



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

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Executive summary

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

The age of criminal responsibility is 17 years old – young people of this age and over will be judged according to the same rules as adult offenders, although the court will apply lower levels of punishment. There are separate prisons for people under 21 years old.

The general policy as regards juvenile justice is first and foremost to educate the child and assist him/her in social rehabilitation. The authorities conducting the proceedings in juvenile matters should be guided primarily by the juvenile's best interests and should seek to achieve positive changes in his/her personality and behaviour. They should also, when necessary, promote the appropriate fulfilment of the parents'/guardians' duties towards the minor.

Proceedings in matters involving children are conducted, for the most part, according to the rules of civil procedure, although there are also elements of criminal procedure at certain stages. The family court does not impose punishments, but applies educational, therapeutic and, as the last resort, correctional measures, that is placement in a correctional facility. The choice of this measure has to be adequately justified by all circumstances and the child's psychological profile. The most characteristic feature of the juvenile justice system is the wide discretion of the family court, which supervises and conducts all stages of the proceedings, from explanatory to enforcement stages.

The evolving capacities of the child are taken into account as regards child victims/witnesses and child offenders. There are provisions and standards concerning the interviewing of children (for example, the presence of a psychologist is required) and in particular psychological and sociological assessment is used to best adapt measures to the child's development.

As regards child victims/witnesses, one of the core principles of criminal proceedings is that they should be conducted in such a way as to ensure that all the legal rights of the victim are taken into consideration. Recent legislative amendments and numerous actions aim at strengthening protection of vulnerable child victims/witnesses.

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

A child does not have legal standing before the court and has to act through his/her statutory representative. A child victim has the status of party to the criminal proceedings only until the end of the preliminary proceedings. However, the parent or legal representative may maintain the status of party to the main proceedings by acting as an auxiliary prosecutor – s/he will have the right to challenge all actions and decisions taken, ask for evidence to be taken, interview witnesses, etc.

The child victim/witness, contrary to a child offender, is involved in a criminal procedure designed for adults and conducted in criminal courts. Thus, emphasis is put on limiting as much as possible the child's involvement in the procedure, where his/her procedural rights can be performed on his/her behalf by a parent or a legal counsel.

Child victims/witnesses under 15 years old enjoy particular protection in criminal proceedings: the Code of Criminal Procedure provides for special interview conditions for a child victim/witness who is under 15 years old at the moment of the interview. As regards older children, there are other provisions that can be applied to provide more protection to the child witness during the interview, but their use is facultative and will depend on the person conducting the proceedings in the given case. There are also several provisions/instruments designed to protect all witnesses from harm or intimidation from the offender, which equally apply to children.

The child offender and his/her parents have the rights of a party in juvenile proceedings. They can make comments and submit explanations and clarifications with regard to each piece of evidence. Participation of the child offender and his/her legal counsel in court hearings is mandatory.

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

Public policy places emphasis on assistance for victims of crimes, in particular children, child witnesses, prevention of domestic violence and sexual abuse and cybercrimes against children. The

government and/or specialised NGOs have organised a number of public information campaigns, training courses and workshops; guides and information brochures addressed to children, parents and professionals have been disseminated; standards of conduct and conditions for conducting child-friendly interviews have been prepared; several helplines offering psychological and legal assistance have been established.

Government policy as regards child offenders is less evident. There are several NGOs providing assistance to young people leaving juvenile institutions, listed on the website of the Ministry of Justice. Thematic governmental programmes, such as the Programme for Prevention of Social Maladjustment and Child and Youth Delinquency, have been carried out, but information about their implementation is less accessible.

In conducting their action programmes or drafting legal reforms, public authorities benefit from the knowledge and experience of specialised NGOs, and this fruitful cooperation can be considered a strength of the policy, enhancing further improvement of the system.

Among the potential gaps, stakeholders mentioned in particular, insufficient use of the possibilities offered by the law. This results, in their opinion, from insufficient training opportunities for police and judicial officers, lack of adequate knowledge and skills, as well as insufficient promotion of appropriate attitudes in the legal professions.

Abbreviations

CA	Competent Authority
CoE	Council of Europe
EC	European Commission
EU	European Union
CCP	Code of Criminal Procedure of 6 June 1997, Dz.U. 1997 nr 88 poz. 553
Juvenile Act	Act of 26 October 1982 on proceedings in juvenile matters, Dz.U. 1982 Nr 35 poz. 228

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

The legal framework relevant to children in criminal proceedings depends on their role: while the situation of child victims and witnesses is similar and generally governed by criminal law, child offenders (under 17 years old) fall within the juvenile justice system. Poland's juvenile justice system is based on a specific law – the Juvenile Act¹ - which has elements of both civil and criminal law. Juvenile jurisdiction, i.e., cases related to problem behaviour of persons under the age of 18, as well as 'punishable acts' committed by those aged 13 to 16, is within the competence of the family courts². In all cases, however, a protective approach prevails and a proactive approach on the part of the child, in particular a child victim/witness, is not encouraged.

General approach towards children

According to the Polish Constitution, the Republic of Poland ensures protection of the **rights of the child**. Consequently, those rights must be reflected in the decision-making process and legislative actions of the State. The Constitution also requires that the child be heard, and if possible, that his/her **opinion** be taken into account by public bodies and whoever is responsible for the child. These principles are reflected in provisions in several legal acts relating to children across different branches of law³.

Discrimination

The Polish Constitution provides for a general **anti-discrimination** clause⁴.

There are no specific anti-discrimination provisions relevant to children in criminal law/judicial proceedings. The Act on Equal Treatment prohibits discrimination based on age only with regard to employment, vocational training etc. However, it also provides a legal basis for the work of the Government Plenipotentiary for Equal Treatment (*Pełnomocnik Rządu do Spraw Równego Traktowania*), a Secretary of State within the Chancellery of the Prime Minister. In 2008 the Government Plenipotentiary for Equal Treatment established the Team to Counteract Discrimination Against Minors in Electronic Mass Media, involving representatives of public institutions, non-governmental organisations and the private sector (as well as a representative of the Prosecutor General).

The Ministry of the Interior and Administration delegates to NGOs the provision of free and widely available advice for people (regardless of age) who are victims of racial or ethnic discrimination, or discrimination based on their nationality, as well as training and seminars aimed at raising social awareness in this regard.

Roma who are Polish citizens, are officially recognised as an ethnic minority⁵. The Programme for the Roma community in Poland includes a variety of measures implemented by the government administration, local government units and non-governmental organisations. The main areas of activity include: education, improvement of living conditions, reducing unemployment, healthcare, safety, culture and preserving the Romani cultural identity, promoting knowledge about the Romani people and spreading civic knowledge among the Roma⁶.

¹ Act of 26 October 1982 on proceedings in juvenile matters, Dz.U. 1982 Nr 35 poz. 228.

² Family courts are departments for family and juvenile matters within the civil district courts.

³ The Polish Constitution, Articles 71, 72.

⁴ The Polish Constitution, Article 32.

⁵ Act of 6 January 2005 on National Minorities and on Regional Language.

⁶ [Poland's 3th and 4th periodic reports for the UN Committee on the Rights of the Child \(CRC/C/POL/3-4\)](#).

Definition of the child

A child is a person under 18 years old.

However, in criminal law, children under 15 years old enjoy particular protection: in relation to many offences, a more severe punishment is provided for if the offences are committed against a child under 15 years old. A few provisions require more severe punishment for an offence against a minor (i.e., all children under 18 years old), but in general punishments for offences against children between 15 and 18 years old are the same as for adults. Similarly, the Code of Criminal Procedure provides for special protection during interview only for a child victim/witness who is under 15 at the moment of the interview (see Section [2.1.5](#) for details).

Children over the age of 17 (and in exceptional cases 15) who commit an offence bear criminal responsibility (see Section [2.3.1](#) for details). In addition, criminal law makes special provisions for 'young offenders' aged between 17 and 21, who, in principle, are criminally responsible as adults, but benefit from certain favourable treatment as regards sentencing and conditions of detention.

The Act on proceedings in juvenile matters of 1982⁷ (hereinafter the Juvenile Act) has a number of special provisions applying to children in different age groups, which are described in more detail further in this report:

- children between 13 and 17 years old who have committed an offence (the family court may apply a range of measures including placement in a juvenile correctional facility)
- children under 13 years old (they cannot be placed in custody or a correctional facility);
- all minors under 18 years of age who have not committed an offence but show signs of antisocial behaviour or are socially maladjusted.

Evolving capacities of the child

The evolving capacities of the child are taken into account as regards child victims/witnesses and child offenders. This is reflected in provisions and standards on interviewing children (for example, the presence of a psychologist is required), and in particular, in juvenile justice, where psychological and sociological assessment allows measures to be adapted in the most appropriate way to the juvenile's development (see Sections [2.2.5](#), [2.3.7](#)).

Proceedings in juvenile matters

The general policy of juvenile justice is first and foremost to educate the child and assist him/her in social inclusion. The principle of proportionality is not emphasised and the repressive element is considered to be the last resort. Proceedings in juvenile matters are conducted according to the rules of civil procedure, although there are also elements of criminal procedure at certain stages. The family court does not impose punishments, but applies educational, therapeutic and, as the last resort, correctional measures, i.e. placement in a correctional facility (see Section [2.1.2](#)).

The family court may also hold the parents responsible for negligence in fulfilling their educational and care obligations, and may interfere with their parental authority.

In the preamble to the Juvenile Act, emphasis is put on: the desire to prevent antisocial behaviour and juvenile delinquency and to assist juveniles in conflict with the law in returning to normal life in society, and the objective of strengthening the educational and care obligations of the family and responsibility of parents for the upbringing of children.

