



Child Friendly Justice European Network

CFJ-EN Annual Seminar Statement 2023

26-27 October 2023
English

The Annual seminar is organised the day after the General Assembly. During one day, plenary sessions and training/workshops sessions are given to participants on specific thematic of the CFJ. Experts, representatives of European institutions as well as other European Networks and organisations are invited to share their expertise. In 2023, the Annual seminar took place in Genoa, Italy on 26 and 27 October 2023. It gathered 97 professionals.

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**Co-funded by
the European Union**

CFJ-EN ANNUAL SEMINAR

“Transforming Justice Systems for Children in Migration”

Genova, Italy, 26-27 October 2023



c/o Défense des Enfants International – Belgique

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This Paper has been produced with the financial support of the European Union.
The contents herein are the sole responsibility of project partnership and can in no way be taken to reflect the views of the European Commission

Narrative Report

I. Context and General and Specific Objectives of the Seminar

a. General Context

Children in migration are involved in administrative proceedings, while some of them are also overrepresented among children suspected, accused or condemned for a crime. They are more at risk of becoming victims of trafficking or exploitation, and/or victims of discrimination as a result of the ever-growing xenophobic narratives in Europe. Before civil or criminal courts, they may face additional burdens in accessing justice, reparation and compensation.

The war in Ukraine brought additional attention to the importance of ensuring that every child asylum seeker receives the same level of treatment and care, independently from the region they may come from. Every child has a singular story: some arrive accompanied by their family or a responsible adult, some are under the care of relatives or friends, some are separated from their caregivers during their journey, and others have left their country alone. Some children were born in Europe from migrant parents.

The workshop on “Child friendly justice in administrative proceedings and ways to safeguard it”, held in October 2022 during the first CFJ-EN Annual Seminar raised many issues children face in administrative proceedings due to their migration status (access to legal assistance, right to interpretation, access to information, deprivation of liberty, etc.). For its 2023 annual seminar, in close partnership with Defence for Children International Italy, the CFJ-EN therefore sought to shed light on the diversity of situations and challenges children in migration are facing while attempting to access justice and legal remedies and push towards transforming justice systems to fit the needs of children in migration.

b. General and Specific Objectives

The General Objective of the Annual Seminar 2023 is to promote the human rights of children in migration in contact with justice systems and generate opportunities for collaborations among national and regional stakeholders to guarantee that children in migration can effectively access justice in Europe.

The Specific Objectives of the Annual Seminar were to:

1. Take stock of where we stand in Europe in relation to access to justice for children in migration
2. Highlight current obstacles children in migration face in accessing justice and understand why they are not systematically granted remedies
3. Examine the extent to which child friendly justice standards apply to children in migration and reimagine how current procedures could be improved

4. Share promising practices and solutions which can transform justice systems to adapt them to the needs of children in migration

II. About the Participants and the Speakers

In addition to representatives of each member organisation of the CFJ-EN, and to its operational team, the event was open to external participants upon targeted invitation by the CFJ-EN and its members:

- From regional institutions: European Commission, European Parliament, Council of Europe, Council of the Baltic Sea States, UNICEF
- From national public institutions: ministry delegates, law- and policymakers
- Legal practitioners: judges, prosecutors, children’s lawyers
- Civil society organisations, regional alliances and network representatives – especially organisations working on migration issues.
- Intersectoral practitioners and interpreters: child psychologists, social workers, probation officers
- Academic world: researchers, law clinic heads, school of magistrates’ academic advisors

Participants came from varied professional backgrounds, many being researchers or project coordinators, as well as lawyers, judges, psychologists and social workers.

The Seminar reached an overall participation of 97, of which one attended online. 119 people (43 Members + 76 Externals) had registered via the registration link, 90 registered as women, 28 registered as men, and one prefer not to say.

7 speakers gave keynote speeches or welcome/thank you addresses during the seminars’ opening and closing plenary sessions, of which 4 were of the female gender and 3 were of the male gender.

The speakers of the plenary sessions were 11 including the 4 young ambassadors. 7 of them were from female gender and 4 of them were from the male gender.

During the seminar, participants joined three different workshops. Two of the workshops were led by a male and a female and one was only led by female. Workshop leads also gave a short summary of the recommendations from their workshops in the closing plenary session.

III. Sessions Summary

A. Welcome reception with keynote speeches

Thursday, 26th October 2023

Mariama Diallo, CFJ-EN Coordinator, welcomed the participants to the 2nd Annual Seminar of the Child Friendly Justice European Network.

Welcome addresses

Carla Garlatti

Italian Independent Authority for Children and Adolescents, Italy

Carla Garlatti expressed her regret for not attending the seminar and emphasized the importance of promoting the best interests of children in migration within the justice system. She highlighted the significance of the 1989 Convention on the Rights of the Child, emphasizing key articles such as Article 12 (the child's right to be heard), Article 37 (rights of children deprived of liberty), and Article 40 (rights of children involved in penal law).

Ms Garlatti stressed the concept of vulnerability, particularly among migrant minors, and mentioned legislative provisions recognizing their specific needs. She underlined the challenges in accessing justice for minors, especially linguistic and cultural barriers, and emphasized the importance of an intercultural approach.

Ms Garlatti also addressed the issue of child victims of trafficking, pointing out that migrant children are at increased risk. She discussed legal measures and assistance programs for such victims, and emphasized the need for cooperation among stakeholders in promoting the best interests of the child.

Guia Tanda

Regional Ombudswoman for children, Liguria Region, Italy

Ms Tanda welcomed participants and shared the role that the Regional Ombudswoman for children in Liguria plays in supporting the access to justice for children in migration.

Benoît Van Keirsbilck

Director, Defence for Children International, Belgium President of the CFJ-EN

Member of the UN Committee on the Rights of the Child

M. Van Keirsbilck welcomed the participants and encouraged the audience to have fruitful discussions in the next day in order to propose real solutions to children in migration so that they can access legal remedies and justice.

Pippo Costella

Director, Defence for Children International, Italy

Keynote Address

M. Costella welcomed the participants and shared his concerns about the current situation in Italy, with a too high number of children in migration left without proper care and assistance in Italy, in a challenging context.

Theoni Koufonikolakou

**Ombudswoman for Children, Office of the Ombudsman, Greece
Ex-Chairwoman of the European Network of Ombudspersons for Children**

Ms Koufonikolakou discussed the challenges and pressing issues related to children's rights in the context of the current global crises. She highlighted the inadequacy of instruments to protect children's rights amidst ongoing conflicts and the climate crisis, emphasizing the vulnerability of children on the move.

The ombudswoman for Children in Greece also pointed out that integrated child protection systems are lacking, and social stereotypes and myths about these populations pose challenges. She mentioned the dangers faced by children due to tightening European policy borders, citing the tragedy of the Pylos shipwreck.

She raised concerns about pushbacks and inhuman treatment by Member States and their agencies, emphasizing that these practices deprive children of remedies and expose them to life-threatening dangers. She questioned whether Europe is applying double standards in its response to different situations.

Ms Koufonikolakou discussed the need for child-friendly information, stable support systems, and legal frameworks to protect children on the move. She emphasized the importance of meaningful child participation and the role of education in fostering stability, respect, and integration.

Ms Koufonikolakou stressed the importance of putting children first in planning and providing quality services to all children, considering their dynamic and evolving presence in society. Theoni called for integrated child protection systems, transformed justice systems, and a shift in the paradigm to better meet the needs of children and uphold their rights.

B. Plenary Session I – Scene Setting

Friday, 27th October 2023

Pippo Costella, the Director of Defence for Children International Italy, moderated the first session of the annual seminar, focusing on justice for children on the move, particularly in Europe and Italy. He stressed the urgency of addressing this issue, highlighted concerns regarding new legislative provisions, and called for a moment of reflection on the Middle East situation and the protection of children. He encouraged active engagement in discussions to make a positive impact on children's lives.

