation². This provision will be moved to the new Criminal Investigations Act which will enter into force on 1 January 2014³. The age limit for children is 18. It should be noted that some acts focus on young persons suspected of crimes, i.e. persons aged from 15 to 20 years of age⁴.

The age of 15 is central to criminal proceedings regarding victims, witnesses and offenders. In general, the participation of children under 15 years of age is limited to pre-trial investigations of a crime and children younger than that are rarely heard in court proceedings. Children as victims are legally represented by their guardians or other legal representatives. In crimes concerning a child older than 15 years of age, the child has independent or parallel rights. Child victims and child witnesses can be appointed support workers for investigations and court hearings.

The age for criminal liability is also 15. Criminal acts committed by children below 15 years of age can be investigated but only liability for damages and child welfare measures may be imposed.

In addition to having specialists included in investigations, social service officials must be informed of hearings of a suspected offender younger than 18. Social service officials also cooperate in the examination of the situation of a young person suspected of crime. There are also other multi-professional initiatives.

No formal qualifications are required for prosecutors, judges or lawyers working with children regarding the needs of children⁵. However, Palmenia, the University of Helsinki Centre for Continuing Education, organises courses on legal psychology that include a section on the specific role of children in criminal proceedings. Participants for these courses are chosen by the Ministry of Justice⁶, the Office of the Prosecutor General and Palmenia. The course is aimed at judges, counsels and prosecutors. The aim of the section on children includes learning "the importance of a child's own narrative in investigation of a crime, and the impact of a child's stage of development and conditions in life to his or her behaviour and narrative; outlines of children's linguistic development and effects of that on memory; as well as being able to assess evidence and describe how children should be heard so that their narratives could be considered reliable, and recognising methods of investigation that could be harmful"⁷. There are no legal requirements for multidisciplinary training⁸.

¹ [The European Judicial Atlas](#).

https://e-justice.europa.eu/content_rights_of_victims_of_crime_in_criminal_proceedings-171-fi-en.do?member=1.

² The Criminal Investigations Decree (*Asetus esitutkinnasta ja pakkokeinoista* / *Förordning om förundersökning och tvångsmedel*) (575/1988) Section 11.

³ The Criminal Investigations Act (*Esitutkintalaki* / *Förundersökningslag*)(805/2011).

⁴ The Act concerning clarification of the situation of a young person suspected of crime (*Lakinuorenrikoksesta epäillyntilanteenselvittämisestä* / *Lag om utredning av ungdomsbrottsmisstänkta situation*)(633/2010).

⁵ Information collected in writing from the Finnish authorities.

⁶ https://e-justice.europa.eu/content_national_training_networks_and_structures-123-EU-en.do.

⁷ [Palmenia, course description \(in Finnish\)](#).

The Ministry for the Interior also has a pilot project aiming to develop child hearing skills of state officials. The project is led by a psychologist. The Ministry of Justice is currently running a 'Child as a victim of crime' project that aims to publish a guidebook on the internet. The guidebook is targeted at parents of victims of crime providing information on their rights and the criminal procedure.

In Finland, the starting point for the treatment of children is Section 6 of the Constitution according to which children must be treated equally and as individuals, with individual personalities and characteristics, and be allowed to influence matters relating to them to a degree which corresponds to their level of development.

In criminal law, the best interests of the child are safeguarded through procedural rules⁹. The best interests of the child are understood as "the ideal conditions for a child"¹⁰. The approach toward child offenders could be described as a combination of criminal law and child welfare measures¹¹.

In addition to the Constitution, the Non-Discrimination Act provides that State officials must in all their activities foster equality and consolidate administrative and operational practices that will ensure equality in preparatory work and decision-making. The Act covers discrimination on the basis of age, ethnic or national origin, nationality, language, religion, belief, opinion, disability, sexual orientation or other personal characteristics¹². The Act on Equality between Women and Men prohibits discrimination based on gender¹³.

General provisions on legal assistance by counsel or defence counsel as well as other support workers also apply to vulnerable children. There are provisions concerning interpretation and also in cases of speaking or hearing disabilities. Persons in the police service should inform social welfare officials of children in need of protection.¹⁴ In addition, the police have internal guidelines for meeting children which are drafted by their central administration¹⁵.

According to the [Act on Checking the Criminal Background of Persons Working with Children](#), in cases concerning work contracts of more than three months, the employer must ask the person for an extract of the criminal record if the work involves significantly raising, teaching or caring for or looking after a child or other personal contact with a minor in the guardian's absence¹⁶.

⁸ Information collected in writing from the Finnish authorities.

⁹ Hirvelä 2007, 233, Humpi, Sanna-Mari and Ellonen, Noora, *Lapsiin kohdistuva väkivalta ja seksuaalinen hyväksikäyttö*, Poliisiammattikorkeakoulun tutkimuksia 40/2010, Tampere 2010.

¹⁰ [The Child Custody and Right of Access Act](#) (*Laki lapsen huollosta ja tapaamisoikeudesta / Lag angående vårdnad om barn och umgängesrätt*)(361/1983) and the Child Welfare Act ([Lastensuojelulaki / Barnskyddslag](#))(417/2007).

¹¹ Marttunen, Matti, [Juvenile Criminal Justice: Comparative and Criminal Policy Perspectives on Sanctioning Juveniles](#) (Helsinki, 2008).

¹² [The Non-Discrimination Act](#) (*Yhdenvertaisuuslaki / Lag om likabehandling*)(21/2004) Section 4 and 6.

¹³ [The Act on Equality between Women and Men](#) (*Laki miesten ja naisten tasa-arvosta / Lag om jämställdhet mellan kvinnor och män*) (609/1989).

¹⁴ The Child Welfare Act ([Lastensuojelulaki / Barnskyddslag](#))(417/2007)Section 25.

¹⁵ *Lapsen kohtaaminen poliisitoiminnassa ja esitutkinnassa, Poliisihallituksen ohje*.

¹⁶ [Act on Checking the Criminal Background of Persons Working with Children](#) (*Laki lasten kanssa työskentelevien rikostaustan selvittämisestä / Lag om kontroll av brottslig bakgrund hos personer som arbetar med barn*)(504/2002).

2 Child-friendly justice before and during criminal judicial proceedings

2.1 The child as a victim

2.1.1 Reporting a crime

Anyone can report a crime to the police in person, to the police patrol at the scene of the crime, by phone, or in some cases via the internet. Those crimes for which the prosecution rests with the injured party, the so-called 'plaintiff crimes', are investigated only if the injured party requests the punishment of the perpetrator.

The police must conduct an investigation when there is a reason to suspect that a crime has been committed. A child can report a crime in his/her own right, and even an outsider can report a crime¹⁷. If a child is accompanied by someone else when he/she reports the commission of an offence, the report is marked as being filed by the child¹⁸.

In the case of crimes that are considered 'plaintiff crimes', in general the police investigate only if the plaintiff asks for punishment. In these cases, the child's guardian or other legal representative has the right to request such punishment. If the crime concerns property which is under the child's administration or which concerns transactions that he or she can make, the right to seek the perpetrator's punishment rests with the child himself/herself. This is the case if the child is at least 15 years old and has earned property because he/she is working. Children of at least 15 years of age who have been victims of an offence and their parents/custodians both have the right to request the commencement of criminal proceedings¹⁹. In some cases plaintiff crimes (such as petty assault) committed against children can be prosecuted even in the absence of the victim's request.

A victim or a witness of a crime can also turn to [Victim Support Finland](#) which offers practical advice and support to victims of crime [including a helpline \(Mon-Tue 13:00-21:00, Wed-Fri 17:00-21:00\), a legal advice helpline \(Mon-Thu 17:00-19:00\) and support workers](#). Victim Support Finland provides its services on a voluntary basis in cooperation with The Federation of Mother and Child Homes and Shelters, the Finnish Association for Mental Health, the Mannerheim League of Child Welfare, the Finnish Red Cross, the Finnish Federation of Settlements, the Finnish Association Union and the Church Council. The Mannerheim League of Child Welfare and the Red Cross also have separate [helplines](#). There is also an on-going development project 2012-2015 that aims to increase young victims' support²⁰.

State officials working in fields such as social services, health care and education have the duty to report cases where a child is in need of child welfare to the municipal child social services. Cases where a child is suspected of being a victim of sexual offences should be reported to the police²¹.

2.1.2 Provision of information

During the police investigation, a child must be treated according to his or her age and level of development. If possible, investigation of offences involving child victims should be undertaken by a police officer specialised in investigating children. The investigating officer

¹⁷ The Criminal Investigations Act ([Esitutkintalaki / Förundersökningslag](#))(449/1987) Section 2.

¹⁸ *Lapsen kohtaaminen poliisitoiminnassa ja esitutkinnassa, Poliisihallituksen ohje 2020/2011/1607.*

¹⁹ [The Criminal Procedure Act](#) (*Laki oikeudenkäynnistä rikosasioissa/Lag om rättegång i brottmål*) (689/1997), Chapter 1 Section 4.

