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The right of minors to information, translation and interpretation in criminal proceedings:

Development of child-friendly tools

JUST-AG-2016-06

NEEDS ASSESSMENT OF CHILDREN IN CONFLICT WITH THE LAW IN CROATIA: REPORT ON THE RIGHT OF CHILDREN TO INFORMATION, TRANSLATION AND INTERPRETATION IN CRIMINAL PROCEEDINGS

1. INTRODUCTION

The purpose of the conducted study was to examine the degree of knowledge and perception that children and young people have of the proceeding in which they have been involved, to better understand what they have been told, what they know about their rights, and what they know about the proceeding in which they are involved and its consequences.

The report contains the methodology of the conducted research which involves the participants, the instruments used in the assessment and the research implementation process. Also, the report contains the results obtained by the research as well as the brief conclusion.

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2. METHODOLOGY

2.1. Participants

The research was conducted during September and October 2018 in Residential Home for Children and Youth in Split, Centre for Social Welfare in Split and NGO MoSt in Split. The sample of subjects that participated in the research was convenient.

14 participants overall were included in filling out the **Rights in Judicial Proceedings Questionnaire**.

5 of them were minors. We got the verbal consent from parents for participation for 5 minors included.

All participants were boys.

The age range of participants who completed the Questionnaire is **from 16 to 19 years**.

Average age of the participants who completed the Rights in Judicial Proceedings Questionnaire was **17.9 years** (17 years, 10 months and 24 days).

Average duration of the disciplinary measure of the participants who completed the Rights in Judicial Proceedings Questionnaire was **275.4 days**.

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6 participants that completed the Questionnaire serve measure of **increased care and supervision** (42.86%), **1 participant** serves measure of **increased care and supervision and suspension of juvenile imprisonment** (7.14%), **3 participants** serve measure of **commitment to a centre for a disciplinary development** (21.43%), **3 participants** serve measure of special obligation **to engage in the work of the humanitarian organization** (21.43%) and **1 participant** serves measure of special obligation **to include in individual or collective psychosocial treatment at the youth counselling centre** (7.14%).

6 overall subjects were included in one Focus group that was conducted.

4 of them were minors. We got the verbal consent from parents for participation for 4 minors included.

Focus group participants were boys.

Average age of the participants who were included in the Focus group was **17.5 years.**

The age range of participants which were included in Focus groups is from **17 to 19 years.**

Average duration of the disciplinary measure from the participants which were included in the Focus group was **255.33 days.**

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4 participants included in Focus group serve measure of **commitment to a centre for a disciplinary development** (66.66%), **1 participant** serves measure of **increased care and supervision and suspension of juvenile imprisonment** (16.67%) and **1 participant** serves measure of special obligation **to engage in the work of the humanitarian organization** (16.67%).

All of the respondents which were included in the Focus group stated themselves as **Croats.**

5 of them have committed crime for the **first time**, **one** of them is **recidivist.** Respondents who participated in the Focus group specified a criminal offense for which they received a particular measure: **3 participants** committed a crime of **attempted murder** (50%), **1 participant** committed a **crime of rape** (16.67%), **1 participant** committed a crime of **unauthorized possession, production and trafficking of drugs** (16.67%) and **1 participant** committed a crime of **bodily injury** (16.67%).

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2.2. Instruments

Rights in Judicial Proceedings Questionnaire was translated both by Project manager and Researcher to get more accurate translation.

We have analyzed Croatian legislation in English and Croatian language (Law on Juvenile Courts, Criminal Procedure Act, Law on Execution of Sanctions for Minors for Criminal Offenses and Offenses, European Parliament and Council Directives 2012/13 / EU, 2016/800 ; 2010/64/ EU), to incorporate the expert terminology used in our legal system.