Antonella Minunni, the Director of Office II at the Ministry of Justice in Italy, discussed the challenges of dealing with unaccompanied foreign children in Italy. She stressed the need to provide comprehensive care for foreign children, especially unaccompanied ones, under Law 47/17. She highlighted the importance of regularizing their stay to enable integration and emphasized the necessity of territorial agreements for effective interactions with the Police Headquarters. Collaboration among various entities, including Juvenile Justice Services, was deemed essential to establish a synergic network of support. Antonella also called for cooperation with consulates to trace identities and family ties.

In terms of health, she emphasized the importance of National Health Service registration, vaccinations, and specific psychological and psychiatric care, considering cultural and religious beliefs. Antonella underscored the need for cultural-linguistic mediation, joint training, and a common language among institutions to create an integrated network to

support the well-being of foreign minors. She emphasized the diversity among these children and the need to coordinate responses to protect their rights. Legal, protection, and future-focused measures were implemented to ensure their inclusion as responsible adults. Collaboration with DCI Italy, research, and addressing issues related to criminal organizations are essential.

Nuala Mole from Aire Centre highlighted the underrepresentation of children in migration cases in international and EU courts. Unaccompanied children are particularly vulnerable and often lack protection and guardians. She stressed the need to keep children at the center of decision-making and ensure their comprehensive rights are recognized. She praised dedicated lawyers, like those in Italy, for holding states accountable for children's rights. Age assessment procedures were crucial for child-friendly justice (See Annex for the full list of caselaw presented).

Els Dumortier, a Professor at Vrije Universiteit Brussel in Belgium, discussed her research on how children and young people experience their rights and asylum procedures. Despite not being allowed access to hearing rooms, the research revealed that hearings are perceived as highly stressful exams by young asylum seekers. The procedures, although aiming to assess credibility, lack transparency, leading to feelings of injustice among the young asylum seekers.

She emphasized that these asylum procedures occur within a broader context of trauma and discrimination in the migrants' journeys. To truly make a difference for these young asylum seekers, Ms Dumortier suggested alternative migration policies, such as investing in countries of origin, specialized facilities and courts for young asylum seekers, and a child-friendly procedure at Europe's borders. She highlighted the need to question the current budget allocation and the human cost of existing migration policies. Ms Dumortier concluded by recommending the movie "Paper borders," created with the young asylum seekers, to humanize their experiences and see them as individuals striving for a better life.

C. Parallel workshops – Mutual learning

a) Workshop 1 - "Giving Due Weight" Lead: Catriona Jarvis & Syd Bolton (Methoria) & Nuala Mole (AIRE Centre)

Ms Mole introduced the workshop, focusing on the experiences of children in migration, whether accompanied or unaccompanied, often neglected in the age assessment procedure. She highlighted the lack of consultation with children in family reunification decisions, emphasizing the critical need for child-appropriate accommodation, healthcare, social support, and education. Syd and Catriona from Methoria presented two projects, one aimed at developing a specialized court to ensure children's participation and another focused on equal justice for migrant children. The proposed child-centred court would align with international principles, providing holistic solutions and overcoming conflicts in decision-making processes.

During the discussion, participants shared various perspectives, including a specialized child assistant in Austria, jurisdictional challenges in Belgium, the need for mandatory legal assistance in Italy, training for professionals, and the importance of non-verbal language. They emphasized the significance of continuous training and updating to better protect the best interests of the child. Allocating resources to improve justice systems and ensuring children's right to be heard were recurring themes.

Ms Mole concluded with recommendations, including involving children's views at every stage, demonstrating professional competence in children's rights, and establishing systems that prioritize children's right to be heard. The workshop aimed to address these challenges and promote a more child-centred approach to justice for migrant children.

b) Workshop 2 – “Compassionate & Trauma Informed Support for Migrant Children in the Justice System” Lead: Nantina Tsekeri (Defence for Children International Greece)

Ms Pappa from DCI Greece played a pivotal role in emphasizing the importance of a trauma-informed approach when working with children in migration. She highlighted that this approach goes beyond just offering psychological support and delves into the profound importance of understanding the trauma these young individuals may have experienced during their journeys.

The discussion delved into the various symptoms of a traumatic response, both physiological and cognitive. This included heightened physiological responses such as increased heart rate, elevated blood pressure, rapid breathing, and an exaggerated fight-or-flight reaction within the nervous system. Importantly, it was noted that humans can respond to both real and imagined danger, highlighting the complexity of trauma responses. The cognitive reactions to trauma were also discussed, including confusion and memory problems. Participants stressed the need for understanding and patience when these signs are evident, particularly within court proceedings.

The discussion revolved around the importance of recognizing these signs, being sensitive to them, and keeping them in mind to promptly identify and respond to them, thereby preventing situations that may trigger trauma in children. Ms Apergi stressed the significance of providing safety, both physically and emotionally, to individuals who have experienced trauma.

Ms koufonikolakou brought up a thought-provoking question: Can trauma trigger resilience? Ms Apergi responded by affirming that growth stemming from trauma is possible, but it does not typically occur through re-traumatization. A contradictory symptom of trauma is the avoidance of anything that reminds the individual of their traumatic experience, which is the opposite of resilience. Resilience is usually developed through repeated exposure but not in the context of an asylum interview.

In summary, the workshop discussion was marked by a strong emphasis on a trauma-informed approach when working with children in migration. The workshop participants formulated the following recommendations:

1. Prioritize trauma-informed training for professionals to create a safe environment for children in migration.
2. Emphasize cultural sensitivity in understanding and addressing trauma in diverse backgrounds.
3. Build trust with children by respecting their preferences and actively listening to their experiences.
4. Avoid re-traumatization in official processes, like asylum interviews, by minimizing trauma triggers.
5. Ensure access to specialized mental health services and resources for traumatized children, and promote preventive measures to address root causes of trauma.

c) Workshop 3 - Game Changer Innovations in Access to Justice for Children on the Move in Times of Crisis Lead: Jennifer Davidson (Institute for Inspiring Children’s Future) & Cédric Foussard (Terre des hommes)

M. Foussard introduced the new OECD Framework for child-friendly justice, emphasizing the importance of working with governments through the OECD. The framework revolves around four pillars: people-centered services, governance enablers and infrastructure, people empowerment, and planning, M&E, and accountability.

Ms Davidson highlighted that the framework's uniqueness lies in being owned by governments, focusing on culture and practice of people-centered justice. Even non-OECD member countries interested in joining must demonstrate their active engagement in child-friendly justice.

The discussion revolved around the core components that transform children's access to justice and remedies, exploring game-changing interventions. These interventions included promoting people-centered culture, designing solution-oriented child justice services, shifting towards an "alliance" mindset in governance, empowering children in the justice system, and data-driven policies.

Participants provided valuable input, with Serbia highlighting the importance of specific interventions and cost-benefit analysis. Helmut Sax questioned the meaning of "people-centered justice" and obstacles to change. The conversation also touched upon the need for broader systems for children to appeal if their rights are violated and the role of justice mechanisms alongside the formal justice system.

The need for consistency among multiple guidelines and frameworks was raised, emphasizing the importance of not lowering ambitions. The focus shifted to the importance of training young people in the justice system and the necessity of societal-level attitude change to address discrimination, bias, and stigma.

Participants proposed involving children with previous justice system experiences to visit schools and educate students about the justice system. The conversation also extended to capturing nuances in different countries' systems, ensuring children's consultation in framework development, and addressing the needs of vulnerable groups. Austrian models for supporting children at home and the importance of schools in capacity-building for children were discussed. Culture's central role in discussions about children in migration was emphasized, with mention of mentorship programs involving former asylum-seekers and refugees. Data collection and the need for comprehensive research and evidence-building were underlined, with attention to overcoming barriers in data collection, such as ethnic data.

The discussion was a comprehensive exploration of child-friendly justice, its challenges, and potential solutions, encouraging collaboration and the sharing of best practices.

D. Plenary session II – Debate: Children as agents of change



“Just imagine that you are 14 years old and you arrived on a new island, you didn't eat in the last few days. You have nothing: no one to welcome you, you feel empty and alone.”