²⁰ Information collected in writing from the Finnish authorities.

²¹ The Child Welfare Act ([Lastensuojelulaki / Barnskyddslag](#))(417/2007), Section 25.

must, when necessary, consult with a doctor or other specialist whether a child can be interviewed²².

When the police get information about a suspected crime, either through a report or in some other way, the investigating state official must, to the greatest extent possible, inform the child victim and his or her legal representatives of his/her rights and actions that can be taken. The official must also inform the child if there is a possibility to ask for damages from the State²³. If the crime is a plaintiff crime, the victim must be informed that, in general, he or she needs to ask for the punishment of the crime in order for the offence to be investigated. If a plaintiff crime is investigated on the grounds of public interest, even in the absence of the victim's request, the child victim and his or her legal representatives must be informed of this²⁴.

When a person is questioned as part of an investigation, he or she must be notified of his or her role in the investigation and the suspected criminal act²⁵. According to the new Criminal Investigation Act (Chapter 6 Section 1), this information needs to be also given in the invitation to the investigation.

Child victims, like adults, have the right to be assisted by a legal counsel in a pre-trial investigation. In practice, this is mentioned in the invitation to the investigation sent to the victim (from 1 January 2014 notification will be required in writing)²⁶. The new Criminal Investigation Act requires the investigator to ensure that the right to legal counsel is respected if the person wishes to have such legal counsel. When a person is questioned in a pre-trial investigation, the investigating officers must take care that there is interpretation at public expense in a language that the person understands and speaks well enough²⁷. Interpretation must also be provided if the interviewed person has a speech defect or other similar problem. According to the new Criminal Investigation Act, invitations and notifications need to be sent in a language that the person understands²⁸.

In general, the district court invites parties and witnesses to court proceedings. During the court proceedings, the judges of the case are in charge of steering the proceedings. Information on how a judgment can be appealed is given with the judgment.

2.1.3 Protection from harm and protection of private and family life

As noted above in [2.1.2.](#), a child victim involved in a criminal investigation must be treated according to his or her age and level of development. Officials involved with crime victims in criminal proceedings must take the necessary measures to ensure that no problems are caused in the child's school or other environment²⁹.

In general, children under 15 years of age participate only in the pre-trial investigation. The examination of children under 15 years of age is recorded and can be used as evidence in

²² The Criminal Investigations Decree ([Asetus esitutkinnasta ja pakkokeinoista](#) / Förordning om förundersökning och tvångsmedel) (575/1988) Section 11.

²³ The Act on Criminal Damages ([Rikosvahinkolaki](#) / Brottskadelag) (1204/2005) Section 6.

²⁴ The Criminal Investigations Act ([Esitutkintalaki](#) / Förundersökningslag)(805/2011); note that provisions on informing parties will be moved from the decree to the new Criminal Investigation Act that comes into force on 1 January 2014.

²⁵ The Criminal Investigations Act ([Esitutkintalaki](#) / Förundersökningslag)(449/1987) Sections 9 and 29.

²⁶ Government Bill HE 222/2010 at 25/265.

²⁷ Government Bill HE 222/2010 at 26/265.

²⁸ The Criminal Investigations Act ([Esitutkintalaki](#) / Förundersökningslag)(449/1987) Section 37 ; Government Bill HE 222/2010 at 26/265.

²⁹ The Criminal Investigations Decree ([Asetus esitutkinnasta ja pakkokeinoista](#) / Förordning om förundersökning och tvångsmedel)(575/1988) Section 11.

court proceedings³⁰ (where the guardians or other legal representatives exercise the rights of the child)³¹.

If the child is 15 years old or above, he/she is heard in court. The general starting point is that children aged 15 or above will be represented by their custodian. As an exception, children aged 15 years or above can exercise rights together with their custodian. If the matter concerns property or another matter that a child who is aged 15 or over can administer by him/herself, he/she can exercise his/her rights alone. If the person suspected of the crime is the child's parent or guardian or some other close relation, the child can be appointed a legal guardian (*edunvalvoja*) for the whole process³². As of 1 January 2014, the investigating officer must request the appointment of a guardian when this is the case. Other officials can also apply for the appointment of a guardian on the basis of the Child Welfare Act.³³

As mentioned in section 2.1.1, state officials working in fields such as social services, health care and education have the duty to report cases where a child is in need of assistance and where a child is suspected of being a victim of sexual offences³⁴.

In general the contact information, such as the address of the persons that have been heard during the pre-trial investigation, is included in the notes of those conducting such investigations. But this information can be left out when inclusion would put in danger the safety, welfare or rights of child and adult victims/witnesses³⁵. If the examination of a child or adult victim/witness has been recorded, a copy of this recording cannot be given to the suspect without the victim's/witness' permission. The right to privacy applies to all stages of the proceedings. The criminal code contains a general prohibition of the dissemination of information violating personal privacy, applying to children as well³⁶. According to self-regulatory provisions, namely [guidelines for journalists](#) of [the Council for Mass Media in Finland](#), the right of privacy also applies when publishing public documents, and particular discretion should be used in issues concerning minors³⁷.

Similarly to adults, in some cases the examination of the child victim or witness at trial may take place after ordering the removal of certain persons, for example, the offender³⁸, or through the use of audio-visual means³⁹. Audio-visual equipment and separate rooms are available in all general courts.

A child victim/witness who feels threatened or harassed by another person may seek a restraining order⁴⁰. The application for a restraining order is submitted either to the police or to the District Court in writing or orally. An application on behalf of the threatened person can also be submitted by the prosecuting authority, the police or a social service authority if the interested person is afraid to submit it by himself/herself. Children cannot submit such an application by themselves; but their guardians can file the application on their behalf. Civil

³⁰ The Criminal Investigations Act ([Esitutkintalaki](#) / *Förundersökningslag*)(449/1987) Section 39a.

³¹ [The Code of Judicial Procedure](#) (*Oikeudenkäymiskaari / Rättegångs Balk*)(4/1734) Chapter 17 Section 11.

³² The Child Welfare Act ([Lastensuojelulaki](#) / *Barnskyddslag*)(417/2007)Section 22. A similar section is included in the new Criminal Investigations Act ([Esitutkintalaki](#) / *Förundersökningslag*)(805/2011).

³³ Government Bill HE 222/2010 at 24/265.

³⁴ The Child Welfare Act ([Lastensuojelulaki](#) / *Barnskyddslag*)(417/2007), Section 25.

³⁵ The Act on openness of Government Activities ([Laki viranomaisten toiminnan julkisuudesta](#) / *Lag om offentlighet i myndigheternas verksamhet*)(621/1999) Section 11 point 7.

³⁶ Information collected in writing from the Finnish authorities. Act on openness of procedure in General Courts (Law 370/2007). [Criminal Code](#) Chapter 24 Section 8.

³⁷ The Council of Mass Media in Finland, [Guidelines for Journalists](#), para 30.

³⁸ [The Code of Judicial Procedure](#) (*Oikeudenkäymiskaari / Rättegångs Balk*)(4/1734) Chapter 17, Section 34.

³⁹ [The Code of Judicial Procedure](#) (*Oikeudenkäymiskaari / Rättegångs Balk*)(4/1734) Chapter 17, Section 34a.

⁴⁰ The Act on the Restraining Order ([Laki lähestymiskiellosta](#) / *Lag om besöksförbud*) (898/1998).

servants may issue temporary restraining orders but full restraint orders are issued by District Courts⁴¹.

When it is suspected that a child has been a victim of violence at home or if the suspected offender is a family member, the police must make a child welfare report to the social welfare office. When a child or a young adult below 20 years of age reports as a victim of a sexual or other violent crime, the police can refer him or her to health care services⁴² provided by the municipal health care centres.

The [Family Federation](#), a Finnish social and health care organisation funded since 1941, provides free support and advice for children. Other support organisations include a rape crisis centre and the Finnish Association for Mental Health (SOS crisis centre).

2.1.4 Protection from secondary victimisation and ensuring a child-friendly environment

A child must be treated according to his or her age and level of development. If possible, a child should be questioned by police officers who are specialised in working with children. The investigating officer must when necessary consult with a doctor or other specialist as to whether a child victim can be questioned. Also the atmosphere during the investigation should be such as to enable the child to speak freely⁴³. In addition to having the presence of their guardians, child victims and witnesses can have either an informal or appointed support worker to support them emotionally.

In 2014, a pilot project known as 'Children's House' will start in Finland. The project will be carried out in co-operation between the Ministry of Social Affairs and Health, the National Institute for Health and Welfare, the Ministry of the Interior and the Ministry of Justice. The 'Children's House' will provide services for child victims of sexual or other violence. The project will provide a framework for official state cooperation, as well as a common physical space. It will include police investigation services under which the police can consult health care and social service officials, legal and psychological examinations, somatic examinations and cooperation with child welfare authorities from the child's municipality. The child's crisis treatment and need for further health care will be assessed and the child will be referred to further care. Also the whole family will be supported and directed to further care. The house will also gather and produce research information and training for state officials.