Rights in Judicial Proceedings Questionnaire contains 43 claims and two essay type questions with aim to define the level of participant`s information and knowledge about their rights when they were involved in criminal proceedings. Participants gave their answers for each of 43 claims by marking **T** if they have estimated the claim is true or **F** if they have estimated the claim is false. In the last two essay type questions, respondents gave descriptive answers, i.e. their own opinion and explanation. The participants were instructed how to fill out the Questionnaire with a brief instruction:

„We are currently carrying out a project, which aim is to discover how much children serving a sentence imposed by a criminal court know about the rights they have during all steps of their judicial proceeding (arrest, trial and sentence execution). To achieve this aim, we have to rely on your help and participation. Below, we are going to ask you some questions regarding the different rights entitled to a child during the different phases of a judicial proceeding (arrest, trial and sentence execution). Please, read each statement carefully and say whether you think it is true (T) or false (F). Remember that there are no good or bad answers, so, please, answer the questions according to your own personal knowledge and experience. The results of this research won't have any impact on your situation, as well as the specific way in which you answer. The answers to this questionnaire are anonymous which means that when we collect your answers, we won't need to know whose are whose. Please do not write down your name or any other data which may reveal your identity.“

The script for Focus group and supporting material were translated both by Project manager and Researcher to get more accurate translation and all the necessary information. To conduct the Focus group, both moderator and assistant moderator (researcher and project manager) were previously prepared by reading all the additional materials to foresee and control non-systemic factors that could affect dependability of the procedure.

The participants were instructed how to participate and contribute with a brief instruction:

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"We will present the case of a child who committed a criminal offense. I'll read the story and ask you questions about the rights that this person has at this stage of the court process. You will answer these questions and comment on them by giving your opinion. Do you have any ambiguity before we begin?"

2.3. Procedure

2.3.1. Implementation of the Rights in Judicial Proceedings Questionnaire in criminal proceedings

In order to get the permission to conduct the research with children who execute some of the remedies provided by the court, we contacted the Director of the Centre for Social Welfare and the Director of the Residential Home for Children and Youth in Split. The directors received a written consent from the Ministry for Demography, Family, Youth and Social Policy for the implementation of the research. After the meeting and explanation of the project objectives, we were granted a project implementation license.

The social pedagogues from the Center for Social Welfare have contacted the children who are serving their educational measure (measure of increased care and supervision, special obligation to engage in the work of humanitarian organizations, special obligation to include in individual or collective psychosocial treatment at the youth counseling center, increased concern and supervision with the suspension of a juvenile prison) as well as their parents, and agreed on the term for individual application of the Questionnaire. A total of 11 children were sent by the Center for Social Welfare Split. At each application of the Questionnaire the children are explained in detail the purpose of the research and an informative leaflet was presented to them with all the necessary information. All respondents signed an informative leaflet and agreed to participate in the research. For children under the age of 18 who participated in the research, we received the verbal consent of their parents to participate. Questionnaires were applied in the premises of the Center for Social Welfare and NGO MoSt.

Residential Home for Children and Youth in Split has sent 3 respondents who are serving educational measure of Commitment to a Center for Disciplinary Development to participate in the survey by completing the Questionnaire. Each Questionnaire application explains the purpose of the research in detail and is provided with an informative leaflet with all the necessary information on participation. All respondents signed an informative leaflet and agreed to participate in the research. For children under the age of 18 who participated in

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the research, the educators of the institution received the verbal consent from their parents to participate. Questionnaires were applied in the premises of the Residential Home for Children and Youth and NGO MoSt.

2.3.2. Implementation of the Focus group

A total of 6 respondents participated in the Focus group. One respondent who is serving the educational measure of increased care and supervision and suspension of juvenile imprisonment was sent by the Centre for Social Welfare Split, and 5 respondents who are serving educational measure of a commitment to a center for disciplinary development were sent by the Residential Home for Children and Youth. The Focus group was conducted at the NGO MoSt.

The participants gave all the necessary information the facilitator's assistant needed, such as years, nationality, type of crime etc. After that, the facilitator's assistant turned on a voice recorder and the facilitator started implementing the Focus group. The facilitator's assistant recorded all responses to the focus group draft. The focus group duration was 47 minutes and respondents were happy to participate and have answered the questions asked. They also participated in the debate and exchanged opinions.