The most characteristic feature of the juvenile justice system is the wide discretion of the family court, which supervises and conducts all stages of the proceedings, from explanatory to enforcement stages. The family court may freely shape the procedure and the measures applied, decide about actions taken, material gathered, experts consulted, the character and

⁷ Act of 26 October 1982 on proceedings in juvenile matters, Dz.U. 1982 Nr 35 poz. 228.

length of measures applied, as well as about the suspension, modification or termination of the measure.

On this topic it is noted that the ECHR⁸ drew attention to potential problems regarding impartiality of the juvenile proceedings, arising from the fact that a case may be investigated and adjudicated by the same judge.

In 2012, outlines for draft amendments to the Juvenile Act were prepared in order to strengthen the procedural rights of a child and, inter alia, address the ECHR's judgment. The government has also carried out relevant action programmes, such as the Programme for Prevention of Social Maladjustment and Child and Youth Delinquency, implemented in 2004 - 2010.

The family court is assisted by professional family probation officers or volunteer social probation officers, who can be involved in the child's case from the very beginning of the proceedings, conducting the community interview for the court, or even earlier (for example, if s/he had worked with a family and observed that a child in the family is socially maladjusted). His/her role is, however, most important at the enforcement stage (see Section 3.1.1).

A public prosecutor may only institute and conduct an investigation in a case involving a child offender where:

- the child has committed an offence acting together with an adult, or where the child's offence is closely related to the offence of the adult and if the best interests of the child permit. After terminating the investigation, the prosecutor refers the case to a family court or if a joint trial of the case is indispensable, submits the indictment to a criminal court which should follow the provisions of the Juvenile Act when imposing measures on the juvenile suspect;
- the child was between 13 and 17 years old when the offence was committed, but proceedings have been instituted after the child has reached the age of 18.

Protection of child victims and witnesses

In recent years, awareness has grown of the need for protection of child victims and witnesses. Legislative amendments to the Code of Criminal Procedure⁹ have gradually strengthened the protection of children against secondary victimisation, contact with the offender and in relation to their interaction with the justice system¹⁰.

A child does not have legal standing before the court and has to act through his/her statutory representative. The child victim/witness, unlike a child offender, is involved in the criminal procedure designed for adults and conducted in criminal courts. Thus, emphasis is put on limiting as much as possible the child's involvement in the procedure, where his/her procedural rights can be performed on his/her behalf by the parent or a legal counsel (see Section 2.1 of this study).

The Polish Ombudsman for Children may request to institute criminal proceedings by the public prosecutor in each criminal case involving a child, regardless of the child's role in the proceedings. In addition, the Ombudsman can participate in ongoing proceedings in matters of children's rights¹¹.

⁸ Adamkiewicz v. Poland (no. 54729/00), judgment of 2 March 2010.

⁹ Code of Criminal Procedure of 6 June 1997, Dz.U. 1997 nr 88 poz. 553.

¹⁰ Podlewska J., Trocha O., (2012) 'Ochrona prawna małoletnich – kierunki przemian prawa i postępowania karnego, zagadnienia wybrane', Dziecko krzywdzone The Nobody's Children Foundation is a non-governmental non-profit organization working toward the goals of protecting children from abuse and providing help for abused children, their families, and their caregivers. 2(39). [Legal protection of minors – trends of criminal law and procedure, selected issues', IN: Abused Child 2(39)].

¹¹ Information provided in writing by the Polish authorities.

Public information campaigns, child-friendly information brochures and animated films have been prepared by the Ministry of Justice in cooperation with NGOs, e.g., Nobody's Children Foundation¹². These materials, addressed either to children or their parents, explain in simple terms the rights of the child during the trial, how the trial and the hearings are conducted, what is the role of different actors in the trial, how to prepare the child, and what to expect during and after the hearing.

Protection of children from violence

The government endeavours to provide better assistance to victims of crime, and in particular child victims of domestic violence and improve society's awareness and vigilance through a number of legislative reforms as well as training and social campaigns, organised in cooperation with NGOs¹³. The amended Act on the Prevention of Domestic Violence¹⁴ imposes new obligations on government and local administration, such as the appointment of province/ local government (*voivodship*) coordinators of the National Programme for Prevention of Domestic Violence. Commune and County (*poviat*) governments are obliged to develop local programmes of preventing domestic violence and to set up interdisciplinary teams to ensure more effective protection of victims of domestic violence. For example, it introduced a special "Blue Card" procedure, which should be initiated whenever there is a suspicion of domestic violence. The Polish Penal Code¹⁵ has also been amended several times to enhance the protection of children against sexual violence and to counteract paedophilia on the Internet (among others, more severe penalties were introduced for perpetrators of sex offences against children below the age of 15)¹⁶.

In 2010, the Minister of Justice, the Commander-in-Chief of police and representatives of the National Council of Probation Officers signed a document on cooperation procedures aimed at effective, efficient and fast cooperation between police officers, especially community support officers and probation officers supervising the perpetrators of acts of violence or unlawful threats, especially of domestic violence¹⁷.

Police officers are obliged to react to any indication of violence against children and other family members. Regular contact is maintained with schools, social workers, court custodians, and local healthcare units. Moreover, officers cooperate with institutions and associations and join interdisciplinary teams to reduce violence against children and families. If it is established that the parents neglected their duties or abused their parental authority, applications are submitted to the Family Courts¹⁸.

The programme "Assistance Network for Victims of Crime" is being implemented to provide victims of crime with free-of-charge legal and psychological assistance. Non-governmental organisations operate Support Centres for Victims of Crime where they provide help and assistance to children who are victims of crime – also by appointing a legal guardian. Local Support Centres operate in accordance with uniform standards concerning work with victims of crime drafted by the Ministry of Justice.

For a comprehensive and detailed description of various actions, campaigns and other developments in the field of protection of children against violence and abuse, see [Poland's 3rd and 4th periodic reports for the UN Committee on the Rights of the Child](#).

¹² <http://fdn.pl/dla-dzieci-i-mlodziezy-ofiar-i-swiadkow?cat1=1335&cat2=963>; The Nobody's Children Foundation is a non-governmental non-profit organization working toward the goals of protecting children from abuse and providing help for abused children, their families, and their caregivers.

¹³ [National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 – Poland, 13th WG UPR, 08/03/2012.](#)

¹⁴ Act on the Prevention of Domestic Violence of 29 July 2005, Dz.U. 2005 nr 180 poz. 1493.

¹⁵ Penal Code of 6 June 1997 (Dz.U.1997.88.553).

¹⁶ S.197-205.

¹⁷ [Poland's 3th and 4th periodic reports for the UN Committee on the Rights of the Child \(CRC/C/POL/3-4\).](#)

¹⁸ *ibid.*

Training

Judges, prosecutors and probation officers are obliged to constantly improve their vocational qualifications and skills and take part in regular training¹⁹.

The main institution responsible for training plans and organising training workshops for judges and prosecutors is the National School of Judiciary and Public Prosecution. The rights of the child, including how to handle child-participants in proceedings are included in the agenda of the Polish National School of Judiciary and Prosecution²⁰.

Relevant training and workshops for judges, prosecutors, police officers and psychologists are also organised by the Ministry of Justice and partner NGOs.

¹⁹ S. 82a of the Law on the system of common courts, S. 44a of the Act on public prosecutor's office, S. 10 of the Act on court probation officers.

²⁰ [Poland's 3th and 4th periodic reports for the UN Committee on the Rights of the Child \(CRC/C/POL/3-4\)](#).

2 Child-friendly justice before and during criminal judicial proceedings

2.1 The child as a victim

Dignity and best interests of the child

All individuals, including children, enjoy the rights and freedoms guaranteed by the Constitution. Dignity is considered to be the most fundamental and absolute right of a person. As a result, public authorities are required to respect and protect the dignity of all persons²¹.

One of the principles of criminal proceedings is that they should be conducted in such a way that all legal rights of the victim are taken into consideration²².

Police officers are required to respect and protect human dignity and human rights when performing their duties²³.

2.1.1 Reporting a crime

Everyone is entitled to report a crime. There are no specific provisions concerning reporting of a crime by a child. Although the child does not have full legal capacity to conduct certain acts related to reporting a crime (see below in this section), the authorities are obliged to react to a report of a crime by a child in the same way as in the case of an adult²⁴. The authorities will then seek to contact his/her legal representative or ask the family court to appoint a guardian to represent the child's interests.

A crime can be reported at a police station or a prosecutor office, in writing or orally, also by calling the emergency number, 112, or the police hotline. The parent²⁵ of a child victim may also report a crime on his/her behalf.

The child may also call the [Commissioner for Civic Rights](#), the [Children's Ombudsman](#), or one of the many hotlines run by public authorities and/or different NGOs providing assistance to victims of crimes or child victims. There are also special hotlines to report domestic violence and cybercrime, as well as special children's helplines; for example the [Blue Line](#), [Nobody's Children Foundation](#), the [Committee for the Protection of Children's Rights, Victims, Helpline, 116111 Hotline](#), [Kidprotect Foundation](#). Everyone who has knowledge of a crime has the civic obligation to report it.²⁶ Public and local authorities have the legal obligation to immediately inform the police or the public prosecutor, or the family court when necessary²⁷.

Special provisions govern the reporting of an offence which can be prosecuted only upon the request of the victim. A child cannot lodge such a request – only the legal guardian, i.e., a parent, or in exceptional cases, a court-appointed guardian can do so on behalf of the child. If the parent is an offender or refuses to lodge such a request for other reasons, the police will ask the family court to issue a decision adapted to the case in question²⁸.