TESTIMONY OF RHAMAT AMIRI A REFUGEE FROM AFGHANISTAN DURING THE CFJ-EN 2023 ANNUAL SEMINAR, 27 OCTOBER 2023, GEVOVA, ITALY.

The discussion, moderated by **Theoni Koufonikolakou, Ombudsperson for Children in Greece**, featured a debate with young ambassadors and professionals.

Bakary Fatty a refugee from Gambia highlighted the need for language assistance and support for new arrivals, emphasizing the challenges faced in Greece's education system and the lack of language assistance. He suggested a separate educational system for migrants to learn their native language before integrating into the local system.

Rahmat Amiri a refugee from Afghanistan, shared the traumatic experiences of arriving as an unaccompanied child and emphasized the need for care, assistance, love, and a safe place for such children. He stressed the importance of guardianship and maps (lawyers) to guide them through the asylum process. Education, fun, shelter, and compassion were identified as essential for their well-being.

Ibourahim Diarra a refugee from Mali, shared his journey to Italy, including transfers to different locations and living with adults in crowded facilities. He discussed the challenges of not being able to speak up when witnessing abuse. The lack of opportunities for education and the struggles faced by those without jobs were highlighted.

Ammar Abou Assaf, a refugee from Syria, emphasized the difficulties faced by refugees in Greece, including adjusting to the system and the challenges of language and cultural adaptation. He called for more support, opportunities, and extended shelter beyond 18 years.

Ms Koufonikolakou and the young ambassadors discussed the need for a more supportive and inclusive system, where every child is made to feel welcome and given the opportunity to learn, integrate, and succeed. Bakary expressed concern about the discriminatory asylum process and urged policymakers to remove borders and prioritize human rights.

Ms Koufonikolakou encouraged the young people to share their stories and the importance of psychological support, medical care, and funding for education. The need for professionals to provide proper information and guidance was emphasized.

Marijke Van Buggenhout a Doctoral Researcher at Vrije Universiteit Brussel in Belgium - her research highlighted that asylum interviews place immense stress on children, who are required to narrate their stories with precision and authenticity. These interviews are focused on truth-finding rather than genuinely hearing the children's voices, leading them to adapt to the rigid bureaucratic system. As a result, children's desires, dreams, and authentic voices have limited relevance in the process, making it a challenging and anxiety-inducing experience. The asylum interview is a pivotal moment in the procedure, impacting children's participation in decision-making, and it is often viewed as an "ultimate test," igniting fear and mistrust. The broader context of injustices faced by young people due to restrictive migration control measures must also be considered when aiming to make asylum procedures more child-friendly.

Sebastian Öhner, Senior Legal officer, Vienna Children's, and Youth Ombudsman's Office, Austria discussed the lack of political consensus and agreement in Austria and the difficulties in managing specific child needs in regions. The best interest of the child was mentioned in Austria's constitution, but challenges remain.

Participants also pointed out the importance of including the perspectives of young girls in such discussions.

E. Plenary Session III – Roundtable: Reimagining

In this session, moderated by **Lotte Buekenhout the CFJ-EN Advocacy-Officer**, several experts discussed important aspects and gave some recommendations about child-friendly justice for children in migration.

Jennifer Davidson, Director, Institute for Inspiring Children's Future, Scotland emphasized the importance of the Agenda for Action, which focuses on four key strategic levers to achieve SDG 16.3 for children: building new partnerships, developing smarter financing strategies, using evidence and data for child-centered reforms, and scaling up justice innovations while safeguarding digital tools for children. These levers are crucial for making progress in ensuring children's rights in the justice system.

Sarah Sameur, a Pro Bono Lawyer from Paris Bar Association, and a Member of the Alliance of Lawyers for Human Rights in France, stressed the importance of pro bono lawyers in assisting unaccompanied child asylum seekers in France, proposing that lawyers work at low cost and offering financial incentives for their efforts. She emphasized the need for training children's associations and NGOs in legal aspects when filing asylum requests with relevant authorities. Sarah also called for an increase in the number of guardians and ad hoc administrators to provide crucial follow-up and assistance to unaccompanied children throughout the asylum process.

She highlighted the necessity of holistic assistance for these children while waiting for their appeal hearings, which can take several months. During this period, they often lack essential support, such as social, financial, and housing assistance, and are unable to attend school or work. Additionally, Sarah advocated for a practical ban on radiological bone examinations, suggesting that children should be given the benefit of the doubt when there are uncertainties about their age. This approach would prioritize the well-being and rights of children throughout the asylum process.

Claudia de Luca, a Juvenile Prosecutor Officer in Naples, discussed the issue of human trafficking concerning young girls and boys, emphasizing the need for swift reception and meaningful inclusion for unaccompanied minors. She pointed out indicators of trafficking risk,

including age, gender, debts with traffickers, isolation from family, possession of false documents, and false promises of employment in Italy. De Luca stressed that efficient reception measures are crucial in preventing trafficking, particularly by promptly placing minors in suitable age-appropriate facilities. She warned against mixing older minors with adults and advocated for close monitoring of minors in these facilities. To ensure children's access to justice, she recommended mandatory legal representation, guardianship, and consultations with judges, facilitated by cultural mediators. De Luca also called for an awareness campaign to encourage foster care for unaccompanied foreign minors, simplified documentation procedures, and compulsory schooling.

Jean-François Goujon, a Legal Advisor at the Office of the Special Representative for Migrants and Refugees at the Council of Europe, emphasized the need for legal avenues that enable children to challenge decisions effectively and the importance of establishing a child-friendly justice system. He referred to various ECtHR cases concerning migrant and asylum-seeking children, such as *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium* (2006), *Rahimi v. Greece* (2011), *Popov v. France* (2012), *Moustahi v. France* (2020), and *Darboe and Camara v. Italy* (2023). Additionally, he discussed child-friendly asylum and migration processes in Council of Europe member states, highlighting several relevant soft law instruments and publications, including the Handbook for frontline professionals on conveying child-friendly information (2018), the Recommendation on effective guardianship for unaccompanied and separated children, the SRSG publication on promoting child-friendly approaches in migration (2019), the Recommendation on human rights principles and guidelines on age assessment in migration (December 2022), and the Council of Europe Strategy for the Rights of the Child (2022-2027).

The discussions also revealed the links between the shortcomings of reception centers and the risks of child trafficking, the necessity of involving children early in the decision-making process, the importance of having both guardians and legal representation, and the challenges children face during their transition to adulthood. These insights shed light on the complex issues surrounding child-friendly justice for children in migration and the steps needed to ensure their rights are protected throughout the legal process.

F. Session IV : Closing plenary

Mariama Diallo, CFJ-EN Coordinator, expressed sincere gratitude to all the speakers and participants for their active engagement, thoughtful contributions, and dedication to promoting child-friendly justice throughout the seminar. She extended heartfelt thanks for the enriching dialogue and valuable insights shared throughout the day, highlighting the fruitful exchanges during the lunch and coffee breaks that contributed to the seminar's success.

During the closing plenary, various participants shared their insights and concerns regarding child-friendly justice for children in migration:

- **NGO Engagement:** Highlighted the crucial role of NGOs, such as Defence for Children International (DCI), in facilitating communication between young people and policymakers.
- **Barriers Faced by Children:** Commented on the obstacles children face and the need to promote mechanisms that support them rather than promote mechanisms that hinder their well-being.
- **Child-Friendly Justice:** Ensured effective access to Child-Friendly Justice and suggested clarifying the distinction between lawyers specializing in defending children and other legal professionals.

- **Accountability:** Stressed that welcoming migrants is an accountability, referring to Article 4 of the UN Convention on the Rights of the Child (CRC) as a basis for implementation and achieving maximum results.
- **Education and Participation:** Emphasized the importance of education, promoting children's active participation, and empowering them.

- **Guardianship:** Emphasized the importance of high-quality and well-trained guardians for migrant children.
- **Role of Translators:** Highlighted the crucial role of translators (cultural mediators) in effective communication.