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3. RESULTS

3.1. Police arrest

3.1.1. Children`s right to information

a) Children`s right to know what they are being accused of

Focus group: Participants showed knowledge about children`s right to know what they are being accused of.

Questionnaire:

- Statement 1 (*A child has the right to be given an explanation about what he/she is being accused of*): 14 participants marked T (true).

b) Children`s right to have access to their judicial file

Focus group: Participants showed knowledge about children`s right to have access to their judicial file.

Questionnaire:

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- Statement 12 (*A child has the right to see the information about his/her judicial record*): 12 participants marked T (true), 2 participants marked F (false).
- Statement 13 (*A child's lawyer has the right to see the information of the child's judicial record*): 13 participants marked T (true), 1 participant marked F (false).
- Statement 14 (*child has the right to make a complaint if he/she is not allowed to have a look into his/her judicial record*): 13 participants marked T (true), 1 participant marked F (false).

c) Children`s right to have a letter of rights

Focus group: Participants showed knowledge about children`s right have a letter of rights.

Questionnaire:

- Statement 18 (*A child under arrest has the right to be given a written letter of his/her rights*): 14 participants marked T (true).

d) Children`s right to remain silent

Focus group: Participants showed knowledge about children`s right to remain silent.

Questionnaire:

- Statement 4 (*A child has the right to remain silent*): 13 participants marked T (true), 1 participant marked F (false).

e) Children`s right to medical care

Focus group: Participants showed knowledge about children`s right to medical care.

Questionnaire:

- Statement 23 (*A child has the right to be seen by a doctor*): 14 participants marked T (true).

3.1.2. Children`s right to interpretation and translation

Focus group: Participants showed knowledge about children`s right to interpretation and translation.

Questionnaire:

- Statement 5 (*A child has the right to an interpreter if he/she does not understand the language*): 13 participants marked T (true), 1 participant marked F (false).
- Statement 6 (*A foreign child has the right to appropriate assistance*

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(translation/interpretation) if he/she wants to speak to his/her lawyer): 13 participants marked T (true), 1 participant marked F (false).

- Statement 7 *(A child who cannot hear or see has the right to be communicated to by his/her lawyer in a way that he/she understands): 14 participants marked T (true).*

- Statement 8 *(A foreign child has the right to make a complaint if he/she has not understood what he/she has been told): 11 participants marked T (true), 2 participants marked F (false), 1 participant did not give his answer to the statement.*

- Statement 9 *(A child who cannot hear or see has the right to make a complaint if he/she has not understood what he/she has been told): 12 participants marked T (true), 2 participants marked F (false).*

- Statement 10 *(A foreign child has the right to be given the important information in writing and in a language that he/she understands (for example: the final judgment): 13 participants marked T (true), 1 participant marked F (false).*

- Statement 11 *(A child who cannot hear or see has the right to be given the important information in writing (in Braille for example) and in a language that he/she understands (for example: the final judgment): 14 participants marked T (true).*

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3.1.3. Children`s right to a lawyer

a) Children`s right to a lawyer

Focus group: All participants showed knowledge about children`s right to a lawyer, but 2 participants expressed the opinion that David is obliged to pay that lawyer.

Questionnaire:

- Statement 24 *(A child has the right to be assisted/defended by a lawyer): 14 participants marked T (true).*

- Statement 25 *(A child has the right to be defended by a lawyer for free): 13 participants marked T (true), 1 participant marked F (false).*

b) Children`s right to privacy with their lawyers

Focus group: All participants showed knowledge about children`s right to privacy with their lawyers, but 2 participants expressed the opinion that David doesn`t have the right to speak to his lawyer before the police questioning, and 1 participant expressed the opinion that lawyer shouldn`t tell David what would happen during police investigations.

Questionnaire:

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- Statement 16 (*A child has the right to speak with a lawyer before being questioned by the police*): 11 participants marked T (true), 3 participants marked F (false).
- Statement 17 (*A child has the right not to tell anyone what he/she has talked about with the lawyer*): 14 participants marked T (true).