Although these services are available at the moment, the Children's House will provide the coordination that has been considered lacking and thereby leaving provision of services and cooperation fragmented⁴⁴. At the moment, treatment and support for victims of crime is organised by municipalities including help during crises. In addition, peer groups have been organised by municipalities and voluntary organisations.

There are no provisions on the time frame of criminal proceedings specifically concerning children. However, there are general provisions on criminal proceedings such as the duty of the prosecutor to bring evidence to the court without delay, and to conduct preparatory hearings at the court and to notify charges without delay⁴⁵. According to the Criminal Investigation Act, all police investigations, involving adults or children, must be conducted without unnecessary delay⁴⁶.

⁴¹ [www.poliisi.fi/poliisi/home.nsf/ExternalFiles/englanti/\\$file/englanti.pdf](http://www.poliisi.fi/poliisi/home.nsf/ExternalFiles/englanti/$file/englanti.pdf).

⁴² The Criminal Investigations Decree (*Asetus esitutkinnasta ja pakkokeinoista* / *Förordning om förundersökning och tvångsmedel*) (575/1988) Section 11 a ; *Lapsen kohtaaminen poliisitoiminnassa ja esitutkinnassa, Poliisihallituksen ohje 2020/2011/1607*.

⁴³ *Lapsen kohtaaminen poliisitoiminnassa ja esitutkinnassa, Poliisihallituksen ohje 2020/2011/1607*.

⁴⁴ [Ombudsman for Children, statement 10 December 2011](#).

⁴⁵ [The Criminal Procedure Act](#) (*Lakioikeudenkäynnistärikosasioissa/Lag om rättegångsbrottmål*) (689/1997) Chapter 1 Sections 4,6, 12.

⁴⁶ The Criminal Investigations Act (*Esitutkintalaki* / *Förundersökningslag*)(805/2011)Chapter 3 Section 11; The Criminal Investigations Decree (*Asetus esitutkinnasta ja pakkokeinoista* / *Förordning om förundersökning och tvångsmedel*) (575/1988) Section 6.

In terms of ensuring a child-friendly environment, not all courts in Finland have rooms designed specifically to be child-friendly, but in these cases, normal offices could be used, rather than court rooms.

2.1.5 Protecting the child during interviews and when giving testimony

As noted in [Section 2.1.3](#), in general, participation of children below 15 years of age is limited to the pre-trial investigation. Questioning of children under 15 years of age is recorded and can be used in court proceedings where the guardians or other legal representatives exercise the rights of the child⁴⁷. In contrast, questioning of children aged 15 or above must be done in court. If the person suspected of the crime is the child's parent or guardian or has some other close relationship with the child, a legal guardian (*edunvalvoja*) can be appointed⁴⁸.

Investigation of offences where child victims are involved should start immediately. The child can be either interviewed by a police officer or interviewed by a health care professional. If the child is very young, or if there are serious delays in development or disturbances, the police can consult with the health care professionals when carrying out the investigation. It is recommended that the interview is carried out in one place only. The interview should start with acquiring a contact with the child and letting the child talk freely about the events. It is important that the child feels safe and able to interrupt or correct the interviewer, when needed.

Interviewers should follow a structured NICHD-format (developed by the US National Institute of Child Health and Human Development), and the guide by the National Institute for Health and Welfare for violent offences. Questioning of young children more than once could prove useful because they can provide more details this way. A meeting of the child with the interviewer before the actual examination could also be useful if the child is fearful of the process.

The length of the interview is decided on a case by case basis but in general for children under 12 years of age should not last more than an hour. Pens and paper should be made available to help the child communicate⁴⁹. The investigator can reformulate the questions put forward by the defendant to ensure that the questions are made in a way the child understands⁵⁰. The investigator can also consult a health care professional on how to formulate the questions in order to ensure that they are understood by the child⁵¹.

It is possible for the injured party or witness (whether child or adult) to be heard in the main court without the presence of certain persons, such as the defendant (Chapter 17 Section 34); alternatively, the testimony may be heard with the use of video conference technology (Section 34a).

A court can appoint a counsel for the child victim during both the criminal investigations and the trial, if the case is prosecuted by the public prosecutor, if the child victim brings a claim against the defendant⁵², and if the case concerns sexual crimes or domestic violence⁵³. Victims may also be supported by 'support workers' who provide them with mental support, in addition to the legal aid provided by the legal counsel⁵⁴. In order to receive assistance by a legal counsel or a support worker, the investigator or the prosecutor makes a relevant

⁴⁷ [The Code of Judicial Procedure](#) (*Oikeudenkäymiskaari / Rättegångsbalk*)(4/1734), Chapter 17 Section 1.

⁴⁸ Child Welfare Act ([Lastensuojelulaki / Barnskyddslag](#))(417/2007).

⁴⁹ *Lapsen kohtaaminen poliisitoiminnassa ja esitutkinnassa, Poliisihallituksen ohje 2020/2011/1607.*

⁵⁰ Government Bill HE 52/2002.

⁵¹ *Lapsen kohtaaminen poliisitoiminnassa ja esitutkinnassa, Poliisihallituksen ohje 2020/2011/1607.*

⁵² [The Criminal Procedure Act](#) (*Lakioikeudenkäynnistärikosasioissa/Lag om rättegångsbrott*)(689/1997), Chapter 2 Section 1a.

⁵³ Hirvelä, Päivi, *Rikosprosessi lapsiin kohdistuvissa seksuaalirikoksissa* (Helsinki, 2006) pp.148-151.

⁵⁴ [footnote missing].

proposal to the court⁵⁵. In addition, the investigating authorities can allow a more informal support worker who could for instance be someone close to the victim or from Victim Support Finland⁵⁶.

The proceedings involving hearing children under 15 years of age, should, if requested by parties or decided by the court, take place behind closed doors. In cases concerning children older than 15, or adults, court proceedings can take place behind closed doors for example if sensitive information regarding matters relating to private life, health, disability or social welfare is presented in the case⁵⁷.

2.1.6 Right to be heard and to participate in criminal proceedings

As noted, the participation of children who are under 15 years of age in criminal proceedings is often limited to the stage of pre-investigation to protect them from the burden of the judicial proceedings⁵⁸. Child victims below 15 years of age are legally represented by their guardians or other legal representatives.

Children below 15 years of age can participate in the criminal proceedings as witnesses or plaintiffs if such participation is of central significance and the hearing would not cause suffering or harm to the child, injuring his/her development⁵⁹. If the child is below 15 years of age, in principle only the court questions the child, i.e., the other parties need to submit their questions to the court which will then address them to the child. A health care official can be asked to assess the investigation/interview recording of the child in order to properly understand the child⁶⁰.

The court may forbid the presence of a child who is below 15 years of age in a public court hearing, if being there would harm him or her⁶¹.

As noted earlier, children aged 15 years old or above, will be heard in court. The general starting point is that children aged 15 or above will be represented by their custodian. As an exception, children aged 15 years or above can exercise rights together with their custodian. If the matter concerns property or another matter that a child who is aged 15 or over can administer by him/herself, he/she can exercise his/her rights alone.

2.1.7 Right to legal counsel, legal assistance and representation

As discussed in [Section 2.1.5](#), a court can appoint a legal counsel to a child, or adult, victim both during the investigation and at trial if they have submitted a claim against the defendant and the case concerns, for example, sexual crimes or domestic violence⁶². The expenses for the legal counsel are covered either by the State (e.g. with respect to domestic violence) or by general legal aid. Children who are below 15 years of age and appear before the court may, in addition to a legal counsel, be allocated a so-called 'support worker' to provide them with mental support throughout the proceedings⁶³. A support worker can also be appointed to children aged 15 and above and adult victims if there are some special grounds requiring it, e.g. person been victim of sexual or other violent offences or offences related to life or health. In addition, the investigating authorities can allow a more informal support worker

⁵⁵ [The Criminal Procedure Act](#) (*Laki oikeudenkäynnistä rikosasioissa/Lag om rättegång i brottmål*) (689/1997), Section 10.

⁵⁶ Government Bill HE 222/2010 at 30/265.

⁵⁷ [Act on the Publicity of Court Proceedings in General Courts](#) (*Laki oikeudenkäynnin julkisuudesta yleisissä tuomioistuimissa/lag om offentlighet vid rättegång i allmänna domstolar*)(370/2007) Section 15.

⁵⁸ Hirvelä, Päivi, *Rikosprosessi lapsiin kohdistuvissa seksuaalirikoksissa* (Helsinki, 2006) 148-151.