- **Accurate Information:** Discussed the issue of providing accurate information to children and the potential consequences of misinformation.
- **Information Access and Legal Proceedings:** Mentioned the need to provide children with information they can understand and the importance of avoiding delays in legal proceedings. Also, access to guardianship was emphasized.
- **Community and Media Involvement:** Emphasized the role of the broader community and the media in welcoming migrants and encouraged policymakers to address these challenges effectively.

Pippo Costella, Director of Defence for Children International Italy, acknowledged the intensity of the three-day events in Genova. He emphasized the obligation to implement the UN Convention on the Rights of the Child (CRC) and the importance of holding states accountable. He highlighted the need for diligence, rapidity, and accessibility in the justice system.

Nantina Tsekeri, Vice-President of the CFJ-EN, expressed gratitude for the constructive dialogue during the seminar. She emphasized the need to continue working together,

especially in the context of migrant integration, guided by the principles of love, compassion, safety, flexibility, normal life, inclusion, and ensuring that every voice is heard.

Ms Tsekeri announced the theme and location of next year's Annual Seminar: Portugal, with a focus on Climate Justice and Children's Rights. She encouraged attendees to save the date, second week of October, for this event.

Overall, the closing plenary reinforced the importance of a child-centered approach, access to information, guardianship, and collaboration in ensuring child-friendly justice for migrant children in Europe.

“Continue working together, especially in the context of migrant integration, guided by the principles of love, compassion, safety, flexibility, normal life, inclusion, and ensuring that every voice is heard”

Nantina Tsekeri, Vice-President of the CFJ-EN

IV. Main Recommendations

Many recommendations emerged from each of the workshop, and some were also formulated during the Seminar's plenary sessions. Below are of the most important recommendations, from the most general ones to those which focus on specific aspects of child friendly justice. The following key messages present clear recommendations to adapt justice systems and harmonise them with international and European standards concerning child friendly justice and migration. Many of these recommendations **also apply to young people**, since many of the barriers cited do not suddenly disappear upon reaching majority.

Right to participate – Eliminate several barriers to increase child participation

1. **Linguistic barrier** - Professional interpretation and cultural mediation services must be provided to **eliminate language barriers** and to ensure that children in migration can effectively communicate and understand the processes and legal proceedings they are involved.
2. **Information barrier** - State authorities should **provide** children in migration **information** about legal remedies, children's rights and the legal procedures they are going through in a **child friendly manner** (adapted to their child's age, maturity, language, gender and culture) and in a language they can understand. All children in migration should be informed about their **right to express their views** through interviews and consultations.

Favourable conditions for supporting effective access to justice

3. States should ensure that **unaccompanied or separated children in migration have a guardian appointed** or designated **without undue delay**. **Harmonisation of guardianship in Europe is needed** to create consistent standards for guardianship of unaccompanied minors across European countries.
4. States should put in place **family reunification procedures** that give the right to all children in migration that have been separated from one of both of their parents, to be reunited **without undue delay and without unduly far-reaching conditions**.
5. Additionally, states must adapt the **age assessment** procedures in a more holistic and child-sensitive method.

Right to individual assessments

6. **Screening measures and individual assessments** at borders must be **child friendly, gender-responsive** and conducted in a manner that is **disability and culturally sensitive** to ensure that all children and young people are treated with due process and dignity. **Officials** conducting screening assessments must be **trained** to recognize and understand the individualised experience of trauma child victims and to respond properly to ensure that the child is supported appropriately.

Right to legal assistance

7. States must **ensure the free of charge and quality legal representation and assistance** for all children and young people in migration in order to safeguard their rights. Barriers related to bureaucracy, language and limited resources must be eliminated.

Prohibition of migration-related detention of children

8. States should **prohibit migration-related detention of children**, including de facto detention as return houses, and they should create a legal framework that protects children from being separated from their parents who are detained.

Prevent trafficking of children in migration

9. Children in migration are at heightened risk of becoming **victims of trafficking and exploitation** and many times, children who committed offences may be victims themselves of trafficking and/or exploitation. Intervention strategies such as the psycho-social-legal support by trained professionals and awareness raising campaigns should be put in place to identify and protect them from such risks and to prevent any punishment of children for offences being compelled to commit due to the trafficking situation. Through legal assistance and psycho-social support, child victims of trafficking and exploitation must have **access to compensation and rehabilitation**.

Integrated child protection systems

10. **States** should create integrated child protection systems that put **children in migration at the centre, connecting the actors** working on their welfare and facilitating the coordination of the various procedures in which children in migration may be involved. Shared language and understanding are core components of any such system.
11. **EU** should continue to strengthen rights-based integrated child protection system, which requires **structured cooperation between various stakeholders** (child protection/social services, health services, guardians, schools, police etc).

Training of professionals working with children in migration

12. States must **ensure continuous training and capacity building programs** and professional development of all professionals coming into contact with children in migration (lawyers and judges, cultural mediators, interpreters, professionals in care system, officers undertaking interviews, psycho-social workers, etc).

Allocation of resources / budgeting for child friendly justice

13. States should safeguard **fair and non-discriminatory allocation of funding for programs and services** for the protection of migrant children's rights.

Annexes:

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- 4. Policy Brief on recommendations from the Seminar**

CFJ-EN ANNUAL SEMINAR

Transforming Justice Systems for Children in Migration

Genova, Italy
26-27 October 2023

AGENDA

Thursday 26 October 2023

Venue: **PALAZZO IMPERIALE**
Saloni delle Feste Piazza Campetto 8, 16123,
Genova

<p>6.00 pm 6.30 pm</p>	<p>Arrival of Guests & Registration</p>
<p>6.30 pm 7.30 pm</p>	<p style="text-align: center;">Welcome reception</p> <p style="text-align: center;"><i>Moderation: Mariama Diallo, CFJ-EN Coordinator</i></p> <p>Welcome addresses</p> <p>Carla Garlatti Italian Independent Authority for Children and Adolescents, Italy</p> <p>Guia Tanda Regional Ombudswoman for children, Liguria Region, Italy</p> <p>Benoît Van Keirsbilck Director, Defence for Children International, Belgium President of the CFJ-EN Member of the UN Committee on the Rights of the Child</p> <p>Pippo Costella Director, Defence for Children International, Italy</p> <p>Keynote Address</p> <p>Theoni Koufonikolakou Ombudswoman for Children, Office of the Ombudsman, Greece Ex-Chairwoman of the European Network of Ombudspersons for Children</p>
<p>7.30 pm 11.00 pm</p>	<p style="text-align: center;">Social event & Dinner</p>

Friday 27 October 2023

**Venue : ISTITUTO NAUTICO SAN GIORGIO
Calata Darsena, 16126 Genova**

**8.30 am
9.00 am**

Arrival of participants & Registration

Plenary I –Setting the Scene

Moderation: Pippo Costella, Director, Defence for Children Italy

Video address from the Italian National Ombudsperson (to be confirmed)

Antonella Minunni

Director, Office II, Department of Juvenile and Community Justice, Ministry of Justice, Italy

**9.00 am
9.40 am**

Nuala Mole

Senior Expert, The AIRE Centre, Ireland

Els Du Mortier

Professor, Vrije Universiteit Brussel, Belgium

Parallel workshops – Mutual learning

Workshop 1 - "Giving Due Weight"

Lead: **Catriona Jarvis & Syd Bolton** (Methoria) & **Nuala Mole** (AIRE Centre)

Hearing Children and According Refugee and Migrant Children the Fullest Possible Respect for Their Rights Within A Specialized Court

**9.45 am
11.00 am**

Workshop 2 - Compassionate & Trauma Informed Support for Migrant Children in the Justice System

Lead: **Nantina Tsekeri** (Defence for Children International Greece)

Workshop 3 - Game Changer Innovations in Access to Justice for Children on the Move in Times of Crisis

Lead: **Jennifer Davidson** (Institute for Inspiring Children's Future) & **Cédric Foussard** (Terre des hommes)