3.1.4. Children`s right to have the holders of parental responsibility informed

Focus group: Participants showed knowledge about children`s right to have the holders of parental responsibility informed, but 1 participant expressed the opinion that David shouldn`t be informed that he has the right to call his parents to tell them what has happened.

Questionnaire:

- Statement 2 (*A child has the right to call a closely related person*): 12 participants marked T (true), 2 participants marked F (false).
- Statement 3 (*A child has the right to inform his/her parents that he/she is under arrest*): 13 participants marked T (true), 1 participant marked F (false).

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3.1.5. Children`s right to be accompanied

Children`s right to make a statement in the presence of their lawyers and holders of parental responsibility

Focus group: One participant showed knowledge about children`s right to make a statement in the presence of their attorney and bearer of parental responsibility, and 2 participants expressed the opinion that David`s parents shouldn`t be present during their son`s police questioning.

Questionnaire:

- Statement 15 (*A child has the right to a lawyer`s presence during the police questioning*): 13 participants marked T (true), 1 participant marked F (false).

3.1.6. Other important issues

a) Right of children deprived of liberty to be kept separate from detained adults after their arrest

Focus group: Participants showed knowledge about right of children deprived of liberty to be kept separate from detained adults after their arrest

Questionnaire:

- Statement 19 (*A child under arrest must be separated from adults under arrest*): 12 participants marked T (true), 2 participants marked F (false).

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b) Children`s right to be put under arrest for no longer than 48 hours

Focus group: Participants showed knowledge about children`s right to be put under arrest for no longer than 48 hours.

Questionnaire:

- Statement 20 (*A child can be under arrest for no longer than 48 hours*): 12 participants marked T (true), 2 participants marked F (false).

c) Right to use audio-visual means

Focus group: Two participants showed knowledge about right to use audio-visual means, and three participants expressed the opinion that David`s questioning shouldn`t be recorded.

Questionnaire:

- Statement 21 (*The police questioning can be video-recorded*): 14 participants marked T (true).

- Statement 22 (*A child has the right to the non-publication of video-recordings of him/her*): 13 participants marked T (true), 1 participant marked F (false).

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3.2. Trial

3.2.1. Children`s right to information

a) Children`s right to appeal the sentence

Focus group: Participants showed knowledge about children`s right to appeal the sentence.

Questionnaire:

- Statement 32 (*A child has the right to the review of his/her sentence*): 14 participants marked T (true).

b) Children`s right to a non-public trial

Focus group: Participants showed knowledge about children`s right to a non-public trial.

Questionnaire:

- Statement 33 (*A child has the right to a non-public/closed trial*): 14 participants marked T (true).

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c) Children`s right to appeal if their rights have not been respected

Focus group: Participants showed knowledge about children`s right to appeal if their rights have not been respected.

Questionnaire:

- Statement 34 (*A child has the right to make a complaint and ask for reparation if his/her rights are not respected*): 14 participants marked T (true).

d) Children`s right to privacy

Focus group: Participants showed knowledge about children`s right to privacy.

Questionnaire:

- Statement 35 (*A child has the right that people do not speak about his/her private life*): 13 participants marked T (true), 1 participant marked F (false).

- Statement 36 (*A child has the right to have his privacy protected from the medias (for example: television, newspapers, etc.)*): 14 participants marked T (true).

3.2.2. Children`s right to be accompanied

Children`s right to be accompanied by their holders of parental responsibility and their lawyers

Focus group: One participant showed knowledge about children`s right to be accompanied by their holders of parental responsibility and their lawyers, and two participants expressed an opinion that David`s parents shouldn`t be present during the trial.

Questionnaire:

- Statement 29 (*A child has the right to have his/her parents present during his/her trial*): 12 participants marked T (true), 2 participants marked F (false).

- Statement 30 (*A child has the right to wait for his/her lawyer at the trial*): 12 participants marked T (true), 2 participants marked F (false).