²¹ The Polish Constitution, Article 30.

²² CCP, S. 2(1)-3).

²³ The Police Act, S. 14(3).

²⁴ See ['How to report a crime' – a guidebook \(the Ministry of Internal Affairs and Administration and the National Police Headquarters, 2012\)](#).

²⁵ Parents are defined by the Council of Europe Guidelines and for the purpose of this study as person(s) with parental responsibility, according to national law. In case the parent(s) is/are absent or no longer holding parental responsibility, this can be a guardian or an appointed legal representative.

²⁶ CCP, S. 304(1).

²⁷ CCP, S. 304(2), Code of Civil Procedure, S. 572, Act on Counteracting Domestic Violence, S.12.

²⁸ ['How to report a crime' – a guidebook \(the Ministry of Internal Affairs and Administration and the National Police Headquarters, 2012\)](#).

2.1.2 Provision of information

The police or the public prosecutor informs a person who reports a crime, including a child, about the rights and obligations of a victim in criminal proceedings. In practice, a child would receive this information in a form of a list of relevant provisions²⁹ which are not explained in plain language³⁰.

The General Prosecutor's guidelines³¹ concerning rules of conduct in cases of domestic violence recommend, however, that notwithstanding the written information, the victim should receive additional, detailed and precise information about his/her rights in the proceedings and about all forms of assistance available to victims of crimes in the region.

In practice, anyone over 17 years old is treated as an adult and informed about criminal liability for making a false report or false accusation, and about perjury. A child between 13 and 17 years of age is informed that measures provided in the Act on Proceedings in Juvenile Matters could be taken if the child deliberately infringes these provisions. A child under 13 years old is simply informed that s/he should tell the truth³².

There are no specific provisions or established practice describing what information should be provided to a child and in what way, or requiring that information be provided in a child-friendly manner.

Written information, as well as guides for victims, is available on the website of the Ministry of Justice³³ and the Ministry of Internal Affairs³⁴ and Administration, as well as on the websites of numerous NGOs which specialise in assistance to victims of crimes and parents of child victims.

Within the framework of the CANEE³⁵ project, information about the procedural rights of victims of crime, adapted to child victims, has been issued in the countries which are members of the network. In Poland, such information is developed by the Ministry of Justice in co-operation with the Nobody's Children Foundation. It explains the basic rights of child victims participating in the criminal investigation which arise from the Code of Criminal Procedure. The Ministry of Justice distributes this document to all children summoned as witnesses, together with information on the date and place of the interview³⁶.

Before the interview, the judge and a psychologist are supposed to prepare the child and provide him/her with all necessary information in an adequate manner³⁷.

A child who reports a crime and a child victim should be informed of a decision to institute, refuse to institute or to discontinue an investigation in the case. Any victim, including a child, has a right of appeal to the court against the decision refusing to open an investigation.

²⁹ ['Information for the victim about basic rights and obligations'](#).

³⁰ Conclusion based on stakeholder consultation (prosecutor, NGO for child victims/witnesses).

³¹ Guidelines of 21 December 2011, PGVII G 021/1/11.

³² *ibid.*

³³ ['I am a Victim of Crime, What Next? The Victim of Crime Guide Book'](#); ['Information for the victim about basic rights and obligations'](#); a [guidebook about alternative ways of dispute resolutions](#).

³⁴ ['How to report a crime' – a guidebook \(the Ministry of Internal Affairs and Administration and the National Police Headquarters, 2010\)](#).

³⁵ The Child Abuse and Neglect in Eastern Europe project is run by the Nobody's Children Foundation, based in Poland, with financial support from the OAK Foundation. It is dedicated to the problem of abused and neglected children in Central and Eastern Europe. It includes information on the scale and various dimensions of this negative phenomenon in Central and Eastern Europe – results of research, statistics and legislation in force concerning situation of children (www.canee.net).

³⁶ 'Child Victims in the Union: Rights and Empowerment: a Report of the CURE Project 2009-2010' (2010), The Crime Victim Compensation and Support Authority, Umeå; The information brochures are available at the website of the [Ministry of Justice](#) and specialised NGOs.

³⁷ Conclusion based on stakeholder consultation (prosecutor, judge).

Anyone who reports a crime may complain to the public prosecutor, if there is no follow-up information within six weeks from reporting the crime³⁸.

The authority conducting the proceedings is obliged to inform all the participants about their rights and obligations. The participant must not be put at a disadvantage as a result of a lack of or wrong information³⁹.

If the suspect was detained on remand, the court or the prosecutor immediately informs the victim, his legal representative or a guardian when the suspect is released from detention or when another preventive measure has been applied instead⁴⁰.

2.1.3 Protection from harm and protection of private and family life

Protection of private and family life

According to the Constitution, “Everyone has the right to legal protection of his private and family life, of his honour and good reputation, and to make decisions about his personal life”⁴¹.

All victims have the right to remain anonymous, and the media (the press, the television, the internet, etc.) is not allowed to reveal personal data or images of the victim and witnesses without their consent⁴².

The court will close the hearing to the public if, inter alia, the subject matter of the proceedings might offend decency or infringe an important private interest. The court may also close the hearing to the public when evidence is being given by a child witness or when one of the accused is a child, or at the request of the person who submitted the request to prosecute⁴³.

Protection from harm

Any witness, including a child, may ask that his/her home address not be disclosed to anyone except the judge and the prosecutor, if s/he is afraid of violence or threats to him/her or his/her family. Any correspondence from the court will be delivered to another address indicated by the witness⁴⁴.

If the witness or the victim who is going to give evidence as a witness is afraid for his/her life, health or property or that of close relatives, the court or the public prosecutor may decide to keep the victim’s identity secret. In this case, the proceedings will be confidential and conducted without the participation of the parties. Only the judge and the public prosecutor, and if necessary – the police, will have access to the confidential information. The interview can be recorded or conducted via video link in such a way that the identity of the witness is not revealed (the “incognito witness”)⁴⁵.

If this is justified by the circumstances of the offence or the behaviour of the accused, the court may order his/her detention on remand or other preventive measures, such as police supervision. In the case of domestic violence or an offence committed against a close relative, the court or the prosecutor may forbid the accused to contact the victim and order him/her to move out of the home if s/he lived with the victim⁴⁶.

³⁸ Code of Criminal Procedure, S. 305-306.

³⁹ CCP, S. 16.

⁴⁰ Code of Criminal Procedure, S. 253(3).

⁴¹ The Polish Constitution, Article 47.

⁴² S. 13(2) of the Press Law.

⁴³ CCP, S.360.

⁴⁴ CCP, S.191.

⁴⁵ CCP, S. 177(1a), 184.

⁴⁶ CCP, S.258, 275, 275a.

In the preliminary proceedings, the prosecutor may also deny access to case files to the suspect and his/her legal representative if that would put the victim's health or life at risk or that of another participant in the proceedings (for example a witness), or would in any way destroy/interfere with the evidence.

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

Certain measures aiming at protecting children from secondary victimisation apply to children being interviewed, and are described under Section 2.1.5 below. Such measures include the presence of the parent, the presence of a psychologist, interviewing in a child-friendly room, and in certain cases – ensuring that the child is interviewed only once.

In the case of a crime involving violence or sexual violence, the child is separated from the offender at every stage of the proceedings.

If the child is under 15 years, the parent/guardian should be present during all procedural actions undertaken with the participation of the child, unless it would be against the interests of the proceedings (for example in cases of abuse)⁴⁷.

There are no other legally binding provisions ensuring a child-friendly environment. Recommendations exist concerning the conditions for conducting interviews (described below under 2.1.5), relating for example to child-friendly interview rooms. These recommendations are not binding - they constitute policy guidelines.

If the victim needs additional assistance (for example psychological counselling or social services) but cannot afford them, s/he can approach public social and medical institutions or submit an [application](#) for financial support to the [Foundation for the Support of Victims of Crime](#) or other non-governmental organisations supporting victims of crime, in particular organisations participating in the [Victim of Crime Support Network](#) as detailed on the [Victims website](#)⁴⁸.

In the case of an offence committed against a child, together with a child or in circumstances that may suggest antisocial behaviour of a child, the court or the prosecutor informs the family court in order to consider measures provided for in the Act on Proceedings in Juvenile Matters and the Family and Guardianship Code⁴⁹.

The court may also invite the parties to participate in a **mediation** procedure at any time during the proceedings⁵⁰.

If mediation is successful and the victim reconciles with the offender, the court will approve the mediation agreement and will close the case or it will take the agreement into consideration when issuing the sentence. The law does not specify the role of the child victim in mediation proceedings, but in practice only his/her legal representative would participate in mediation.

2.1.5 Protecting the child during interviews and when giving testimony

Children who have experienced domestic violence or sexual violence or abuse (including pornography-related offences) and are under 15 years of age at the moment of the interview, are protected by special measures, aiming at avoiding secondary victimisation of the child⁵¹.

⁴⁷ Code of Criminal Procedure, S. 171(3).

⁴⁸ https://e-justice.europa.eu/content_rights_of_victims_of_crime_in_criminal_proceedings-171-PL-en.do?clang=en&idSubpage=1&member=1#n09.

⁴⁹ CCP, S. 23.

⁵⁰ CCP, S. 23a.

⁵¹ A draft amendment currently discussed in the Parliament proposes changes to sections 185a and 185b of CCP in order to strengthen the protection of a child witness. The draft intends to extend the special protection to children victims/witnesses of other offences involving violence or threat and offences against freedom; the amendment would make special interview conditions for child witness obligatory, and not facultative; it also provides for a possibility for interviewing an older child in special conditions in order to avoid harmful psychological effect. Also, the audio/video recording of the interview would be obligatory, with no exceptions.