European Advisory Meeting for World Congress on Justice With Children

<p>11.00 am 11.30 am</p>	<p>Break</p>
<p>11.30 am 1.00 pm</p>	<p style="text-align: center;">Plenary session II – Debate : Children as agents of change</p> <p style="text-align: center;"><i>Moderation: Theoni Koufonikolakou, Ombudsperson for children, Greece</i></p> <p>Debate with young ambassadors and professionals: Ibourahim Diarra, Young Advisor, Italy Rahmat Amiri, Fatty Bakary, Ammar Abou Assaf, Young Ambassadors, Greece Marijke van Buggenhout, Doctoral Researcher, Vrije Universiteit Brussel, Belgium Sebastian Öhner, Senior Legal officer, Vienna Children's, and Youth Ombudsman's Office, Austria</p>
<p>1.00 pm 2.15 pm</p>	<p>Lunch</p>
<p>2.15pm 3.30pm</p>	<p style="text-align: center;">Plenary III – Roundtable: Reimagining</p> <p style="text-align: center;"><i>Moderation: Lotte Buekenhout, CFJ-EN Advocacy Officer</i></p> <p>Claudia de Luca Prosecutor, Juvenile Prosecutor Office, Naples Juvenile Court, Italy</p> <p>Jean-François Goujon (online intervention) Legal Advisor, Office of the Special Representative for Migrants and Refugees, Council of Europe</p> <p>Jennifer Davidson Director, Institute for Inspiring Children's Future, Scotland</p> <p>Sarah Sameur Pro Bono Lawyer, Paris Bar Association, Member of the Alliance of Lawyers for Human Rights, France</p>

<p>3.30pm 3.45pm</p>	<p>Short Coffee Break</p>
<p>3.45pm 4.30 pm</p>	<p style="text-align: center;">Closing plenary <i>Moderation: Mariama Diallo, CFJ-EN Coordinator</i></p> <p>Synthesis & Key Messages from the Seminar Cédric Foussard Senior Advisor, Terre des hommes Europe</p> <p>Conclusions, Next Annual Seminar & Closing Address Pippo Costella Director of Defence for Children International, Italy</p> <p>Nantina Tsekeri Vice-President, Child Friendly Justice European Network</p>

Child Friendly Justice – European Network
Annual Seminar 2023:
“Transforming Justice Systems for Children in Migration”
26-27 October 2023
Genova, Italy
List of Participants

N°	Last Name	First Name	Organisation	Country
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23	DAVIDSON	Jennifer	Institute for Inspiring Children's Futures, University of Strathclyde	United Kingdom
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28	DIAS ANDRADE	Ludmila	Young Perspectives	The Netherlands
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30	DUMORTIER	Els	Free University of Brussels	Belgium

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57	MARINO	Giuseppe	Don Calabria Europa	Italy
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63	MINUNNI	Antonella	Ministry of Justice of Italy	Italy
64	MITIC	Katarina	International Rescue Committee	Serbia
65	MOLE	Nuala	AIRE Centre	Ireland
66	MORAR	Laetitia- Mihaela	Romanian Bar Association	Romania
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73	POTHÉE	Elisa	Alliance of Lawyers for Human Rights	France

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94	ZIORI	Olga	European Union Agency for Asylum	Greece

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Genoa CFJ-EN presentation on ECtHR approach to children in migration and recent case law Ms Nuala Mole, October 2023

Below a selected few of the many cases considered by the ECtHR each year concerning children in migration:

The European Courts have had many occasions to look at the situation of children in migration related scenarios such as asylum, deportation, refusals of family reunification, international child abduction, cross border recognition of parentage – to name but the most common. But the children themselves are rarely **parties to the litigation**, or joined as co-applicants, even when their situation is at the heart of the case. This is so whether the litigation is at domestic level, at the CJEU or at the ECtHR. The most neglected group are often **accompanied** children. The needs of **unaccompanied** children are obvious (if frequently unmet) but the **child's rights needs** of accompanied children are so often overlooked.

Few cases actually look at the issues from the children's perspective. This is so even when they are at the heart of the subject of the litigation. Still more rarely are the children's own voices heard - as required by Art 12 UNCRC. The European courts are better (sometimes) when it comes to considering family law cases but double standards are often applied – for example the same concerns do not touch children being separated by immigration controls as those separated in family proceedings. The standards applied to cases that arise from private law proceedings (family disputes) do not always apply to public law proceedings in asylum or immigration cases

Sometimes the key issue is whether the child is recognised as a child at all – a prerequisite for acknowledging and implementing their needs. A presumption of minority – and the consequent correct treatment- until **appropriate** age assessments have (if necessary) been completed, is essential.

A notable recent advance was at the ECtHR in the ground breaking case of **Darboe and Camara v Italy** (*Application no. 5797/17*)- and even more recently in **A.D. v Malta** (*Application no. 12427/22*). In both cases the respondent Governments were condemned for the approach they took to deciding on the treatment of (and the provisions made for) child asylum seekers whose minority was doubted and the manner in which their age was assessed- including non-consensual medical procedures. The consequent consideration of the relevant states' execution of those judgment need careful monitoring. But it is important to note that AD v Malta sat on the shoulders of the judgment in Darboe and Camara. The recent decision in **AS and MS v Italy** (*Application no. 48618/22*) illustrates the approach taken in cases rising from private law proceedings.

The recognition of parenthood particularly in family reunification cases opens another can of worms. In **VMA v Stolichna obshtina, rayon "Pancharevo"** (Case C-490/20) the CJEU looked at the refusal of the Bulgarian authorities to issue a birth certificate (a pre-requisite for obtaining a Bulgarian identity document) for a child born to two women in Spain – where **both women** were recognised as the child's parents on the birth certificate. (a similar case concerning Poland was also decided by the CJEU). In those cases, the ruling was made on the basis of EU law and the mutual recognition of the documents issued in another EU state. Where the parentage has been legally recognised by a non-EU court (as is frequently the case when the ART has taken place in the USA) the situation sometimes remains unclear.

For example, the case of **MT v Ireland** (*Application no. 54387/20*) (not about surrogacy) was recently declared inadmissible. It concerned an application for family re-unification made by their father for children left behind in their country of origin pending the father's status determination in Ireland. He had been clearly named on their birth certificates as their father and, after their mother had abandoned them to his care, had a court order granting him sole custody of the children. The Irish authorities insisted that DNA testing was – routinely - carried out to establish paternity. The father was reluctant to do this as he had strong suspicions – based on the mother's behaviour- that he would discover that he was not the biological parent – but “only” the legal and social parent. The case was rejected by the ECtHR – without consideration of the merits- for non-exhaustion of domestic remedies. The rights of the children were not considered.

In **MN v Belgium** (*Application no. 3599/18*) the ECtHR considered that the applications made by a Syrian family with children for visas to come to Belgium to seek asylum. The Court found that this case was to be rejected as the applications for visas were not enough to bring the children and their parents within the jurisdiction of Belgium.

A similar issue arose in different circumstances in the case of **HF v France** (*Applications nos. 24384/19 and 44234/20*) which concerned the failure to repatriate to France the children of mothers detained in camps in Syria, all of whom were French citizens . Without French co-operation neither the mothers nor their children could leave the camps. The Court took a different approach from that adopted by the UNCRC Committee in a similar case which had held that the children did fall within the jurisdiction of France and in another case against Finland about Finnish citizen children in the camps.

But in migration cases, reaching safety in the country of intended destination does not always mean the end of the story. The case of **Abdi Ibrahim v Norway** (*Application no. 15379/16*) is illustrative. The mother – the applicant – was a **child** who had found herself pregnant in Somalia and fled to Kenya to give birth there. She had then managed to get from Kenya to Norway where she had family and was granted asylum there. She and the baby were placed in a parent child facility but social services decided her parenting was inadequate and removed the baby from her and placed him in foster care. There was very little contact permitted between mother and the baby. The foster parents wanted to adopt the child and this was authorised although the prospective adopters were devout Christians and wanted the Muslim child baptised contrary to the mother's wishes. The Court found a violation. The child had neither been a party nor had been represented in the ECtHR proceedings.