⁵⁹ [The Code of Judicial Procedure](#) (*Oikeudenkäymiskaari / Rättegångsbalk*)(4/1734) Chapter 17 Section 21.

⁶⁰ *Lapsen kohtaaminen poliisitoiminnassa ja esitutkinnassa, Poliisihallituksen ohje 2020/2011/1607.*

⁶¹ [Act on the Publicity of Court Proceedings in General Courts](#) (*Laki oikeudenkäynnin julkisuudesta yleisissä tuomioistuimissa/lag om offentlighet vid rättegång i allmänna domstolar*)(370/2007) Section 20.

⁶² [The Criminal Procedure Act](#) (*Lakioikeuden käynnistä rikosasioissa/Lag om rättegång i brottmål*) (689/1997).

⁶³ <http://www.om.fi/en/Etusivu/Julkaisut/Esitteet/Oikeusapu/Rikoksenuhriavoisaadaavustajanjatukihenkilön>.

who could for instance be someone close to the victim or from Victim Support Finland.⁶⁴ The new Criminal Investigation Act mentions explicitly that the victim has the right to have a counsel chosen by him or herself.⁶⁵

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

A child or adult victim can seek compensation from the State in cases where proceedings are delayed in accordance with the Act on Compensation for the Excessive Length of Judicial Proceedings⁶⁶. In order to provide such compensation, the court takes various factors into account including the length of proceedings, the nature of the case (quality and extent), actions of the parties, officials and courts and the importance of the matter to the parties.

Complaints can also be submitted to the Parliamentary Ombudsman and the Chancellor of Justice who oversees public authorities and officials, including their compliance with constitutional and human rights. Everyone can file a complaint and it is possible to call for advice on how to complain. When the tasks of these two bodies overlap, a complaint will be forwarded to the authority most suitable to handle the complaint. For instance, the Chancellor of Justice supervises activities of advocates and the Parliamentary Ombudsman supervises limitations to liberty of movement and prisons.

General rules in cases of decisions not to prosecute also apply to child victims. If the prosecutor has decided not to prosecute or the investigating authorities and/or the prosecutor have decided not to investigate or interrupt or stop investigating, the victim has the right to bring a charge. He/she also has the right to assume the prosecution if a public prosecutor or another victim has abandoned it. If the victim of the crime was killed through the offence, the surviving spouse and children have the right of the injured party to bring a charge, and if he/she does not have any of these survivors, the parents and the siblings have the right of the victim to bring a charge⁶⁷,

In relation to criminal proceedings, the prosecutor would bring claims on damages on behalf of the victim. The legal representatives of a child such as guardians represent the child also in relation to damages. Children of at least 15 years of age administer independently property that they have earned with work and could independently claim damages concerning that. In general the prosecutor brings the claim on damages on behalf of the child victim whether or not represented by a legal guardian⁶⁸. As noted above in [2.1.2.](#), there is also the possibility to ask for damages that were caused by the offence from the State Treasury within three years from the final judgment or if the case has not been handled by a court within ten years from the crime⁶⁹. The State Treasury can pay damages for personal injury, and in certain cases also material damage if the damage has been caused by a convict or other person whose liberty has been restricted due to a crime, or a person who has been in detention or put into involuntary care. Also damages for legal expenses can be paid. In order to be able to ask for damages from the State Treasury the person must have reported the crime and claimed for damages if there have been court proceedings.

⁶⁴ Government Bill HE 222/2010 at 30/265.

⁶⁵ The Criminal Investigations Act ([Esitutkintalaki](#) / *Förundersökningslag*)(805/2011) Chapter 2 Section 10.

⁶⁶ The Act on Compensation for the Excessive Length of Judicial Proceedings ([Laki oikeuden käynnin viivästymisen hyvittämisestä](#) / *Lag om gottgörelse för dröjsmål vid rättegång*)(362/2009).

⁶⁷ [The Criminal Procedure Act](#) (*Laki oikeudenkäynnistä rikosasioissa/Lag om rättegång i brottmål*) (689/1997), Chapter 1 Sections 14, 15, 17.

⁶⁸ [The Criminal Procedure Act](#) (*Laki oikeudenkäynnistä rikosasioissa/Lag om rättegång i brottmål*) (689/1997), Chapter 3 esp Section 9.

⁶⁹ The Act on Criminal Damages ([Rikosvahinkolaki](#) / *Brottskadelag*) (1204/2005) Section 6.

2.2 The child as a witness

2.2.1 Reporting a crime

Please see [Section 2.1.1](#).

2.2.2 Provision of information

During the police investigation, a child must be treated according to his or her age and level of development. If possible, the questioning of child witnesses should be undertaken by a police officer specialised in investigating children. The investigating officer must when necessary consult with a doctor or other specialist whether a child can be interviewed⁷⁰.

When a person, adult or child, is interviewed as part of an investigation he or she must be notified of his or her role in the investigation and the suspected criminal act⁷¹. According to the new Criminal Investigation Act (Chapter 6, Section), this information also needs to be given in the invitation to the investigation.

When a person is questioned in a pre-trial investigation, the investigating officers must take care that there is interpretation at public expense in a language that the person understands and speaks well enough⁷². Interpretation must also be provided if the interviewed person has a speech defect or other similar problem. According to the new Criminal Investigation Act, invitations and notifications need to be sent in a language that the person understands⁷³.

In general, the district court invites parties and witnesses to court proceedings. During the court proceedings, the judges of the case are in charge of steering the proceedings.

2.2.3 Protection from harm and protection of private and family life

Please see [Section 2.1.3](#).

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

Please see [Section 2.1.4](#).

2.2.5 Protecting the child during interviews and when giving testimony

Please see [Section 2.1.5](#).

2.2.6 Right to be heard and to participate in criminal proceedings

Please see [Section 2.1.6](#).

When children under 15 years of age are questioned as witnesses, their guardians have the right to be present during the examination. If a person under 18 years of age is questioned, an interview witness must be present unless a legal representative is already present.

2.2.7 Right to legal counsel, legal assistance and representation

Children below 15 years of age can participate in criminal proceedings as witnesses or plaintiffs if such participation is of central significance and the hearing would not cause suffering or harm to the child, injuring his/her development. The court must, when necessary, appoint a support worker for a child witness under 15 years of age who is heard by the court. In practice, even informal support workers have been accepted. Children aged 15 years old or above, will be heard in court. There are no provisions on legal assistance of witnesses,

⁷⁰ The Criminal Investigations Decree ([Asetus esitutkinnasta ja pakkokeinoista](#) / Förordning om förundersökning och tvångsmedel) (575/1988) Section 11.

⁷¹ The Criminal Investigations Act ([Esitutkintalaki](#) / Förundersökningslag)(449/1987) Sections 9 and 29.

⁷² Government Bill HE 222/2010 at 26/265.

⁷³ The Criminal Investigations Act ([Esitutkintalaki](#) / Förundersökningslag)(449/1987) Section 37 ; Government Bill HE 222/2010 at 26/265.

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

Complaints can be submitted to the Parliamentary Ombudsman and the Chancellor of Justice who oversees public authorities and officials, including their compliance with constitutional and human rights. Everyone can file a complaint. When the tasks of these two bodies overlap, a complaint will be forwarded to the authority most suitable to handle the complaint. For instance, the Chancellor of Justice supervises activities of advocates and the Parliamentary Ombudsman supervises limitations to liberty of movement and prisons.

Travel expenses, daily allowance, possible economic loss and accommodation costs are compensated for adult and child witnesses from state funds related to the court proceedings⁷⁴.

2.3 The child as a suspect/ defendant

2.3.1 Age of criminal responsibility

In Finland, only children who are 15 years of age or above at the time of the commission of the offence can be held criminally responsible. Children who are below 15 years of age when committing an offence are subject to measures under the Child Welfare Act. It should be noted that measures under the Child Welfare Act, which also applies to children above 15 years of age, do not aim to punish. Child welfare measures include a first investigation by social workers to assess the need for child welfare measures.

If there is need, a client plan will be drawn up based on discussions with the child and his/her family. In some cases, immediate action may also be needed, such as taking the child into care if he or she is in danger. After drawing up the client plan, if support in open care is not feasible because parents are not able to take care of the child, taking the child into care could be considered. Support measures could in practice include family worker visits, a support worker or support family, financial aid for hobbies, peer groups (also) for parents as well as treatment and therapy services⁷⁵.

Children who are under 15 years of age may be investigated by the police. However, criminal offences committed by those below this age cannot be dealt with by any court. Rather, the case is turned over to the municipal social welfare or child welfare board for consideration in accordance with the Child Welfare Act (1983/683)⁷⁶ However, their acts could be subject to mediation. They could also be liable for civil damages.⁷⁷

2.3.2 Provision of information

In Finland, there are general provisions concerning suspects/defendants which apply both to children and adults. For example, both child and adult suspects must be notified of their role in the investigations and the investigated act⁷⁸. Child suspects, and adults in certain cases, must be informed by the police that they have the right to have a defence counsel present in the investigation; as of 1 January 2014 such information must be provided in writing. If the child cannot retain a defence counsel, one will be appointed to him/her unless it is obvious, especially with regards to certain crimes⁷⁹, that he/she does not need one⁸⁰. Parties, including the suspect, also have the right to be informed about the progress of the

⁷⁴ Ministry of Justice, [Todistajalle maksettavat korvaukset](#).