- Statement 31 (*A child has the right to his/her lawyer`s presence during identity parades*): 13 participants marked T (true), 1 participant marked F (false).

3.2.3. Children`s right to be present and participate during the trial

Focus group: Four participants showed knowledge about children`s right to be present and participate and two participants expressed the opinion that speakers shouldn`t use a child-friendly language during the trial.

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Questionnaire:

- Statement 27 (*A child has the right to be present and to participate at his/her trial, to be heard and to give his/her opinion*): 14 participants marked T (true).
- Statement 28 (*A child who was not present at his/her own trial has the right to another trial*): 12 participants marked T (true), 2 participants marked F (false)

3.2.4. Children`s right to individual evaluation

Focus group: Four participants showed knowledge about children`s right to individual evaluation and one participant expressed the opinion that no one should evaluate David or his parents before the trial.

Questionnaire:

- Statement 26 (*A child has the right to an individual assessment before his/her trial*): 12 participants marked T (true), 2 participants marked F (false)

3.3. Sentence execution

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3.3.1. Children`s right to receive written information about their rights and obligations and about the detention centre`s internal regime Regulations

Focus group: Participants showed knowledge about children`s right to receive written information about their rights and obligations and about the detention centre`s internal regime Regulations.

3.3.2. Children`s right to family communication

Focus group: Participants showed knowledge about children`s right to family communication.

Questionnaire:

- Statement 37 (*A child who is in a detention center has the right to see his/her family*): 14 participants marked T (true).

3.3.3. Children`s right to receive medical care

Focus group: Participants showed knowledge about children`s right to receive medical care.

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Questionnaire:

- Statement 38 (*The lawyer of a child who is in a detention center has the right to ask for a doctor to see the child*): 13 participants marked T (true), 1 participant marked F (false).
- Statement 39 (*A child who is in a detention center has the right to be seen by a doctor*): 14 participants marked T (true).
- Statement 40 (*The parents of a child who is in a detention center have the right to ask for a doctor to see their child*): 13 participants marked T (true), 1 participant marked F (false).

3.3.4. Children`s right to education and training

Focus group: Participants showed knowledge about children`s right to education and training.

Questionnaire:

- Statement 41 (*A child who is in a detention center has the right to be given education and training*): 13 participants marked T (true), 1 participant did not give his answer to the statement.

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3.3.5. Children`s right to religious freedom

Focus group: Participants showed knowledge about children`s right to religious freedom.

Questionnaire:

- Statement 42 (*A child who is in a detention center has the right to practice his/her own religion and believes*): 13 participants marked T (true), 1 participant did not give his answer to the statement.

3.3.6. Children`s right to have access to programs that foster their development and their reintegration into society

Focus group: Participants showed knowledge about children`s right to programs that foster their development and their reintegration into society.

Questionnaire:

- Statement 43 (*A child who is in a detention center has the right to attend workshops which help him/her reintegrate into society*): 13 participants marked T (true), 1 participant did not give his answer to the statement.

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3.2.7. Children`s right to individual evaluation

Focus group: Four participants showed knowledge about children`s right to individual evaluation and one participant expressed the opinion that no one should evaluate David when he begins to serve his sentence.

4. CONCLUSION

In conclusion, the results of the application of the Questionnaire and the Focus group indicate the extremely high degree of knowledge of the respondents on certain statements.

The results of the Questionnaire and Focus group implementation indicate the extremely high degree of knowledge about the right of children to know what they are accused of at the arrest stage, the right children who are arrested to receive written notice of their rights, the right children to health care at the time of arrest, the right to a trial that is closed to the public, the right of children to appeal and compensation for damages if their rights are not respected at the trial stage, the right children to communicate with the members of the family while executing their measure, the right of children to education in the stage of the execution of the measure, the right of the children to a freedom of choice in relation to religious affiliation in the in the stage of the execution of the measure and the right of the children to access social reintegration programs at the stage of the execution of the measure.

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