Time does not permit any kind of comprehensive review of the caselaw – but I turn now to two pending cases. The first is **Hasani v Sweden** (*Application no. 35950/20*). Two orphan Afghan children – brothers – reached Sweden. The older one was blind and his brother had met all his daily needs – physical and emotional – since they had lost their parents and he had lost his sight. They were initially housed together but when the older (blind) brother turned 18 he could no longer remain in the foster family. The brother was placed in an institution for the blind over a hundred kilometers away. He made suicide attempts. Eventually their asylum requests were refused. The younger brother – still a child – was to be returned as the authorities held that his older – **blind** – brother could care for him in Afghanistan. The blind brother was notified of this by the authorities and committed suicide. The case is still pending in Strasbourg.

The CJEU has looked at the safeguards which should be in place – and observed – when a child is being returned after a failed asylum claim. In the case of **TQ v Staatssecretaris van Justitie en Veiligheid** (*C-441/19*), the Dutch authorities made a return decision on the ground that the child applicant, TQ, was over 15 and not eligible for a residence permit. TQ appealed the decision on the grounds that he did not know any family members who could look after

him on return. The CJEU held that when issuing a return decision, Article 6(1) of the Return Directive precludes a Member State from distinguishing between unaccompanied minors on the sole basis of age when ascertaining whether adequate reception facilities are available. Member states must undertake a best interest's assessment regardless of whether the unaccompanied minor is over 15 years old, and if a return decision is adopted by a Member State before first being satisfied that there are adequate reception facilities, the minor cannot be returned. Though age is a factor to be considered in best interest assessments, it cannot be the only factor taken into account to ascertain whether there are adequate reception facilities.

The CJEU have also examined the issue of unaccompanied minors who 'age out' whilst waiting for asylum claims to be processed. In **A, S v Staatssecretaris van Veiligheid en Justitie** (C-550/16), an unaccompanied minor applied for asylum in the Netherlands, which was only granted after she had turned 18. Her subsequent application for family reunification was then rejected on the basis that she was no longer a minor at the date of submission. The CJEU examined whether children who 'age out' whilst waiting on asylum claims to be processed should still be considered as unaccompanied minors for the purpose of family reunification. The CJEU noted that leaving this choice to member states would undermine the right to family reunification, given that time limits for asylum procedures are often exceeded and this would make it unforeseeable for unaccompanied minors to know whether they were entitled to the right to family reunification. The CJEU therefore held that age under the Family Reunification Directive should be treated as the age on which the application for asylum was submitted.

And finally, we will look at another pending case which concerns the interesting interface between the 1980 Hague Convention on child abduction and asylum. **K.O. and V.O & MO and V.O v Poland** (*Applications nos. 46748/21 and 46958/21*) concerns a child who was abducted by his mother from Ukraine to Poland (before the Russian invasion in 2022). Hague proceedings were started by the father and a Hague return order was made. The mother resisted the return on the basis that she and the child could not be expected to return to Ukraine. Both the mother and the father claim to represent the child in Strasbourg, with the mother alleging violations of Articles 3, 6 and 8 and the father alleging violations of Article 8. In our intervention we emphasised the importance of hearing the child under both Article 12 UNCRC and also A13(2) (child's objections) of the 1980 Hague Convention.



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TRANSFORMING JUSTICE SYSTEMS FOR CHILDREN IN MIGRATION POLICY PAPER



CFJ-EN

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CFJ-EN

I. ACRONYMS

CFJ	Child Friendly Justice
CFJ-EN	Child Friendly Justice European Network
CoE	Council of Europe
CRC	Convention on the Rights of the Child
EU	European Union
FRA	European Union Agency for Fundamental Rights

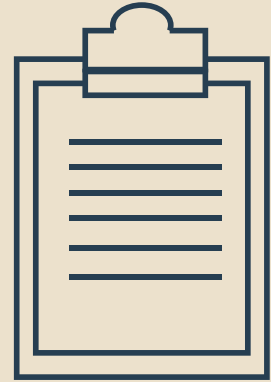


II. RECOMMENDATIONS



Eliminate all barriers to increase child participation: linguistic, information, education

Ensure child friendly individual assessments

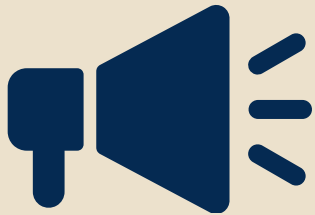


Guarantee the presumption of minority and the effective access to justice through guardians or presence of parents

Provide free of charge and quality legal assistance



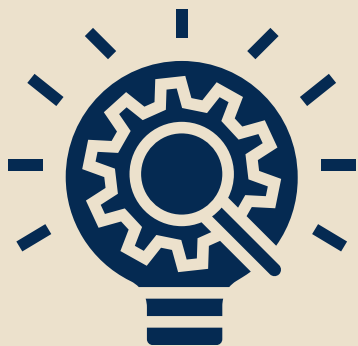
Prevent trafficking and exploitation of children in migration



Prohibit migration-related detention of children



Train all professionals working with children in migration



Put in place Integrated child protection systems

Allocate resources for access to justice for children in migration





"With legal guidance and proper support, these youth can overcome obstacles and aspire to a future filled with success"

Rahmat Amiri, Afghan Refugee

III. CONTEXT

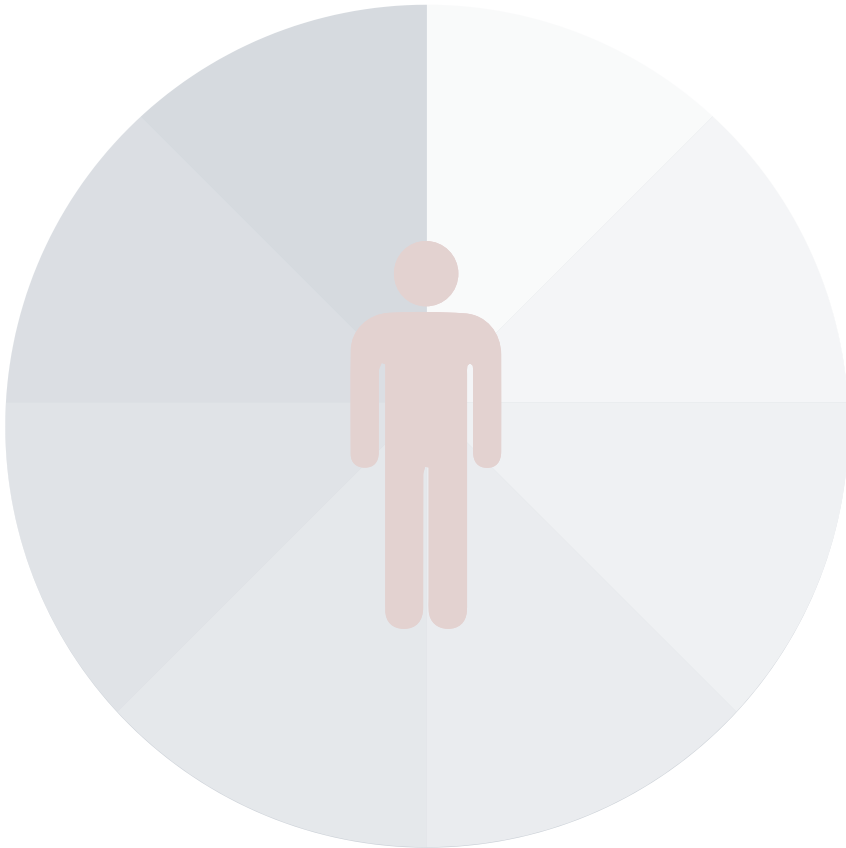
This policy brief is an outcome of the **Annual Seminar** on 27 October, organised in Genoa, Italy by the CFJ-EN, in close partnership with Defence for Children International Italy. The aim was to shed light on the **diversity of situations and challenges** children in migration are facing while attempting to **access justice and legal remedies** and to push towards **transforming justice systems to fit the needs of children in migration**.

All outputs of this paper are a result of discussions on shared practices and solutions by experts and key stakeholders in Europe working in the area of child friendly justice and migration. A high importance was given to the views of young ambassadors from Greece and Italy who shared their experiences but also called for clear solutions and recommendations to be addressed to policy makers. Let's give them a voice.