These measures include⁵²:

- Single interview: in principle a child victim of domestic or sexual violence should be interviewed only once. However, it is possible to interview/examine the child again if new circumstances come to light or if the accused was not assisted by counsel during the interview;
- Direct examination by the judge: the interview/examination is conducted by the judge. The prosecutor, the accused's counsel and the child's legal representative are entitled to participate in the interview, but in a separate room, via a video link or a two-way mirror. The child's parent/guardian can be present unless it would limit the child's freedom of expression;
- Requiring that a psychologist should be present during the interview;
- Mandatory audio/video recording of the interview: the interview must be recorded, unless it is not possible for technical reasons⁵³;
- Option to conduct the interview in a "child-friendly" room: there is no legal obligation to use the so called "blue rooms" to interview a child victim, but it is recommended by the '[Standards](#) for interviewing minor witnesses', the '[Standards](#) concerning places where children are interviewed', and the '[Guidelines](#) concerning conditions which should be met by "child-friendly" interrogation rooms', recommended by the Ministry of Justice and developed by the Nobody's Children Foundation. Such rooms should ensure the physical and mental safety of the child and consist of two separate spaces. Participants other than the judge and the psychologist should be in a separate room, connected by two-way mirrors or live video link. The rooms should also create a friendly and safe environment (they should look like a child's room and not an interrogation room). The Ministry of Justice also set up a system for certifying child-friendly rooms which meet the above-mentioned standards.

A child who witnessed crimes involving threats, violence or sexual violence and who is under 15 at the moment of the interview, may be interviewed in the conditions provided for child victims described above, if his/her testimony would be crucial for the case⁵⁴.

The '[Standards](#) for interviewing minor witnesses'⁵⁵ also recommend that the time of the interview be adapted to the physical and emotional condition of the child and his/her development: the interview should be scheduled as soon as possible after the crime, at the most favourable time of day for the child, should allow time to establish good contact with the child and appropriate breaks. The interview should be preceded by a consultation with a specialist (a psychologist or an educational specialist). The person conducting and present at the interview (judges, psychologists, prosecutors) should be trained and adequately prepared to deal with children. No other person should be present in the room, in particular the offender. If identification of the offender is necessary, it should be carried out via a two-way mirror, and the child should be prepared in advance. The 'Standards' also describe how the interview should be conducted.

The General Prosecutor issued guidelines⁵⁶ for public prosecutors concerning rules of conduct in cases of domestic violence. They recommend, inter alia, that prosecutors should ensure that the child victim is not interviewed more than once and that the interview should take place after additional evidence in the case has been gathered.

A victim or a witness who is aged **15 or more at the time of the interview does not enjoy any particular protection** and will give evidence according to the same provisions as adult victims/witnesses. The same applies to children under 15 years old who were not victims or

⁵² Code of Criminal Procedure 1997, S. 185a.

⁵³ Code of Criminal Procedure, S. 147(2).

⁵⁴ Code of Criminal Procedure, S. 185b. See also footnote 51 above.

⁵⁵ Concerning the interviews pursuant to S.s 185a and 185b of the CCP.

⁵⁶ Guidelines of 21 December 2011, PGVII G 021/1/11.

witnesses of violent crimes or sexual violence. That means there are no limits as to the number of interviews, and that interviews will be conducted by the body in charge of the proceedings – the police or prosecutor at the preliminary stage and the judge at the judicial proceedings stage⁵⁷. Interviews with a child conducted under general rules will not take place in a child-friendly room but at the police station, a court room, or a prosecutor's office⁵⁸.

However, the prosecutor or the judge may decide to use one of the following provisions in order to protect a child who does not enjoy express statutory protection.

In exceptional circumstances and on the basis of a reasoned request by a party or the prosecutor, a child witness/victim may be heard by the judge outside normal court proceedings, if there is a risk that the witness would not be able to testify during the trial⁵⁹. Such a request may be justified by the state of health of the witness but also his/her emotional/psychological condition.

If there is doubt as to the mental condition of the witness, his/her mental capacity to perceive or reconstruct his perceptions, the court or the prosecutor may order that a witness be interviewed in the presence of a medical expert or a psychologist⁶⁰.

In any case, if the child being interviewed is under 15 years old, the parent/guardian should be present during all procedures/actions in which the child participates, unless it would be against the interests of the proceedings⁶¹.

If the child must give evidence in the courtroom and the presence of the offender might intimidate the witness, the judge may order the offender to leave the courtroom⁶². The judge may also take off his/her robe and chain of office⁶³.

2.1.6 Right to be heard and to participate in criminal proceedings

Evidence provided by the child victim has the same value as other evidence and the child victim is regarded as a capable and competent witness⁶⁴.

The person who is interviewed (a victim, a witness, a suspect/accused) should first be allowed to freely express him/herself, and only then should other questions be asked. Leading questions or any other way of influencing the answer (for example intimidation) are not allowed. Statements and testimonies given in conditions where the testimony might have been influenced by pressures or the influence of a third person cannot be accepted as evidence⁶⁵.

A victim has a status of a party in the preliminary proceedings⁶⁶. However, to be able to continue to participate actively in judicial proceedings, the victim has to express his/her willingness to act as an **auxiliary prosecutor**. The victim may do that during the preliminary

⁵⁷ CCP, S.177.

⁵⁸ Trocha O., Drab D., Podlewska J., (2011), Dzieci – ofiary przestępstw, in Sajkowska M. (ed.), (2011), 'Dzieci się liczą', Warszawa: Fundacja Dzieci Niczyje; Trocha O. (2011), Praktyka przesłuchiwania dzieci w Polsce, Raport z badań aktowych, Dziecko Krzywdzone nr 2 (35), Warszawa: Fundacja Dzieci Niczyje.

⁵⁹ CCP, S. 316(3).

⁶⁰ CCP, S. 192(2).

⁶¹ Code of Criminal Procedure, S. 171(3).

⁶² CCP, S. 390.

⁶³ Law on the system of common courts, S. 84. A chain of office is a heavy chain, usually of gold, worn as an insignia of office – in this case, as a judge. The Law on the system of common courts authorises a judge to take off his/her chain, as well as the judge's robe, in the presence of a minor, in order not to intimidate him/her.

⁶³ 'Child Victims in the Union: Rights and Empowerment: a Report of the CURE Project 2009-2010' (2010), The Crime Victim Compensation and Support Authority, Umeå.

⁶⁴ 'Child Victims in the Union: Rights and Empowerment: a Report of the CURE Project 2009-2010' (2010), The Crime Victim Compensation and Support Authority, Umeå.

⁶⁵ CCP, S. 171(1).

⁶⁶ CCP, S.299.

proceedings and until the prosecutor starts reading the indictment at the first hearing. Otherwise, s/he will lose the status of a party.

The auxiliary prosecutor has the status of a party to the judicial proceedings, alongside the public prosecutor and the accused⁶⁷.

A child does not have full legal capacity to participate in criminal proceedings personally. In principle, the aim of the procedures and guidelines relating to child victims/witnesses is to reduce their participation in criminal proceedings and contact with the system of justice to a minimum (ideally to one interview), in order to minimise the emotional stress.

The parent/guardian of a child victim can exercise his/her rights during the proceedings⁶⁸. The parent can act on behalf of the child as a victim, and s/he can also have the status of an auxiliary prosecutor and/or a civil plaintiff⁶⁹.

However, the parent cannot perform the child's rights as a victim if another parent is accused. In such cases, the court or the prosecutor should request the family court to appoint a guardian *ad litem*⁷⁰ to represent the interests of the child during the criminal proceedings⁷¹.

In preliminary proceedings, the child victim (or the parent/representative) is entitled⁷²:

- to present any additional information or evidence they believe is important for the investigation;
- to request that certain evidence, witnesses, etc. be examined;
- to participate in the actions/procedures undertaken in the course of preliminary proceedings;
- to be informed about actions undertaken in the course of preliminary proceedings;
- to view/read the files of the case;
- to challenge the decision to discontinue the proceedings.
- The auxiliary prosecutor has the right (in the preliminary and court proceedings) to:
 - interrogate the witnesses and the accused;
 - challenge any decision taken in the course of the proceedings that is against her/his interests;
 - access the case file;
 - appeal against the judgment.

An auxiliary prosecutor may, but does not have to, participate in all court hearings. A child victim, who wishes to participate in the hearing, will give evidence first. Children, in principle are not allowed to be present during a hearing, however the judge may authorise their presence⁷³.

⁶⁷ CCP, S. 53-54.

⁶⁸ CCP, S. 51(2).

⁶⁹ Code of Criminal Procedure, S. 53, 62. A civil plaintiff in a criminal procedure is a legal or natural person who has suffered material loss from a crime, has filed a claim for compensation (instead of instituting separate civil proceedings), and has been admitted to participation in criminal proceedings through the procedure established by the law. A civil plaintiff enjoys the rights granted by the law to other participants in the proceedings.

⁷⁰ A guardian appointed by the court to represent the interests of children, the unborn, or incompetent persons in legal actions.

⁷¹ Resolution of the Supreme Court (panel of 7 judges) of 30 September 2010 (I KZP 10/2010).

⁷² Code of Criminal Procedure, S.315 - 325a.

⁷³ Code of Criminal Procedure, S. 384(2).

If the child victim has been previously interviewed in accordance with special measures⁷⁴, and the interview has been audio/video recorded, the recording will be played during the trial, otherwise the judge will read the written record of the interview. A child who cannot benefit from special protection will have to testify again.