⁷⁵ <http://www.lastensuojelu.info/en/services.html>.

⁷⁶ <http://www.heuni.fi/uploads/mw1ahyvuylr.pdf>.

⁷⁷ Government Bill HE 229/2009.

⁷⁸ The Criminal Investigations Act (*Esitutkintalaki / Förundersökningslag*)(449/1987) Sections 9 and 29. According to the new [Criminal Investigation Act](#) this information needs to be also given in the invitation to investigations. Chapter 6 Section 1.

⁷⁹ Government Bill HE 132/1997.

⁸⁰ [The Criminal Procedure Act](#) (*Laki oikeudenkäynnistä rikosasioissa / Lag om rättegång i brottmåll*)(689/1997).

investigation as long as that does not harm the investigation⁸¹. According to the new Criminal Investigations Act, child and adult suspects must also be informed that they have the right not to contribute to the investigation of the act they are suspected of having committed⁸².

Similarly to adults, when a prosecutor decides to bring charges against a child, he /she will be informed of the charge by the court or the prosecutor. Furthermore, he/she will be given the right to provide answers to the questions posed by the prosecutor, and in certain cases, also in writing before the oral proceedings.

A defence counsel is to be appointed to a suspect ex officio if he or she has not retained a defence counsel and is under 18 years of age, unless it is obvious that he or she does not need a defence counsel.

Social welfare officials must be present during criminal proceedings, and guide the child and inform him/her of the possibility of mediation when considered necessary⁸³.

A young person (15-20 years of age) is entitled to the opportunity to be heard when a consequence report is made on him or her (see more below in [2.3.3](#)).

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

Within 14 days from when a child of 15 years of age or above (as well as a young person between 18 and 20 years of age) has been registered as a suspect of a crime, the pre-trial investigator, i.e. the police, must notify the prosecutor, the social welfare authority, and the Criminal Sanctions Agency, which is an agency responsible for enforcement of sanctions under the direction of the Ministry of Justice. The pre-trial investigation may be concluded without handing the case to the prosecutor, if the crime was committed when the suspect was an adult and a petty fine was imposed or a summary penal judgment was issued.

If the penalty foreseen for the crime is more severe than a fine, the prosecutor must ask the Criminal Sanctions Agency to formulate a consequence report (*seuraamuselvitys*). Within 30 days of the request the Agency must assess possible criminal consequences and enforcement, and consider how social 'survival', i.e. maintaining the person's social ties, could be enhanced and further crimes prevented. For this purpose the Criminal Sanction Agency has the right to obtain information from the social services regarding the situation of the young person/child, including his/her mental health and the possible use of intoxicants. The Agency will assess the implications of different kinds of punishments on the child, starting from the punishment proposed by the prosecutor. The child and young person up to 20 years of age must be given the opportunity to be heard. In addition, with respect to children, the guardian or other legal representative must be given the opportunity to be heard. Other officials and experts will be heard as required. The consequence report needs to be at the court's disposal when the proceedings take place⁸⁴.

Legislation does not contain rules specifically concerning the possibility of arresting children. However, according to the legislation, no one should be arrested if that would be unreasonable for reasons *inter alia* due to their age⁸⁵. Similarly to adults, children and young persons below 20 years of age should be informed of their right to contact their parents or next of kin. However, in the case of adults it is possible not to inform these persons if the arrested does not give his/her consent, in the case of children the next of kin must be informed regardless of whether the child gives his/her consent⁸⁶. Both the child's custodian

⁸¹ The Criminal Investigations Act ([Esitutkintalaki](#) / *Förundersökningslag*)(449/1987).

⁸² The Criminal Investigations Act ([Esitutkintalaki](#) / *Förundersökningslag*)(805/2011) Chapter 7 Section 10.

⁸³ Act on Child Protection (Act 417/2007). This might refer to Child Welfare Act (417/2007) Section 24.

⁸⁴ The Act concerning examination of the situation of a young person suspected of crime (*Lakinuorenikoksesta epäillyntilanteenselvittämisestä* / *Lag om utredning av ungdomsbrottsmisstänktas situation*) (633/2010) came into force on 1 January 2011 with the aim of clarifying the reasons that have led a young person to commit offence and his or her social situation.

⁸⁵ Section 3 under Chapter 1 of the Coercive Measures Act.

⁸⁶ Government Bill HE 222/2010 37-38.

or other legal representative and the social welfare officials should be reserved the opportunity to be heard in relation to the detention procedure in a court.

Similarly, no one should be detained if that would be unreasonable for reasons inter alia due to their age⁸⁷. Nonetheless, children below 15 years of age who are suspected of a criminal act can be apprehended for interview purposes for a maximum of 12 hours or exceptionally up to 24 hours. However, they may not be arrested, detained or subjected to travel restrictions⁸⁸.

According to Section 30 of the Criminal Investigation Act, child suspects cannot be interviewed without a witness unless their (defence) counsel, legal representative or a representative of the social authorities is present. Social authorities must be informed of any criminal act committed by children below 18 years of age and given the opportunity to be present in the investigation and the court procedure. Furthermore, the criminal investigation protocol must be sent to the social authorities without undue delay⁸⁹.

A project called 'Anchor' is in place at several police stations in Finland. Under this project all children between 15 and 18 years of age who are for the first time suspected of a crime (and also those below 15 years of age) participate in a meeting with their parents within two weeks from the commission of the act. After this first meeting, these children and their custodians meet one to five times with social workers, health care and youth workers. After that, further assistance is possible if needed. The Ministry for the Interior aims to extend the programme to the whole of Finland in the coming years as a part of the Security Programme⁹⁰.

2.3.4 Conditions for pre-trial detention/ custody

Children who are 15 years of age or older may be ordered by a court to pre-trial detention or, as an alternative, to electronic monitoring. General provisions on pre-trial detention apply to both children and adults, and a person suspected of an offence with probable cause may be detained⁹¹:

1. where a less severe penalty than imprisonment for two years has not been provided for the offence;
2. where a less severe penalty than imprisonment for two years has been provided for the offence, but the most severe penalty exceeds imprisonment for one year and, having regard to the personal circumstances of the suspect or other factors, there is reason to suspect that:
 - a. the suspect will abscond or otherwise attempt to evade criminal investigation, trial or enforcement of sentence;
 - b. the suspect will hinder the investigation of the offence by destroying, defacing, altering or concealing evidence or by influencing a witness, a complainant, an expert or an accomplice;
 - c. the suspect will continue his/her criminal activity.
3. where the identity of the suspect is not known and the suspect refuses to divulge his/her name or address, or gives manifestly false information;
4. where the suspect does not have a permanent residence in Finland and it is probable that the suspect will attempt to evade criminal investigation, trial or enforcement of sentence by leaving the country.

⁸⁷ Section 26a of Chapter 1 of the Coercive Measures Act.

⁸⁸ Government Bill HE 222/2010.

⁸⁹ [The Criminal Investigations Act \(Esitutkintalaki / Förundersökningslag\)\(805/2011\)](#)Chapter 7 Section 16; also Child Welfare Act (Lastensuojelulaki / Barnskyddslag)(417/2007)Section 24.

⁹⁰ <http://www.haaste.om.fi/Etusivu/Lehtiarkisto/Haasteet2012/Haaste32012/1347272929747>.

⁹¹ The Coercive Measures Act, Chapter 1:8(1).

When there is cause to suspect a person of having committed an offence, he/she may be detained even in the absence of probable cause, provided that the prerequisites for detention are otherwise in place and detention is of the utmost importance in view of anticipated additional evidence.

A person suspected of an offence with probable cause whose extradition to Finland will be requested may be detained if the most severe penalty provided for the offence is not less than one year's imprisonment and if the personal circumstances of the suspect, the number or nature of the offences to be included in the extradition request, or other similar factors give reason to suspect that the person will not arrive in Finland voluntarily to face prosecution. It is also stipulated that no one may be detained or the continuation of his/her detention ordered when this would be unreasonable due to the nature of the matter or the age or other personal circumstances of the suspect or offender.

When considering detention and when reviewing a detention matter to decide whether an earlier detention should be continued, the court may impose a travel ban instead of detention. In accordance with the principle of least harm applied in the exercise of coercive measures, no one's rights may be restricted to an extent beyond that.

When pre-trial detention is ordered for children, special attention should be paid to their needs due to their age and stage of development⁹². Children below 18 years of age must be detained separately from adults unless his/her parents require otherwise⁹³.