Recent trends in how children in migration are treated in criminal and administrative justice systems are concerning. The 2019 Global Study on Children Deprived of Liberty, conducted by Independent Expert Manfred Nowak and supported by the UN, reveals a distressing reality where at least 330,000 children are annually detained globally for migration-related reasons. This sobering statistic underscores the urgent necessity for a rights-based approach to safeguard the well-being of vulnerable migrant children worldwide. (Source: UN Global Study on Children Deprived of Liberty).

It is worrisome to notice that the frequent use of the term "return" over "rights" in the Commission Communication on the EU Pact on Migration and Asylum reflects potential imbalances in the prioritization of repatriation over human rights considerations in EU migration policies. This linguistic discrepancy raises questions about the rights-centric approach within the European Union. (Source: PICUM)

In addition, the unprecedented surge in migrant arrivals in Europe during January-June 2023, particularly the threefold increase to 64,930 arrivals in Italy, has thrust the issue of immigration back into the center of national and European public debate. This escalating trend highlights the complexity of immigration challenges and necessitates comprehensive strategies at both levels of governance. Within Italy, the situation in penal institutions for children is particularly significant, with 51% of the 1,051 children and young adults entering in 2022 being foreigners, according to the Ministry of Justice, Office II. This statistic underscores the intersection of immigration policies and juvenile justice, emphasizing the need for nuanced approaches to address the specific challenges faced by young migrants within the broader discourse on immigration. (Source: Ministry of Justice, Office II, Italy)





IV. URGENCY TO ACT

Children in migration must be considered **first and foremost as children** and should be afforded all the rights contained in international, regional and national legislation. In all actions concerning children in migration, the **principle of the best interests of the child** must be a primary consideration. Involved in administrative proceedings, while a lot of them are involved in administrative proceedings, some of them are also overrepresented among children suspected, accused or condemned for a crime. They are more at **risk of becoming victims of trafficking or exploitation, and/or victims of discrimination** as a result of the **ever-growing xenophobic narratives in Europe with new legislative provisions as a result**. Before civil or criminal courts, they may face **additional burdens in accessing justice, reparation and compensation**.

All children in migration should be guaranteed **equal standards of protection, reception and especially in care arrangements**. Additionally, a **gender-responsive migration governance is needed**, which refers to the importance of laws, policies and programs recognizing and addressing the different experiences, needs and vulnerabilities faced by girls, boys and gender non-conforming children in migration. Raising awareness and addressing these issues within society is crucial, as **discrimination** against children in migration unfortunately remains a barrier in their access to justice. Underscoring the urgent need to address justice for children on the move should be the concern of all policy maker and practitioner in contact with children in migration.

Collaboration and a synergic network are deemed essential, focusing on healthcare considerations, cultural-linguistic mediation, and **recognizing the diversity** among children on the move. The **underrepresentation of children in migration cases** in International and European Courts was highlighted, urging their centrality in decision-making. Recent research emphasizes the **need for transparent and child friendly asylum procedures** within the broader context of **trauma and discrimination**. Calls have been expressed for **alternative migration policies**, for questioning budget allocations, and for humanizing experiences through art. All experts present during the seminar advocate clearly for a more humane and effective approach to child protection in the migration context.

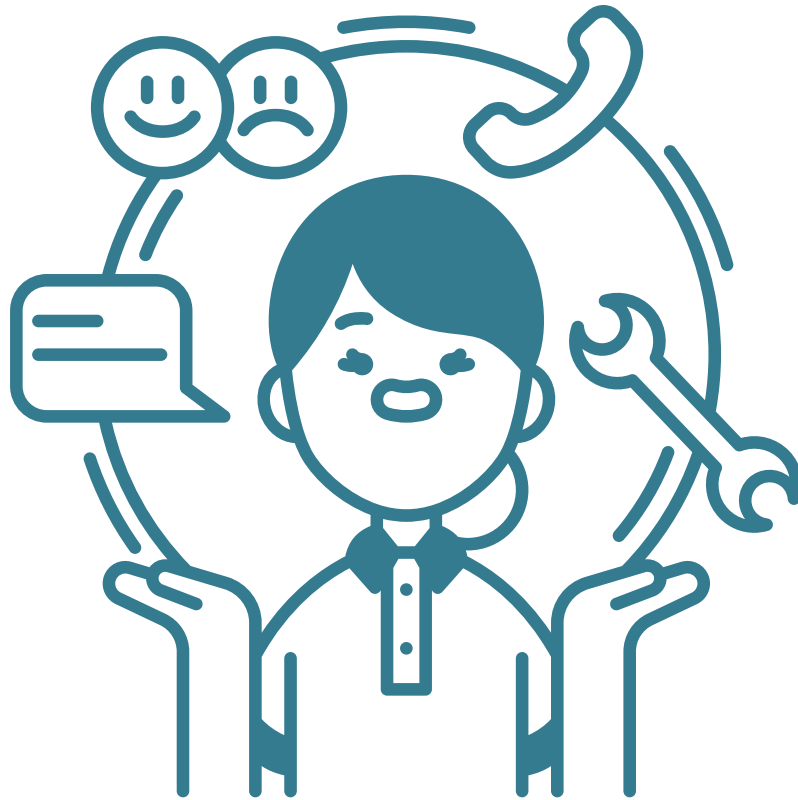
The experts who gathered during the 2nd Annual Seminar of the CFJ-EN on “Transforming Justice Systems for Children in Migration” in Genoa, Italy, on 26-27 October 2023, highlighted that Italy is one of the border Member States which represents an important point of entrance, transit and residence in Europe for thousands of unaccompanied children, but most of all because the latest political developments in the country risk to pose serious threats to fundamental rights of children in migration. Indeed, the new Law Decree on Migration and Security includes some alarming novelties such as shifting the burden of age assessment to the child, applying age assessment procedures in contrast with international standards, placing children in facilities hosting adults and migration-related detention of children. Discussions emphasised comprehensive care for unaccompanied foreign minors in Italy, pushing for the importance of regularizing their stay for integration. This also applies in other points of entrance, transit and residence in Europe such as Greece, France and Spain.

V. CHOOSING CHILD-CENTRED SYSTEMS

This section focusses on clear pathways for policy makers in order to opt for child-centred systems, meaning to give weight to the views of children, to see them as agents for change, to ensure compassionate and trauma informed support, and to innovate in their access to justice.

Young people expressed the need to promote mechanisms that support them rather than promote mechanisms that hinder their well-being.

The message is clear and loud: **Empower those who can make a change.**



Giving due weight to children's views at every stage of the justice system

Ensure that their perspectives are considered in decision-making processes

Several clear recommendations have been put forward by experts:

- **Advocate for professional competence in Children's Rights among legal and justice professionals** - This suggests a need for continuous training and updating to ensure a strong understanding of and adherence to children's rights
- **Support holistic solutions through specialized courts on children, aligning with international principles** - These courts aim to provide holistic solutions and overcome conflicts in decision-making processes related to children in migration
- **Call for mandatory legal assistance** – Ensure that all children in migration have proper representation throughout legal proceedings
- **Recognize the importance of non-verbal language considerations** - This could involve training professionals to understand and interpret non-verbal cues from children
- **Establishing Child-Centered Systems that prioritize the child's right to be heard** - This involves creating frameworks and processes that are centered around the best interests and well-being of the child
- **Allocate resources for justice systems handling cases involving migrant children** Which could include financial investments, training programs, and other measures to enhance the effectiveness and fairness of the justice process
- **Highlight the critical need for child appropriate accommodation, healthcare, social support, and education** - This emphasizes the broader context of wellbeing beyond legal proceeding



Young people have shared their recommendations to transform justice systems for children in migration