A child victim/witness who is a close relative of the offender may refuse to testify. The child witness may also refuse to answer a question if this could result in the criminal liability of his/her close relative⁷⁵.

2.1.7 Right to legal counsel, legal assistance and representation

A child victim may appoint legal counsel regardless of the fact that the child's parents may act on his/her behalf and exercise the rights of a victim and/or an auxiliary prosecutor.

If the victim cannot afford a lawyer, s/he can apply for legal aid free of charge⁷⁶.

It must be noted that the party to proceedings (that is the victim acting as an auxiliary prosecutor) has an unrestricted right to appoint legal counsel. However, any person, including a child, who is participating in the proceedings but who does not have the status of 'party' (victims who are not auxiliary prosecutors, witnesses) may appoint a legal counsel only if it is necessary to protect their interests. In such cases, the court or the prosecutor may refuse to allow the participation of their legal counsel in the proceedings if their interests are not at stake⁷⁷.

The parent cannot perform the child's rights as a victim if another parent is accused. In such cases, the court or the prosecutor should request the family court to appoint a guardian *ad litem*⁷⁸ to represent the interests of the child during the criminal proceedings⁷⁹.

The law does not specify who should represent the child victim in criminal proceedings in order to ensure that the best interests of the child are protected. The family court may appoint the child's relative or a professional family court probation officer as the guardian *ad litem*. In practice, in the majority of cases judges appoint a relative. Some courts try to appoint an advocate or an expert working in an NGO specialising in assisting child victims of crimes⁸⁰.

The decision about the choice of the guardian *ad litem* belongs to the judge in the case and it is entirely up to him/her to ensure adequate representation of the child's interests during the proceedings, in terms of his/her legal rights and emotional/psychological needs.

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

Challenging decisions and judgments during the proceedings

The victim has the status of a party until the end of the preliminary proceedings (investigation). During this stage the child, through his/her parent or legal representative, can challenge all the decisions taken by the police or the public prosecutor.

The child victim may appeal against all decisions taken during the court phase of criminal proceedings through his legal representative acting as an auxiliary prosecutor.

The victim may appeal against the final judgment on the merits if s/he had the status of an auxiliary prosecutor during the judicial proceeding. The civil claimant may appeal against the judgment only as regards the civil claim. The appeal must be submitted in writing within 14 days of the delivery of the judgment or the written reason for the judgment.

⁷⁴ Pursuant to S. 185a of CCP.

⁷⁵ CCP, S. 182-185.

⁷⁶ Code of Criminal Procedure, S. 87-88.

⁷⁷ CCP, S.87.

⁷⁸ According to the rules of the Family and Guardianship Code.

⁷⁹ Resolution of the Supreme Court (panel of 7 judges) of 30 September 2010 (I KZP 10/2010).

⁸⁰ Drab D., (2011) 'Kilka słów o reprezentacji dziecka w procedurze karnej i cywilnej', *Dziecko krzywdzone* 2(35).

A victim who did not act as an auxiliary prosecutor may only appeal against a judgment to conditionally discontinue the proceedings. If the court upholds the appeal, but the prosecutor decides to discontinue the proceedings again, the victim may submit his/her own indictment to the court⁸¹.

The parties to the proceedings may appeal against the ruling of the appeal court to the Supreme Court within 30 days of the delivery of the judgment. The judgment/decision of the Supreme Court is final.

Liability of public authorities

If in the course of criminal proceedings the police, the prosecutor or the court finds out about a serious infringement in the functioning of a public institution, e.g. a failure to abide by procedural duties regarding the special treatment of a child, they should inform the relevant supervisory body. If a police officer or a public prosecutor is found to have infringed a procedural duty, the court will inform their superiors and demand explanations and information about the action undertaken in this regard⁸². A public officer who abuses his power or does not fulfil his duties, to the detriment of public or private interests, commits an offence punishable by up to three years' imprisonment⁸³.

The party to the criminal proceedings may also seek compensation from the State Treasury under civil law for damage caused by an unlawful act or omission of a public officer when performing his/her duty (for example, the prosecutor)⁸⁴.

Compensation

At the request of a victim (including a child) (or at the courts' own initiative) the court will order the offender to redress the damage caused or to pay compensation.

Any victim may also submit a civil claim to be examined during the criminal proceedings (thus becoming a **civil plaintiff**), if it is directly related to the crime. The civil claim must be submitted to the court in writing before the public prosecutor reads an indictment.

If the criminal court refuses to accept the claim or dismisses it, the victim may still submit the claim to the civil court⁸⁵.

According to the Act on State Compensation for Victims of Certain Intentional Offences of 2005⁸⁶, a victim who suffered severe bodily injury or general deterioration of health as a result of the crime may apply for compensation from the State to cover means of subsistence and costs of treatment. The State will have a right of recourse against the offender. The request can be lodged within 2 years following the crime and the compensation cannot exceed 12,000 PLN⁸⁷. The victim is entitled to compensation if s/he cannot obtain the relevant means from the offender, social security or other sources. The right does not depend on the offender being identified, accused or sentenced, unless s/he was found not guilty on the grounds that no crime had been committed.

⁸¹ CCP, S.55, 330.

⁸² CCP, S.19,20.

⁸³ Penal Code, S. 231.

⁸⁴ Civil Code, S. 417. In theory, a child or a parent could try to make a judge or a prosecutor liable if they failed to make use of special child friendly procedures, or to inform the parties of their rights, etc. In practice, according to stakeholders, most parties are not aware of this possibility.

⁸⁵ Penal Code, S.46, CCP, S. 62-70, 415.

⁸⁶ Act of 7 July 2005 on State Compensation for Victims of Certain Intentional Offences, Dz.U. 2005 nr 169 poz. 1415, available in English at: http://ec.europa.eu/justice_home/judicialatlascivil/html/pdf/national_law_cv_pol_en.pdf.

⁸⁷ Approx. 2,920 EUR.

2.2 The child as a witness

2.2.1 Reporting a crime

See Section [2.1.1](#).

2.2.2 Provision of information

See Section [2.1.2](#) concerning information provided to a witness before an interview.

2.2.3 Protection from harm and protection of private and family life

See Section [2.1.3](#) as the same rules apply to victims and witnesses.

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

See Section [2.1.4](#).

2.2.5 Protecting the child during interviews and when giving testimony

A child who witnessed crimes involving violence or sexual violence and who is under 15 years old at the moment of the interview, may be interviewed in special conditions if his/her testimony would be crucial for the pending case (see Section [2.1.5](#)). Otherwise, general rules for adult witnesses will apply.

2.2.6 Right to be heard and to participate in criminal proceedings

A witness is not a party to the criminal proceedings. In principle, persons other than the parties, have the right to participate in the court session if it is relevant for the protection of their rights or interests. However, any person summoned as a witness is obliged to appear in court and give evidence. Otherwise, they have the right to participate in the court session unless the law or the judge decides otherwise in a particular case. Children, in principle are not allowed to be present during a hearing⁸⁸.

The witness's right to appeal against decisions taken is described in Section [2.2.8](#) below, for the witnesses' rights to be heard see Section [2.1.6](#).

2.2.7 Right to legal counsel, legal assistance and representation

A person who is not a party to the proceedings may appoint a legal counsel, if this is necessary to protect his/her interests. However, the judge, or the prosecutor in the preliminary proceedings, may refuse the participation of legal counsel, if they find his/her presence unnecessary⁸⁹.

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

In addition to the rules on the liability of public authorities for unlawful acts or failure to act, described in Section [2.1.8](#), every participant in the proceedings who does not have the status of a party, may appeal against a decision taken during the proceedings which infringes their rights⁹⁰.

2.3 The child as a suspect/ defendant

General principles of proceedings involving children

The authorities conducting the proceedings in matters involving children should be guided primarily by the child's best interest. They should seek to achieve positive changes in his/her personality and behaviour. They should also, when necessary, promote the fulfilment of the

⁸⁸ CCP, S. 96, 117, 384(2).

⁸⁹ Code of Criminal Procedure, S. 87-88.

⁹⁰ CCP, S. 302.

parents'/guardians' duties towards the child, taking into account the public interest. When dealing with children, the authorities are required to take into account personality, his/her age, health, physical and intellectual development, character and behaviour, as well as the reasons for and degree of his/her antisocial behaviour and the environment and conditions of his/her upbringing⁹¹.

2.3.1 Age of criminal responsibility

The age of criminal responsibility in Poland is 17 years old. Offenders who commit an offence after reaching this age are answerable before **criminal courts** under the Penal Code and the Code of Criminal Procedure, according to the same rules as adults.

In exceptional situations, a child who is at least 15 years old may be criminally liable (that is, may go before criminal courts as do 17 year olds) if:

- s/he committed one of these crimes⁹²: an attempt on the life of the President, a murder/homicide, causing grievous bodily harm, intentionally causing dangerous events, piracy in the air or on the high seas, intentionally causing a traffic disaster, gang rape, hostage taking, robbery with use of violence;
- in the court's view, the circumstances of the case, the degree of development of the offender and his/her personal characteristics so warrant, in particular if previously educational or corrective measures have proved ineffective.

Children aged between 13 and 17 years old who commit an offence are dealt with under the **juvenile justice system**⁹³. All juvenile matters are considered by **family courts** and the relevant proceedings are in principle conducted according to the rules of the Code of Civil Procedure (concerning non-litigious proceedings).

The family court can apply three types of measures to child offenders: educational, corrective and therapeutic. The Act also governs application of educational measures in cases of children under 18 who show signs of antisocial behaviour (problem behaviour such as running away from home, truancy, using alcohol or drugs, prostitution) (see Section [3.1.2](#)).