In the Government bill for the Act it is noted that police often do not have the possibilities to give the support and help needed to the child and therefore the police should be in contact with the social welfare officials. According to Section 25 of the Child Welfare Act, persons in the police service should inform social welfare officials of children in need of protection.⁹⁴

Child and adult suspects have the right to be in contact with their counsel in person or communicate with him/her in writing or via telephone⁹⁵.

2.3.5 Protection of private and family life

In order to protect the privacy of the child, the consequence report prepared by the Criminal Sanctions Agency must be kept confidential⁹⁶, and the proceedings involving child defendants should, if requested by parties or decided by the court for other reasons, take place behind closed doors unless this would be against a significant public interest⁹⁷. In addition, the general principle of criminal procedural law to be presumed innocent applies to everyone, including children.

According to self-regulatory provisions, namely, [guidelines for journalists](#) of [the Council for Mass Media in Finland](#), the name and picture of child suspects should not in general be published. Such publication can take place only in very exceptional cases, for example, if the police need to obtain information about the offence⁹⁸.

⁹² The Act on the Treatment of Persons under Police Custody (*Lakipoliisinsäilyttämienhenkilöidenkohtelusta / Lag om behandlingen av personer i förvarhospolisen*)(841/2006) Chapter 1 Section 4.

⁹³ The Act on the Treatment of Persons under Police Custody (*Lakipoliisinsäilyttämienhenkilöidenkohtelusta / Lag om behandlingen av personer i förvarhospolisen*)(841/2006) Chapter 3 Section 1.

⁹⁴ Government Bill HE 90/2005.

⁹⁵ The Criminal Investigations Act (*Esitutkintalaki / Förundersökningslag*)(449/1987) Section 10.

⁹⁶ [Act on the Publicity of Court Proceedings in General Courts](#) (*Laki oikeudenkäynnin julkisuudesta yleisissä tuomioistuimissa/lag om offentlighet vid rättegång i allmänna domstolar*)(370/2007) Section 9.

⁹⁷ [Act on the Publicity of Court Proceedings in General Courts](#) (*Laki oikeudenkäynnin julkisuudesta yleisissä tuomioistuimissa/lag om offentlighet vid rättegång i allmänna domstolar*)(370/2007) Section 15.

⁹⁸

http://www.lskl.fi/tiedottaa/tiedotusvalineille/opas_lasten_haastatteliijoille_ja_kuvaajille/sisalto/#25Lapsirikosjaoikeusuutisoinnissa.

2.3.6 Alternatives to judicial proceedings

Conciliation, governed by the Act on Conciliation in Criminal and Certain Civil Cases (1015/2005), is an alternative to judicial proceedings, and can be used by child offenders⁹⁹. Conciliation can also be used in addition to judicial proceedings. Under this procedure, the child suspect and the victim have the opportunity to meet in confidence with an independent conciliator, to discuss the mental and material harm caused to the victim by the crime and agree on measures to redress the harm¹⁰⁰.

In order to determine whether conciliation could be available with respect to a crime, the nature and method of the offence, the relationship between the suspect and the victim and other issues related to the crime as a whole are taken into consideration. Crimes that are in general considered to be excluded from conciliation are those involving victims in need of special protection such as in cases of domestic violence.

Any of the parties, police or other officers or the guardians or legal representatives of child suspects can suggest that the parties should enter into a conciliation process. Conciliation can be started only if the parties consent in person. In cases concerning children, the consent of the guardians or other legal representatives is required.

A written agreement is then made based on the conciliation.

There are municipal and/or regional Conciliation offices for the conciliation between victims and offenders¹⁰¹.

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

A general principle of the Finnish criminal system is that children involved in criminal investigations must be treated according to their age and level of development. If possible, questioning of a child should be undertaken by a police officer who is specialised in working with children. The investigating officer must, when necessary, consult with a doctor or other specialist to determine whether a child can be interrogated¹⁰².

As of 2014, according to the new Criminal Investigations Act (805/2011), pre-trial investigation must be carried out without unnecessary delays, in particular with respect to cases involving child suspects between 15 and 18 years of age or if the investigation concerns an act committed by a child under 15 years old¹⁰³. If the threatened imprisonment for the offence exceeds six months, the main hearing is to take place within two weeks of the time when the criminal case became pending¹⁰⁴.

Social welfare officials must be present during criminal proceedings, and guide the child and inform him/her of the possibility of mediation when considered necessary. Also as noted above in [2.3.3](#), if the penalty foreseen for the crime is more severe than a fine, the prosecutor must ask the Criminal Sanctions Agency to formulate a consequence report (*seuraamuselvitys*). As a result, the social welfare officials will get in contact with the child suspect, his/her parents and possibly with further services too. The starting point for child welfare activities is to support a child in his/her family.

No information was found regarding making premises and places where children are involved in proceedings non-intimidating and child-friendly.

⁹⁹ National Police Board (*Poliisihallitus*), Instructions of 22 November 2011, 2020/2011/3411.

¹⁰⁰ Act on Conciliation in Criminal and Certain Civil Cases (1015/2005), Section 1.

¹⁰¹ Information collected in writing from the Finnish authorities. Please note that the term 'conciliation' is the translation provided by Finlex, official legal database; but could also be understood as 'mediation'.

¹⁰² The Criminal Investigations Decree ([Asetus esitutkinnasta ja pakkokeinoista](#) / *Förordning om förundersökning och tvångsmedel*) (575/1988) Section 11a.

¹⁰³ The new [Criminal Investigations Act](#) (805/2011)(into force as 1 January 2014), Chapter 4 Section 11.

¹⁰⁴ [The Criminal Procedure Act](#) (*Laki oikeudenkäynnistä rikosasioissa* / *Lag om rättegång i brottmål*)(689/1997), Chapter 5, Section 13.

2.3.8 Protecting the child during interviews and when giving testimony

In criminal investigations, a child must be treated according to his or her age and level of development. If possible, children should be interviewed by police officers who are specialised in working with children. The investigating officer must when necessary consult with a doctor or other specialist whether a child can be interviewed¹⁰⁵.

In order to assist the child during the investigation, the Social Welfare Board must be given the opportunity to send their representative when a child is interviewed as a defendant of a crime¹⁰⁶. In fact, children cannot be interviewed without a witness present, unless their (defence) counsel or legal representative or a representative of the Social Welfare Board is already present at the place of interview¹⁰⁷.

The guardian or other legal representative of a child below 15 years of age has the right to be present at the questioning of that child¹⁰⁸. The guardian, custodian, or other legal representative of a child aged 15 years or over has the right to be present at the interview if he or she would have the right to be present in court hearings in accordance with the Code of Judicial Procedure¹⁰⁹.

2.3.9 Right to be heard and to participate in criminal proceedings

A person without full legal capacity shall exercise his or her right to be heard as a defendant in a criminal case if he or she is responsible under criminal law. In addition, the guardians or other legal representatives of a child defendant have an independent right, parallel to that of the child, to be heard¹¹⁰. For child suspects below 18 years of age, a defence counsel is appointed *ex officio* unless the child already has one or it is obvious that he or she does not need a counsel.¹¹¹

Children above 15 years of age (and young adults under 20 years of age) have the right to be heard when a consequences report is drafted by the Criminal Sanctions Agency. Such a hearing could be waived if it is manifestly unnecessary or if the child declines or if he or she cannot be reached.

In criminal proceedings, child and adult defendants have the right to use their own language; interpretation or translation must be arranged by the court¹¹².

2.3.10 Right to legal counsel, legal assistance and representation

If the child suspect is under 18 years of age, a defence counsel is appointed *ex officio* unless the child already has one or it is obvious that he or she does not need a counsel (where for example the child is very close to adulthood)¹¹³. There are no specific rules on the possibility to waive the right to a lawyer.

¹⁰⁵ The Criminal Investigations Decree ([Asetus esitutkinnasta ja pakkokeinoista](#) / Förordning om förundersökning och tvångsmedel) (575/1988) Section 11.

¹⁰⁶ The Criminal Investigations Decree ([Asetus esitutkinnasta ja pakkokeinoista](#) / Förordning om förundersökning och tvångsmedel) (575/1988) Section 15.

¹⁰⁷ The Criminal Investigations Act ([Esitutkintalaki](#) / Förundersökningslag)(449/1987)Section 30.

¹⁰⁸ The Criminal Investigations Act ([Esitutkintalaki](#) / Förundersökningslag)(449/1987)Section 33.

¹⁰⁹ The Criminal Investigations Act ([Esitutkintalaki](#) / Förundersökningslag)(805/2011) Chapter 7 Sections 14 and 15; [The Code of Judicial Procedure](#) (*Oikeudenkäymiskaari / Rättegångsbalk*)(4/1734).

¹¹⁰ [The Code of Judicial Procedure](#) (*Oikeudenkäymiskaari / Rättegångsbalk*)(4/1734) Chapter 12 Section 2.