An offence committed by a child under 13 years of age is not considered to be a "punishable act", but a sign of antisocial behaviour. Consequently, the family court can only apply educational measures to an offender under 13 years of age.

2.3.2 Provision of information

The child, his/her parents/guardians and the prosecutor are the parties to juvenile proceedings. Consequently, they receive all court decisions and are informed of all court sessions. They should also be informed of their rights and obligations, at the beginning and during the course of the proceedings.

As regards the information provided where the child is detained, see Section [2.3.3](#) below.

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

The police may collect and preserve evidence of an offence committed by a child in urgent cases, and, if necessary, may arrest him/her for a period not exceeding 72 hours (see Section [2.3.4](#))⁹⁴. As far as children under 17 years of age are concerned, the police are obliged to:

- Inform the child about the reasons for detention/arrest, the right to appeal against all actions and decisions infringing his/her rights and of others' rights;

⁹¹ The Juvenile Act, S. 3.

⁹² Enumerated in S. 10 of the Penal Code.

⁹³ Regulated by the Act on Proceedings in Juvenile Matters.

⁹⁴ Juvenile Act, S. 37-40.

- Immediately inform the parents or guardians about the arrest/detention of the child and the reasons for it, as well as their rights in the proceedings;
- Make a report of the arrest and provide the child with one copy;
- Immediately and no later than 24 hours after the arrest, inform the family court.

If the child is aged 17 or over and falls under the rules of criminal procedure, the police must ensure his/her contact with a legal counsel and may inform a relative and/or school, workplace upon his/her request.

The family court, once notified, may institute or refuse to institute proceedings; the judge may also discontinue proceedings at any stage. The judge may ask the police and probation officers to undertake specific actions, such as a community interview.

2.3.4 Conditions for pre-trial detention/ custody

If this is necessary in the circumstances of the case, the police may arrest a child and place him/her in the police emergency youth shelter, but only when there is a reasonable suspicion that the child has committed an offence, and there is reason to believe that s/he might go into hiding or destroy evidence, or where his/her identity cannot be established⁹⁵.

The police must release the child and hand him/her over to his/her parents or guardians, when⁹⁶:

- The reason for the arrest ceases to exist;
- The family court orders release;
- The family court has not been informed about the arrest within 24 hours;
- After the expiry of 72 hours from the arrest, if the court has not decided to place him/her in the juvenile pre-trial detention centre or temporarily place him/her in a juvenile educational centre, juvenile socio-therapeutic centre or another suitable institution.

Children under 13 years old cannot be held in police custody. In principle, children cannot be detained in facilities intended for adults. However, exceptionally, a juvenile who may be criminally liable according to special provisions, e.g., who is accused of having put the life or health of a person in danger (whether via assault, battery, violent robbery, murder or terrorism) and who is at risk of being sentenced to a penalty provided for adults (compare Section [2.3.1](#)), may be temporarily placed in a remand prison provided that the placement in a youth detention centre would not be suitable⁹⁷.

The family court may apply provisional measures similar to educational and therapeutic measures or decide that a child should be placed in a juveniles' shelter if the circumstances suggest it and, there is reason to believe that s/he might go into hiding or destroy the evidence, or his/her identity cannot be established⁹⁸.

The period of detention in the juveniles' shelter before the first hearing in the case cannot exceed 3 months. The period of detention can be prolonged in justified cases for another 3 months, and the total time spent in the juveniles' shelter until the judgment in the first instance is issued cannot exceed one year. The regional court, superior to the court conducting the case may, in exceptional cases, prolong this period for a fixed period of time.

⁹⁵ Juvenile Act, S. 40(1). Regulation of the Minister of Interior and Administration on detailed principles of stay of minors in the police emergency centres for children of 21 January 2002 (Dz. U. 2002, nr 10, poz. 104).

⁹⁶ Juvenile Act, S. 40(6).

⁹⁷ Juvenile Act, S. 18.

⁹⁸ Juvenile Act, S. 27.

2.3.5 Protection of private and family life

In criminal proceedings the court may close the hearing to the public when one of the accused is a child⁹⁹.

In proceedings involving children, concerning both educational and correctional measures, hearings are closed to the public¹⁰⁰.

The media is not allowed to express opinions about the outcome of a court proceeding before a decision in the first instance has been issued. Personal information and images of any defendant cannot be published without the person's consent or the prosecutor's authorisation, if it is justified by an important public interest. The prosecutor's decision can be appealed against¹⁰¹.

2.3.6 Alternatives to judicial proceedings

In criminal proceedings, the court may also invite the parties to participate in a **mediation** procedure at any time during the proceedings. If mediation is successful, the court will close the case or it will take the agreement into consideration when issuing the sentence¹⁰².

In proceedings involving children, the family court may, on the initiative or with the consent of the victim and the child, refer the parties to mediation conducted by a specialised institution or trustworthy person¹⁰³. Mediation is free of charge for the parties.

The process of mediation and the qualifications of mediators in criminal and juvenile matters are supervised by the president of the regional court¹⁰⁴.

It is noted, however, that juvenile proceedings already constitute an alternative to criminal proceedings, as the child does not have a status of an offender/accused but a child who is socially maladjusted. The proceedings are, in principle, conducted according to the rules of civil procedure, and not criminal. The proceedings do not have the aim of punishing the child but of finding the best way to help him/her with social rehabilitation.

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

The police are not allowed to use handcuffs when they deal with a child, unless s/he is suspected of an offence that has put the life or health of a person in danger, whether through assault, battery, violent robbery, terrorism or murder¹⁰⁵.

Juvenile proceedings are conducted by a family court and not a criminal court.

The family court may choose from a wide range of measures and applies them on a case-by-case basis, taking into account the child's personality, and in particular his/her age, health, degree of intellectual and emotional development, character traits and behaviour, and degree of moral antisocial behaviour and reasons for it, such as community factors and family situation.

The family court, in order to expose all circumstances of the case, but above all, the personality and the intellectual and emotional development of the child, as well as his/her family and social background, may ask the family court probation officers to undertake appropriate actions, such as conducting community interviews and preparing a report which may include, inter alia, information about his/her family, environment, acquaintances, school results and conduct, etc. In order to obtain a comprehensive diagnosis of the personality of

⁹⁹ CCP, 360(3).

¹⁰⁰ Juvenile Act, S. 45, 53.

¹⁰¹ S.13 of the Press Law.

¹⁰² CCP, S. 23a.

¹⁰³ Juvenile Act, S. 3a.

¹⁰⁴ Regulation of the Minister of Justice on the mediation proceedings in juvenile matters of 18 May 2001; Regulation of the Minister of Justice on the mediation proceedings in criminal matters of 13 June 2003.

¹⁰⁵ Act on the Police.

the child, the court may ask for an opinion from the family diagnostic and consultation centre (such an opinion is obligatory if the court intends to place a minor in an educational or correctional centre). The opinion is preceded by a complex pedagogical, psychological or medical diagnosis, and includes the centre's recommendation regarding the most appropriate measures to be applied¹⁰⁶.

In the course of the proceedings, the court may apply provisional measures which are necessary or useful, in the light of the circumstances of the case, the family situation or any other reason. For example, the family court may request appropriate public institutions, NGOs or local authorities to provide the parents of the child offender with assistance in improving his/her educational, living or health conditions (see also Section [3.1.2](#)).

Special conditions during interviews also aim at minimising the burden of proceedings, see Section [2.3.8](#) below.

2.3.8 Protecting the child during interviews and when giving testimony

In juvenile proceedings, the court **listens to** the child. The child should have full freedom of expression. The interview should take place in conditions close to a normal environment, if possible in the child's home. Multiple hearings on the same circumstances or facts already established by means of other evidence should be avoided¹⁰⁷.

The child can also be interviewed by the police, in the presence of his/her parents, a guardian or a legal counsel. If ensuring their presence would be impossible in the circumstances of the case, the police will summon a teacher, a representative of a *poviat* (administrative district) family assistance centre or of a relevant NGO dealing with the education and socialisation of children¹⁰⁸.

In addition to the community interview and an opinion of the family diagnostic and consultation centre, mentioned in Section [2.1.7](#) above, the court may ask for the opinion of at least two expert psychologists, to diagnose the state of the child's mental health.

2.3.9 Right to be heard and to participate in criminal proceedings

The participation of a child and his/her legal counsel in court hearings is mandatory¹⁰⁹.

The child and his/her parents have the rights of a party in juvenile proceedings. They can make comments and submit explanations and clarifications with regard to each piece of evidence.

However, the report from the community interview conducted by the probation officer and opinions about the child should not be read in the child's presence, unless acquainting the child with their content would serve particular educational considerations¹¹⁰. The family judge listens to the child's opinion (and that of his/her parents) at every stage of the proceedings¹¹¹. See also [Section 2.3.8](#) and [2.3.10](#) below.

2.3.10 Right to legal counsel, legal assistance and representation

Criminal proceedings

In criminal proceedings, a child must have a legal counsel – if s/he does not have a lawyer of his/her choice, the president of the court appoints a legal aid counsel¹¹².

¹⁰⁶ Juvenile Act, s 24, 25.

¹⁰⁷ Juvenile Act, S. 19.

¹⁰⁸ Juvenile Act, S. 39.

¹⁰⁹ Juvenile Act, S. 51(2).

¹¹⁰ Juvenile Act, S. 54.

¹¹¹ Juvenile Act, S. 19, 35, 53, 75.

¹¹² CCP, S. 79; Juvenile Act, S. 18.

The statutory representative or a guardian of the accused child can undertake all proceedings/related actions on his/her behalf, in particular submit and lodge appeals, submit petitions and appoint a legal counsel¹¹³.

Juvenile proceedings

During the explanatory stage of the proceedings, the child may have a legal counsel. If his/her interests and the interests of his/her parents/guardians are contradictory, and the child does not have a legal counsel of his/her choice, the president of the court appoints a legal aid counsel¹¹⁴.

In proceedings relating to correctional measures, the child must have a legal counsel before the court, or earlier if s/he was placed in a juvenile's shelter¹¹⁵.

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

The child offender, being a party to the criminal proceedings, has all the same rights as the victim in a role of an auxiliary prosecutor to challenging all decisions and judgments taken in the proceedings (see [Section 2.1.8](#)).

In all stages of juvenile proceedings the parties (including the child, his/her parents and legal counsel) may appeal against all actions and decisions infringing their rights. The family court examines an appeal against the actions of the police in the course of juvenile proceedings.

See [Section 2.1.8](#) for rules governing the liability of public authorities.

An accused child in criminal proceedings is also entitled to compensation for wrongful conviction, detention or arrest¹¹⁶.

¹¹³ CCP, S. 76.

¹¹⁴ Juvenile Act, S. 36.

¹¹⁵ Juvenile Act, S. 49.

¹¹⁶ CCP, S. 552-559.

3 Child-friendly justice after judicial proceedings

3.1 The child as a victim or offender

3.1.1 Provision of information

As mentioned in [Sections 2.3.2](#), [2.3.9](#), and [2.3.11](#) above, the child and his/her parents are informed of every court decision and about their procedural rights and obligations. There are no specific provisions requiring that the information be provided in a particular way.

In principle, once the child has a legal counsel, it is also up to the counsel to inform his/her client about their rights and to explain the court's decisions and available appeals in an appropriate manner.

In addition, at the stage of enforcement of measures decided by the family court (or earlier, depending on the situation), the child is assisted by a family court probation officer. S/he is the person who will be responsible for the education and social rehabilitation process of the child, to get him/her back on the right track. This is a person who has the necessary qualifications and skills to interact with maladjusted children, who has knowledge of the family, social and educational background. The probation officer is also responsible for providing the child with all appropriate assistance and for coordinating the actions of other institutions involved, such as schools, social services, NGOs, in order to improve the educational, living and health conditions of the child¹¹⁷. Therefore, the probation officer seems the person best placed to provide the child with adequate information and explanations¹¹⁸.

If the family of a child released from an educational or correctional facility cannot provide adequate education and living conditions, s/he will receive assistance from social welfare institutions and relevant NGOs and associations.

Several NGOs provide assistance to young people leaving juvenile institutions. They are listed on the website of the Ministry of Justice¹¹⁹. For example the "Secondly" Foundation helps young people at risk of social exclusion. In particular, they assist pupils and former pupils of rehabilitation centres. The Foundation helps them find a job or solve everyday problems. The Foundation also organises a number of workshops and classes for children from institutions that allow them to develop interests. The Foundation has carried out a project "Education through THEATRE" whereby pupils from juvenile correctional facilities attend theatre, learning how to make use of their time in an interesting and previously unknown way. The Foundation also seeks to promote the participation of children from institutions in the activities of local communities¹²⁰.

3.1.2 Sentencing

Criminal proceedings

When imposing a penalty on a child or a young offender, the court aims above all at educating the offender¹²¹. A young offender is an offender who was **under 21 years** old at the moment of committing a crime, or under 21 at the moment of delivery of a judgment in the first instance.

If a child aged between **15 and 17 years old** was judged by a criminal court (see Section [2.3.1](#)), the penalty imposed cannot exceed two thirds of the upper limit of the penalty provided for the given crime under the Penal Code. The court may also apply extraordinary

¹¹⁷ Juvenile Act, S. 70a.

¹¹⁸ Conclusion based on stakeholder consultation (family court probation officer).

¹¹⁹ <http://ms.gov.pl/pl/dzialalnosc/zaklady-poprawcze-schroniska-dla-nieletnich/rekomendacje/>

¹²⁰ <http://www.podrugie.pl/>.

¹²¹ CCP. S.54.

mitigation of punishment. A penalty of life imprisonment cannot be imposed on a person who had not reached 18 years of age at the moment when the offence was committed¹²².

If the child committed an offence **after reaching the age of 17, but before the age of 18**, the court may refrain from imposing a punishment and apply educational, corrective or therapeutic measures, if it would be justified by the circumstances of the case and the degree of development of the offender.

Juvenile proceedings

As regards children aged **below 17 years old**, no “punishment” is imposed but “measures”¹²³. According to the Juvenile Act, the family court can apply three types of measures:

- educational;
- corrective;
- therapeutic and educational.

When applying the appropriate measures, the court in principle does not take into account the gravity of the offence, but the personal characteristics of the child, and in particular his/her age, health, physical and intellectual development. The aim of the measure applied is not punishment, but achievement of positive changes in the personality and behaviour of the offender¹²⁴. However, when social rehabilitation of the child seems unlikely, and a corrective measure is applied, the nature of the offence will be taken into account.

When a child who commits an offence is **under 13 years old**, only educational measures can be applied.

Educational measures include:

- a reprimand/warning,
- an obligation to do something, such as redressing the damage, performing particular work to the benefit of the victim or local community, apologising to the victim, undertaking education or work, participating in educational or therapeutic activities, refraining from drinking alcohol or other intoxicants, refraining from staying in particular places;
- supervision by parents or guardians, a youth or other social organisation, a workplace, or a trustworthy person;
- supervision by a family court probation officer;
- placement in a foster family;
- placement in a youth probation centre;
- placement in a youth educational centre or another institution;
- forfeiture of objects obtained as a result of the crime¹²⁵.

The family court may also:

- oblige the parents or guardians to improve the educational, living or health conditions of the child, and/or to closely cooperate with the child’s school, a psychological-educational counselling centre or the child’s workplace and a medical expert;
- oblige the parents to redress the damage caused by the child.

¹²² CCP, S. 10, 54.

¹²³ Note that the 15-17 age bracket exception for serious crime relates only to criminal proceedings, and not to juvenile proceedings.

¹²⁴ See General principles of proceedings in juvenile matters in the introduction to section [2.3](#).

¹²⁵ Juvenile Act, S.6; Stando-Kawecka B. (2008) ‘Continuity in the Welfare Approach: Juvenile Justice in Poland’, in J. Junger-Tas and S. Decker (eds) International Handbook of Juvenile Justice. Dordrecht: Springer, 351-376.

The family court may request appropriate public institutions, NGOs or local authorities to provide the parents of the child offender with assistance in improving his/her educational, living or health conditions.

Educational and therapeutic measures are applied for an indeterminate period of time. In principle, these measures terminate when the child reaches 18 years of age, or in some cases – 21¹²⁶. The family court, with the assistance of a family court probation officer, supervises the execution of the measures. The judge may at any time decide to terminate or modify the measures during their execution, upon the request of the child, the probation officer, or of its own motion.

The family court may apply **therapeutic and educational measures** where the child has been diagnosed as suffering from intellectual disability, mental illness or other psychological disorders or addiction to alcohol or other intoxicating substances. In such cases, the family court may place a child in a psychiatric hospital or in another appropriate therapeutic institution. The court may also decide that only education and care is necessary and place the child in a youth educational centre or in a youth centre of socio-therapy. If the child is severely intellectually disabled the court may decide to place him/her in a social care home¹²⁷.

A **corrective measure** – placement in a juvenile correctional facility – can be applied only when the child **was between 13 and 17 years old** when the offence was committed. The judge may take such a decision if this is justified by the circumstances and character of the offence and the child offender proves to be highly antisocial and it is unlikely that educational measures would lead to his social rehabilitation. (See more under Section [3.1.3](#) below).

In exceptional situations, when the child has committed a crime and there are grounds to place him/her in a correctional facility, but at the moment of issuing or enforcing a judgment the offender reached 18 years of age, the court may find that the correction measure would not serve its purpose anymore and sentence the child to a penalty instead¹²⁸.

3.1.3 Deprivation of liberty

Criminal proceedings

See [Section 2.3.1](#) for conditions of criminal responsibility of children.

Children between 17 and 18 years old sentenced to **deprivation of liberty** will serve their sentence in a special prison for young offenders, i.e., for persons **under 21 years old**.

In such facilities it is possible to place an adult prisoner or temporarily arrested adult who has shown exceptionally good conduct, in a cell with a juvenile prisoner or prisoners. The adult must consent to this¹²⁹.

In closed and semi-open prisons child prisoners have the right to an additional visit per month¹³⁰. The prison authorities are also obliged to provide them with adequate education.

Juvenile proceedings

With regard to children **between 13 and 17 years old**, the family court may decide on placement in a juvenile correctional facility. See [Section 2.1.2](#) for conditions justifying such a decision.

¹²⁶ Juvenile Act, S. 73.

¹²⁷ Juvenile Act, S. 12.

¹²⁸ Juvenile Act, S. 13, 94.

¹²⁹ S.84 of the Code of Criminal Enforcement Procedure; S.13(1) of the Regulation of the Minister of Justice dated 25 August 2003 on organisational and regulatory rules of the execution of deprivation of liberty and S.12(1) of the Regulation of the Minister of Justice dated 25 August 2003 on the organisational and regulatory rules of the execution of pre-trial detention; [Poland's 3th and 4th periodic reports for the UN Committee on the Rights of the Child \(CRC/C/POL/3-4\)](#), p. 42.

¹³⁰ S. 91a of the Code of Criminal Enforcement Procedure.