¹¹¹ [The Criminal Procedure Act](#) (*Lakioikeudenkäynnistä rikosasioissa / Lag om rättegång i brottmål*)(689/1997) Chapter 2 Section 1.

¹¹² [The Criminal Procedure Act](#) (*Laki oikeudenkäynnistä rikosasioissa / Lag om rättegång i brottmål*)(689/1997) Chapter 6a Section 2.

¹¹³ [The Criminal Procedure Act](#) (*Lakioikeudenkäynnistä rikosasioissa / Lag om rättegång i brottmål*)(689/1997) Chapter 2 Section 1.

The defence counsel is entitled to a fee and compensation from State funds¹¹⁴. If the court finds the child defendant guilty, he or she is obliged to reimburse the State for the compensation paid from State funds to the defence counsel¹¹⁵. If the child meets the criteria for legal aid the reimbursement to the State cannot exceed the compensation which would be payable under the Legal Aid Act. Legal aid depends on income and with no income a child would be entitled to the legal aid without having to pay any share.

The Criminal Procedure Act contains the requirements that need to be met by persons who can be appointed as defence counsels. In general, they should be either legal aid counsels or advocates. In general, a qualified person proposed by a defendant as defence counsel is accepted¹¹⁶.

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

According to the Act on Compensation from State Funds for the Arrest or Detention of an Innocent Person, an innocent person who has been arrested and detained as a suspect of crime has the right to compensation¹¹⁷. According to general provisions, applicable to adults and children, compensation should be sought from the State Treasury in writing within six months from the moment which the applicant found out that the case will not be prosecuted, the case was dismissed, the judgment attained legal force, a judgement was revoked, or if there have been new proceedings and the judgement has attained legal force. There are no separate provisions with regard to cases concerning children, but a child's guardian or other legal representative(s) could apply.

Compensation could also be possible in cases of delay in proceedings¹¹⁸. In that case, the claim should be made to the court handling the case either orally or in writing¹¹⁹. There are no separate provisions on cases concerning children, but a child's guardian or other legal representative could apply. Factors to be taken into consideration include, in addition to the length of proceedings, the nature of the case (quality and extent), actions of the parties, officials and courts and the importance of the matter to the parties.

Complaints could also be made to the Parliamentary Ombudsman and the Chancellor of Justice who oversees public authorities and officials, including observation of constitutional and human rights. Everyone (including a child) can file a complaint. When the tasks of these two overlap, a complaint will be forwarded to the body most suitable to handle the complaint. For instance the Chancellor of Justice supervises activities of advocates and the Parliamentary Ombudsman supervises limitations to liberty of movement and prisons.

¹¹⁴ [The Criminal Procedure Act](#) (*Lakioikeudenkäynnistärikosasioissa / Lag om rättegång i brottmål*)(689/1997) Section 10.

¹¹⁵ [The Criminal Procedure Act](#) (*Lakioikeudenkäynnistärikosasioissa / Lag om rättegång i brottmål*)(689/1997), Section 11.

¹¹⁶ Ministry of Justice, <http://www.oikeus.fi/4344.htm>.

¹¹⁷ The Act on Compensation from State Funds for the Arrest or Detention of an Innocent Person ([Laki syyttömästi vangitulle tai tuomitulle valtion varoista vapauden menetyksen johdosta maksettavasta korvauksesta / Lag om ersättning av statens medel som till följd av frihetsberövande skall betalas till oskyldigt häktad eller dömd](#))(422/1974).

¹¹⁸ The Act on Compensation for the Excessive Length of Judicial Proceedings ([Laki oikeudenkäynnin viivästymisen hyvittämisestä / Lag om gottgörelse för dröjsmål vid rättegång](#))(362/2009).

¹¹⁹ The Act on Compensation for the Excessive Length of Judicial Proceedings ([Laki oikeudenkäynnin viivästymisen hyvittämisestä / Lag om gottgörelse för dröjsmål vid rättegång](#))(362/2009) Section 7.

3 Child-friendly justice after judicial proceedings

3.1 The child as a victim or offender

3.1.1 Provision of information

When a district court issues a judgment in a criminal law case where either a child or an adult is involved, it states at the same time the procedure for appeal¹²⁰. Written instructions are also provided to the parties. In criminal cases in which the court has sentenced a child or adult defendant who was absent at the proceedings, the district court shall immediately notify the defendant and send the instructions to the defendant. Notification is not needed when the sentence is a fine¹²¹. Similarly, instructions on how to appeal a decision of an appeals court to the Supreme Court are attached to the decision¹²².

A defence counsel or the counsel appointed to the victim assists his or her client in this appeal process¹²³.

3.1.2 Sentencing

The most common penalty imposed upon children is a fine. If the child is sentenced to imprisonment, there are different options:

- a. conditional sentencing in which case children aged 15 or over and young persons up to 20 years of age could be placed under supervision
- b. juvenile punishment for children aged 15-17
- c. community service and surveillance punishment
- d. unconditional punishment.

Juvenile punishment is imposed when considered more appropriate to promote and safeguard social ties and to prevent the child from committing new crimes, especially if this risk seems high. If the child is already subject to a number of welfare measures, a juvenile punishment might not be required. Both the child and his or her custodian are informed about possible juvenile punishment¹²⁴. Juvenile punishment consists of supervised activities and programmes, support and guidance, unpaid work and orientation to work as well as programmes aimed at helping the child with any problems he/she faces (e.g. substance abuse or anger management programmes). It lasts from 4 to 12 months¹²⁵ and aims at improving the child's capacity to cope with society. The exact content of the juvenile punishment is set out in an enforcement plan approved by the court. The child is appointed a supervisor.

Community service and surveillance punishment, which became applicable in 2011, could also be used as a sentence. For instance, surveillance punishment is considered an alternative for shorter unconditional imprisonment especially for a child aged 15 or over or a young adult under 20 years of age who is a first time offender, in order to maintain a job or study place and to avoid contacts with habitual offenders. Under surveillance punishment, the person is required to stay in his/her home and is allowed to exit for specific reasons. In addition, the person must follow a daily programme which could include for example education or vocational training.

¹²⁰ [The Code of Judicial Procedure](#) (*Oikeudenkäymiskaari / Rättegångsbalk*)(4/1734) Chapter 25 Section 3.

¹²¹ [The Code of Judicial Procedure](#) (*Oikeudenkäymiskaari / Rättegångsbalk*)(4/1734) Chapter 25 Section 4.

¹²² [The Code of Judicial Procedure](#) (*Oikeudenkäymiskaari / Rättegångsbalk*)(4/1734) Chapter 30 Section 4.

¹²³ [The Criminal Procedure Act](#) (*Lakioikeudenkäynnistärikosasioissa/Lag omrättgång i brottmål*)(689/1997) Chapter 2 Section 7.

¹²⁴ Rikosseuraamuslaitos, Nuorisorangaistuksentäytäntöönpano (23/004/2010).

¹²⁵ Ministry of Justice, Young offenders, <http://www.oikeus.fi/16076.htm>.

For children, the sentence is at most three fourths of the sentence that would be imposed on an adult¹²⁶. A child and a young adult below the age of 20 can also be granted a waiver of punishment, if the court deems that the act was a result of a lack of understanding or of imprudence¹²⁷.

3.1.3 Deprivation of liberty

As a general rule, a child from 15 years of age and under 18 years of age should not be sentenced to unconditional imprisonment unless there are cogent reasons.¹²⁸ Imprisonment should be a last resort and deprivation of liberty should be for the shortest time possible¹²⁹. Children who are imprisoned must be kept separately from adult prisoners unless their best interests require otherwise¹³⁰. Offenders who were below 21 years of age at the time the offence was committed must be treated taking into account their needs due to their age and development¹³¹.

Things to take into consideration in choosing the prison include the imprisonment plan, the place of residence, the child's need to maintain close relations with his/her family, the child's age, gender, health condition, earlier crimes and punishments, personal wishes and possibilities for activities.

If the imprisoned child is obliged to complete his/her basic education, schooling arrangements must be made. The need to maintain family relations has been emphasised with respect to imprisoned children. When children first enter prison, they should be met personally by a person from an assessment centre under the Criminal Sanctions Agency¹³² and an imprisonment period plan should be drafted for them by the assessment centre. It should also be assessed whether the child could be placed in an approved school instead of a prison, or in an open prison which could come into consideration for example when combined with vocational schooling.

In institutions where children are imprisoned there must be persons who ensure that the best interests of the child are taken into consideration. These officers must be familiar with child development and how to support children to refrain from committing new crimes and to abstain from using drugs and other substances. Education of child prisoners is supported both inside the institution and afterwards. For all child prisoners, a plan for release is drafted and coordinated along with a rehabilitation and employment activation plan. The child may also be released on probation in cooperation with child welfare officials after serving one third of his or her sentence if he or she is in prison for the first time, or after serving half of the sentence if he or she has been in prison during the period of three years before the crime. Also a supervision plan is drafted for the child¹³³.

Although other forms of penalty do not include imprisonment, they include restrictions on movement such as surveillance punishment in which the person should not leave his or her home for reasons other than decided beforehand.

¹²⁶ [The Criminal Code \(Rikoslaki/ Strafflag\)\(39/1889\)](#) Chapter 6 Section 8.

¹²⁷ [The Criminal Code \(Rikoslaki/ Strafflag\)\(39/1889\)](#) Chapter 6 Section 12.

¹²⁸ [The Criminal Code \(Rikoslaki/ Strafflag\)\(39/1889\)](#) Chapter 6 Section 9.

¹²⁹ Legal Committee of the Parliament of Finland, [LaVM 9/2005 vp.](#)

¹³⁰ The Prison Sentences Act ([Vankeuslaki/ Fängeslag](#))(767/2005) Chapter 5 Section 2; The Detention Act ([Tutkintavankeuslaki/ Häktningslag](#))(768/2005) Chapter 3 Section 1.

¹³¹ The Prison Sentences Act ([Vankeuslaki/ Fängeslag](#))(767/2005) Chapter 4 Section 8; The Act on the Treatment of Person under Police Custody ([Laki poliisin säilyttämien henkilöiden kohtelusta / Lag ombehandlingen av personer i förvarhospolisens](#))(841/2006) Chapter 1 Section 4; The Detention Act ([Tutkintavankeuslaki/ Häktningslag](#))(768/2005) Chapter 1 Section 5.

¹³² Organisation of the Criminal Sanctions Agency <http://www.rikosseuraamus.fi/49264.htm>.

¹³³ [Rikosseuraamuslaitos, ohje alle 18-vuotiaiden rangaistuksen täytäntöönpanosta, sijoittamisesta, vapauttamisesta ja valvonnasta](#), dnro 8/004/2012.

3.1.4 Criminal records

The Legal Register Centre keeps a national central register of criminal records, which contains data on conditional imprisonment, supervision, community service, a supplementary fine, juvenile penalty and surveillance punishment. Dismissal or waiving of a sentence if a person is not criminally responsible is also mentioned in the criminal record¹³⁴.

The time when the criminal record is expunged depends on the nature of the punishment; for instance after five years have passed from the judgment in cases of conditional imprisonment, an additional fine, juvenile punishment or a fine, or community service; after 10 years in case of unconditional imprisonment of at most two years or community service; and after twenty years in case of over two and not more than five years' imprisonment or waiving of sentence on grounds of criminal irresponsibility. In the case of a juvenile penalty (see above [3.1.2.](#)) the register mark is deleted when five years have passed from the judgment.

Information on a child's or adult's criminal record can be provided for the purposes of imposing criminal sanctions or enforcing them or when so required by the legislation to assess the reliability or suitability of a person, e.g. for filling a public post or granting a permit.

In addition to criminal records, police records include information on judgments. Acts committed by children under 15 years of age are erased a year after the person has turned 18 unless the act could have only resulted in imprisonment, if the child has committed more acts, or if the registration concerns other persons¹³⁵.

¹³⁴ <http://www.oikeus.fi/oikeusrekisterikeskus/18593.htm>.

¹³⁵ The Act on the Processing of Personal Data by the Police (*Laki henkilötietojen käsittelystä poliisitoimessa / Lag om behandlingen av personuppgifter i polisens verksamhet*)(761/2003) <http://www.finlex.fi/fi/laki/ajantasa/2003/20030761>.

4 Strengths and potential gaps

Under Finnish legislation, children are taken into consideration at the different stages of criminal justice proceedings. It is required to take into consideration the child's age and stage of development during investigations and to provide for legal counsel and support workers as well as to appoint a legal guardian where needed. Potential gaps could come into play in carrying out the process in practice. A child-friendly result may depend on the training and experience of the relevant actors, the readiness for multi-professional co-operation, and for example the availability of persons who could act as legal guardians. With regards to multi-professional co-operation, initiatives such as 'Anchor' and the training provided for state officials seem promising. Lack of coordination has been criticised and there is hope that the Children's House will provide the coordination that has been considered lacking and thereby leaving provision of services and cooperation fragmented.

Social welfare officials, and in cases in which the expected sentence would be more severe than fines, also the Criminal Sanctions Agency, are notified by the police of child suspects and come into contact with their families in this way. Especially in relation to consequence reports, the child suspect's general situation is examined providing him/her an opportunity to be heard. Current legislation also includes time limits related to the consequence reports drafted by the Criminal Sanctions Agency which aim at speeding up proceedings concerning young suspects. The potential of child welfare remains dependent on allocated resources, and also resources needed for police and social welfare officials have been considered important with relation to the duty of collecting information for the consequence report¹³⁶.

Penalties applicable to young offenders have been subject to changes in recent years. Supervision of conditionally sentenced young offenders is considered remarkable and provides at the same time clear frames and flexibility¹³⁷.

¹³⁶ Ministry of Justice, [Nuorten rikosasioiden käsittely uudistuu](#), in Haaste 2/2011.

¹³⁷ Ministry of Justice, [Työryhmän esitys yhdistelmävankeutta koskevaksi lainsäädännöksi](#) (20/2013), at 23.

Conclusions

Overall, Finnish criminal law seems to follow the guidelines on child-friendly justice of the Council of Europe. The starting point of the Constitution is that children must be treated equally and as individuals, with individual personalities and characteristics, and allowed to influence matters relating to them to a degree which corresponds to their level of development.

In Finnish criminal law, the best interests of the child are safeguarded through procedural rules such as allowing the use of recorded investigations as evidence. It is also possible to hear the testimony of children in court without the presence of certain persons such as the offender.

There are provisions on informing adults and children at different stages of the criminal proceedings. The provisions on police investigations, at which stage children are most often involved, are quite detailed and, in addition, there are police guidelines on investigating children. Multi-professional cooperation is possible for investigations. Children's guardians, who are in practice the parents or other legal representatives, have in general the right to be present when children are being investigated. Children can also be appointed legal counsels and support persons for the entire process including appeals. The right to use one's own language is also taken into consideration, and interpretation is paid for by the State. Volunteer-based helplines and help organisations are available. State officials are provided training on the criminal process involving children.

For considerations of safety, the court may set a restriction order. If the victim is a child and the offender is one of the guardians, a legal guardian can be appointed, and the defendant guardian will not have the right to participate in the child's investigation. The police must inform social welfare officials of children in need of child welfare.

The approach toward child offenders could be described as a combination of criminal law and child welfare measures. A child offender's personal situation including social ties and education are taken into consideration both before sentencing and after. A child younger than 15 years of age cannot be arrested or detained. If a child is detained he or she should be kept separate from adults and can keep contact with his/ her family. Criminal procedures involving child defendants should not be delayed. Punishment for children or young persons is less strict than for adults, and children and adults are in principle separated when serving an imprisonment sentence.

Annex – Legislation reviewed during the writing of this report

Decrees:

- The Criminal Investigations Decree (575/1988) of 17 June 1988.

Acts:

- The Criminal Investigations Act (805/2011) of 22 July 2011.
- The Act concerning clarification of the situation of a young person suspected of crime (633/2010) of 24 June 2010.
- The Act on Compensation for the Excessive Length of Judicial Proceedings (362/2009) of 29 May 2009.
- Act on the Publicity of Court Proceedings in General Courts (370/2007) of 30 March 2007.
- Child Welfare Act (417/2007) of 13 April 2007.
- The Act on the Treatment of Persons under Police Custody (841/2006) of 29 September 2006.
- The Detention Act (768/2005) of 23 September 2005.
- The Prison Sentences Act (767/2005) of 23 September 2005.
- Act on Conciliation in Criminal and Certain Civil Cases (1015/2005) of 9 December 2005.
- The Act on Criminal Damages (1204/2005) of 29 December 2005.
- The Non-Discrimination Act (21/2004) of 20 January 2004.
- The Act on the Processing of Personal Data by the Police (761/2003) of 22 August 2003.
- The Act on openness of Government Activities (621/1999) of 21 May 1999.
- The Act on the Restraining Order (898/1998) of 4 December 1998.
- The Criminal Procedure Act (689/1997) of 11 July 1997.
- The Coercive Measures Act (450/1987) of 30 April 1987.
- The Criminal Investigations Act (449/1987) of 30 April 1987.
- The Act on Equality between Women and Men (609/1986) of 8 August 1986.
- The Child Custody and Right of Access Act (361/1983) of 8 April 1983.
- The Act on Compensation from State Funds for the Arrest or Detention of an Innocent Person (422/1974) of 31 May 1974.
- Tort Liability Act (412/1974) of 31 May 1974.
- The Criminal Code (39/1889) of 19 December 1889.
- The Code of Judicial Procedure (4/1734) of 1 January 1734.