There are different types of correctional facilities, depending on the situation of the child:

- common resocialisation facilities, which can be open, semi-open or closed establishments;
- separate rehabilitation facilities for children with intellectual disabilities;
- therapeutic facilities for children with drug or alcohol addiction, developmental disorders and HIV infection;
- readaptation facilities for more difficult child offenders (for example repeat offenders, those who run away from other facilities or refuse to participate in educational and therapeutic activities while in regular correctional facilities).

Correctional facilities are supervised by the Ministry of Justice, while educational youth centres and other educational and therapeutic establishments for children are under the supervision of the Ministry of Education. A child cannot stay in the juvenile correctional facility beyond 21 years of age. The judge may decide about conditional release or conditional suspension of the measure, if the personal characteristics, background circumstances and the nature of the act suggest that the educational objectives will be achieved despite the non-enforcement of the measure. Conditional suspension may be applied for a period of probation from one to three years, and educational measures will be applied during the period of probation.

All institutions for children should provide the possibility of individual programmes tailored to their personality and educational needs¹³¹.

A child is placed in a juvenile correctional facility to be raised as an aware and honest citizen in accordance with current knowledge and educational experience. The resocialisation process is based on an individual plan of resocialisation developed by an educator together with the child, a psychologist and other employees of the establishment. The plan should be adapted in the course of resocialisation, and progress is reported to the child's parents (legal guardians). Juvenile correctional facilities and juveniles' shelters provide general and vocational education, cultural, educational and sports activities, activities aimed at developing social inclusion of juveniles, and also provide health care¹³².

As a rule, children are not deprived of contact with people from outside the establishment, unless this would threaten legal order, safety of the establishment or the child's resocialisation process.

Children residing in correctional facilities are entitled to: respect for their personal dignity; protection against violence, exploitation and abuse and all manifestations of cruelty; access to information about the applicable internal regulations; awards and disciplinary measures; resocialisation activities, a resocialisation process; food adapted to their developmental needs; clothes, underwear, shoes, school materials and textbooks, personal care products; access to health care and rehabilitation services, including in particular if they are pregnant, during and after the delivery, protection of family relations; sending and delivering correspondence; possibility of contacting an attorney or legal representative at the establishment and in private; psychological care and help; procedures for submitting complaints, requests and proposals¹³³.

To ensure that the rights of children placed in such establishments are respected and complied with, the establishments are subject to regular inspections¹³⁴. Inspections are

¹³¹ Juvenile Act, S. 66(1).

¹³² Juvenile Act, S. 65, 66; [Poland's 3th and 4th periodic reports for the UN Committee on the Rights of the Child \(CRC/C/POL/3-4\)](#), p. 37.

¹³³ Regulation of the Minister of Justice on correction centres and shelters for juveniles (S.57 and 86); [Poland's 3th and 4th periodic reports for the UN Committee on the Rights of the Child \(CRC/C/POL/3-4\)](#), p. 38.

¹³⁴ [Poland's 3th and 4th periodic reports for the UN Committee on the Rights of the Child \(CRC/C/POL/3-4\)](#), p. 42.

conducted at least once every five years, unless there are circumstances justifying an immediate inspection¹³⁵.

3.1.4 Criminal records

When the family court decides to apply educational measures to a child, in principle his/her personal data is removed from the National Criminal Register after reaching 18 years old, unless the educational measure expired automatically at the age of 21 or at the point of undertaking military service¹³⁶. In the case of a correctional measure, the record is deleted 3 months after:

- expiry of the probation period;
- 2 years from the date of the decision to conditionally refrain from enforcing the measure;
- the offender reaching 23 years of age.

¹³⁵ Pursuant to the Regulation of the Minister of Justice of 17 October 2001 on correction centres and shelters for juveniles.

¹³⁶ Act on National Criminal Register, S.14.

4 Strengths and potential gaps

The existing approach toward children in criminal/juvenile proceedings, as well as recent amendments and draft legislation in progress show that the authorities are aware of their obligations as regards child-friendly justice. They benefit from the knowledge and experience of specialised NGOs, and this cooperation can be considered a strength, allowing for further improvement of the system.

Public policy seems to place emphasis on assistance to victims of crimes, in particular children, and child witnesses, prevention of domestic violence and sexual abuse and cybercrimes against children. Government policy as regards child offenders is, however, less clear. In general, the system of juvenile justice is considered to meet international standards in this regard. Certain stakeholders believe, however, that the instruments of social rehabilitation provided by law are not used in an adequate and efficient way, and not all provisions are implemented in practice¹³⁷.

Among the potential gaps, stakeholders we interviewed mentioned, in particular, insufficient use of the possibilities offered by the law. This results from the fact that training opportunities for police and judicial officers are still unsatisfactory, and a lack of adequate knowledge and skills. The quality of the training provided by different institutions also varies¹³⁸. Some of the stakeholders suggest joint training of different practitioners dealing with children at different stages of the proceedings in order to improve mutual trust, to the benefit of the child.

Other issues raised involved an insufficient number of expert psychologists specialising in children, lack of clear requirements that the interview with a child victim/witness be conducted by people with adequate qualifications, underestimation of the role of professional probation officers, and inadequate methods of providing children and their parents with information about their rights (too formalistic and difficult to understand for an average citizen).

¹³⁷ Conclusion based on stakeholder consultation (family and juvenile probation officer).

¹³⁸ Conclusion based on stakeholder consultation (prosecutor, NGO assisting child victims/witnesses, criminal court judge, family court probation officer).

Conclusions

A child victim has the status of party to the criminal proceedings only until the end of the preliminary proceedings. A child does not have legal standing before the court and has to act through his/her statutory representative, who may maintain the status of party to the main proceedings by acting as an auxiliary prosecutor. In this case, s/he will have the right to challenge all actions and decisions taken, ask for evidence to be taken, interview witnesses, etc.

Public policy seems to place emphasis on assisting victims of crimes, in particular children, and child witnesses, prevention of domestic violence and sexual abuse and cybercrimes against children. There are numerous public campaigns, as well as information and assistance programmes addressed to child victims or witnesses of crimes, and relevant amendments of criminal procedure have been adopted in recent years. However, according to the stakeholders interviewed who are involved in assisting child victims, this group of children is still in a worse procedural situation than the perpetrator¹³⁹. In particular, the child victim/witness, in contrast to a child offender, is involved in a criminal procedure designed for adults and conducted in criminal courts. Thus, emphasis is put on limiting as much as possible the child's involvement in the procedure, where his/her procedural rights are performed on his/her behalf by a parent or a legal counsel. Child victims/witnesses under 15 years old are particularly protected in criminal proceedings: the Code of Criminal Procedure provides for special interview conditions for a child victim/witness who is under 15 at the moment of the interview. As regards older children, there are other provisions that can be applied to provide more protection to the child witness during the interview, but their use is facultative and will depend on the person conducting the proceedings in the given case. There are also several provisions/instruments designed to protect all witnesses from harm or intimidation from the offender, which apply equally to children.

Public policy toward child offenders is less evident, at least judging from the content of ministerial websites. Nevertheless, relevant action programmes addressing social delinquency by children have been implemented, and an outline of the draft reform of the Juvenile Act has been prepared, in order to strengthen the procedural rights of children.

The child offender and his/her parents have the rights of a party in juvenile proceedings (which are special proceedings conducted by civil family courts). They can make comments and submit explanations and clarifications with regard to each piece of evidence. Participation of the child offender and his/her legal counsel in court hearings is mandatory.

According to some of the stakeholders interviewed, it seems that the situation of child offenders depends to a great extent on the approach of individual judicial officers and the way they apply the procedural provisions which are available. Stakeholders dealing with child offenders and "antisocial" children underline that these children are more often than not neglected by their families and environment, and require a lot of professional assistance to learn how to adjust to a "normal" life in society. Probation officers who work on an everyday basis with troubled children and their families report that they feel overwhelmed by the workload and the feeling of being undervalued as regards their profession, and the importance of their role in the social rehabilitation of these children¹⁴⁰.

¹³⁹ Conclusion based on stakeholder consultation (prosecutor, NGO assisting child victims/witnesses).

¹⁴⁰ Conclusion based on stakeholder consultation (family and juvenile probation officer).

Annex – Legislation reviewed during the writing of this report

(Dates of entry into force of the original legal act, most acts have been subject to later amendments)

- The General Prosecutor’s guidelines of 21 December 2011, PG VII G 021/1/11
- Act on the Prevention of Domestic Violence of 29 July 2005
- Act on National Minorities and on Regional Language of 6 January 2005
- Regulation of the Minister of Justice on the organisational and regulatory rules of the execution of pre-trial detention of 25 August 2003
- Regulation of the Minister of Justice on organisational and regulatory rules of the execution of deprivation of liberty of 25 August 2003
- Regulation of the Minister of Justice on the mediation proceedings in criminal matters of 13 June 2003
- Regulation of the Minister of Justice on correction centres and shelters for juveniles of 17 October 2001
- Law on the System of Common Courts of 27 July 2001
- Regulation of the Minister of Justice on the mediation proceedings in juvenile matters of 18 May 2001
- Act on National Criminal Register of 24 May 2000
- Code of Criminal Enforcement Procedure of 6 June 1997
- Code of Criminal Procedure of 6 June 1997
- Penal Code of 6 June 1997
- The Polish Constitution of 2 April 1997
- Act on the Police of 6 April 1990
- Act on Court Probation Officers of 20 June 1985
- Act on Public Prosecutor’s Office of 20 June 1985
- Act on Proceedings in Juvenile Matters of 26 October 1982
- Code of Civil Procedure of 17 November 1964
- Civil Code of 23 April 1964