- **Highlighted need for language assistance and support for new arrivals**, particularly in the context of challenges faced in Greece's education system
- **Expressed need for care, assistance, love, and a safe place for such children**
- **Importance of guardianship and legal guidance** to help unaccompanied minors navigate the asylum process
- **Essentials for well-being** are education, fun, shelter, and compassion
- **Diminish challenges in living conditions, including transfers and crowded facilities**
- Include **more support in adapting to the system, language, and culture**. They called for more support, opportunities, and extended shelter
- Called for necessity for a **more supportive and inclusive system**, where every child feels welcome and has the opportunity to learn, integrate, and succeed
- Urged policymakers to **remove borders and prioritize human rights**
- Called to **reimagine the asylum interviews** by focusing on truth-finding rather than leading them to adapt to the rigid bureaucratic system. The asylum interview is a pivotal moment in the procedure, **impacting children's participation in decision-making**, and it is often viewed as an "ultimate test," igniting fear and mistrust

"By prioritising human rights, we can create a future where every refugee has the opportunity to integrate and contribute positively to society"

Ammar Abou Assaf, Syrian Refugee



Compassionate & trauma informed support for migrant children in the justice system

There is a pressing need for practitioners skilled in listening, trauma awareness, and identifying triggers to create safe spaces including the right to participate and access information for migrant children

Some clear recommendations have been identified:

- Prioritise **trauma-informed training** for professionals to create a safe environment for children in migration
- Emphasise **cultural sensitivity** in understanding and addressing trauma in diverse backgrounds
- **Build trust** with children by respecting their preferences and **actively listening** to their experiences
- **Avoid re-traumatisation** in official processes, like asylum interviews, by minimizing trauma triggers
- Ensure **access to specialised mental health services** and resources for traumatized children, and promote preventive measures to address root causes of trauma



Game changer innovations in access to justice for children on the move in times of crisis

Emphasising the importance of working with governments through the OECD Framework for child-friendly justice. The framework revolves around four pillars: people-centered services, governance enablers and infrastructure, people empowerment, and planning, M&E, and accountability. The framework's uniqueness has been highlighted and lies in being owned by governments, focusing on culture and practice of people-centered justice.

Core components transforming children's access to justice and remedies and exploring game-changing interventions are identified:

- **Promote Child-Centred Culture** - Encourage a cultural shift within the justice system globally to prioritise a child-centred approach, focusing on the unique needs and experiences of children. This involves fostering a mindset that places the wellbeing and rights of children at the forefront of justice-related decisions
- **Empower Children in the Justice System** - Globally advocate for solution-oriented initiatives that empower children within the justice system. Ensure that children are active participants in decision-making processes that affect them, emphasizing their right to be heard and respected as individuals with agency
- **Data-Driven Policies and Comprehensive Research**- Call for the development and implementation of data-driven policies globally, informed by comprehensive research and evidence-building. This involves overcoming barriers in data collection, including ethnic data, to inform decision-making and improve outcomes for children in justice systems worldwide
- **Societal-Level Attitude Change - Advocate for a broader societal-level** attitude change globally to address discrimination, bias, and stigma associated with children in the justice system. This recommendation emphasizes fostering a more inclusive and supportive environment for children, transcending regional and cultural contexts. Include the role of the broader community and the media in welcoming migrants
- **Consistency Among Multiple Guidelines and Frameworks** - Globally emphasize the importance of consistency among various guidelines and frameworks related to childfriendly justice. Maintain high standards across jurisdictions to ensure that childfriendly justice measures adhere to universal principles, avoiding the lowering of ambitions and shifting towards an "alliance" mindset in governance

In order to reimagine justice systems that adapts to the needs of the children and young people, creative reasoning emerged

- Emphasise the **importance of the Agenda for Action**, focusing on strategic levers to achieve SDG 16.3 for children, including building partnerships, developing financing strategies, using evidence and data for childcentered reforms, and scaling up justice innovations while safeguarding digital tools for children
- **Recognise the crucial role of pro bono lawyers** in assisting unaccompanied child asylum seekers, proposing low-cost services and financial incentives for lawyers
- Stresses the need for training children's associations and NGOs in legal aspects and calls for an increase in the number of guardians and ad hoc administrators to provide follow-up and assistance
- **Advocate for holistic assistance** for unaccompanied children during the waiting period for appeal hearings, addressing social, financial, and housing assistance needs. Adopt practical measures, such as a ban on radiological bone examinations, prioritising the well-being and rights of children throughout the asylum process
- **Prevent human trafficking** - Highlight the need for swift reception and meaningful inclusion for unaccompanied minors to prevent human trafficking. Identify indicators of trafficking risk and recommend efficient reception measures, including placing minors in suitable age-appropriate facilities. Advocate for mandatory legal representation, guardianship, and consultations with judges
- Emphasise the need for **legal solutions that enable children to challenge decisions** effectively and advocate for the establishment of a **child-friendly justice system**

"Despite the challenges, every arriving child has the potential to thrive with adequate linguistic and educational support."

Bakary Fatty, Gambian Refugee

VI. TIME TO ACT - 14 ACTIONABLE RECOMMENDATIONS

Listing **14 key messages** and concrete demands for action-grouped **into 9 main topics**-, this conclusion focusses on adapting justice systems and harmonising them with international and European standards concerning child friendly justice and migration. Many of these findings also apply to young people, since many of the barriers cited do not suddenly disappear upon reaching majority. It offers some actionable recommendations for policy makers working with children who are involved in criminal and administrative proceedings as suspects, accused or convicted of a crime, victims of a crime, witnesses, and third parties.

This policy brief calls for a **creation of child-centred provisions and guidelines for children in migration**, and for professionals to improve their understanding of migrant children needs and barriers to fair and accessible justice systems.

"By investing in education and creating opportunities, we can help these youth build a promising future despite the challenges they face."

Ibourahim Diarra, Malian Refugee

1. Eliminate all barriers to increase child participation: linguistic, information, education

1.1. Linguistic barrier - Professional interpretation and cultural mediation services must be provided to **eliminate language barriers** and to ensure that children in migration can effectively communicate and understand the processes and legal proceedings they are involved.

1.2. Educational barrier – This might be one of the most highlighted demand. In order to empower to children, they must have access to education without any barrier.

1.3. Information barrier - State authorities should provide children in migration **information** about legal remedies, children's rights and the legal procedures they are going through in a **child friendly manner** (adapted to their child's age, maturity, language, gender and culture) and in a language they can understand. All children in migration should be informed about their **right to express their views** in every stage through interviews and consultations, but also throughout the whole procedure (required by article 12 UN CRC).

2. Guarantee the presumption of minority and the effective access to justice through guardian or presence of parents

2.1. States should ensure that **unaccompanied or separated children in migration have a high quality and well-trained guardian appointed** or designated **without undue delay. Harmonisation of guardianship in Europe is needed** to create consistent standards for guardianship of unaccompanied minors across European countries.

2.2. States should put in place **family reunification procedures** that give the right to all children in migration that have been separated from one of both of their parents, to be reunited **without undue delay and without unduly far-reaching conditions.** Decision makers must consult children during these procedures.

2.3. Additionally, states must adapt the **age assessment** procedures in a more holistic and child-sensitive method and by applying the **presumption of minority.**

3. Ensure child friendly individual assessments

3.1. Screening measures and individual assessments at borders must be child friendly, gender-responsive and conducted in a manner that is disability- and culturally sensitive to ensure that all children and young people are treated with due process and dignity.

3.2. Officials conducting screening assessments must be **trained** to recognize and understand the individualised experience of trauma child victims and to respond properly to ensure that the child is supported appropriately.

4. Provide free of charge and quality legal assistance

4.1. States **must ensure the free of charge and quality legal representation and assistance** for all children and young people in migration in order to safeguard their rights. Barriers related to bureaucracy, language and limited resources must be eliminated.

5. Prohibit migration-related detention of children

5.1. States should **prohibit migration-related detention of children**, including de facto detention as return houses, and they should create a legal framework that protects children from being separated from their parents who are detained.

6. Prevent trafficking and exploitation of children in migration

6.1. Children in migration are at heightened risk of becoming **victims of trafficking and exploitation** and many times, children who committed offences may be victims themselves of trafficking and/or exploitation. Intervention strategies such as the psycho-social-legal support by trained professionals and awareness raising campaigns should be put in place to identify and protect them from such risks and to prevent any punishment of children for offences being compelled to commit due to the trafficking situation.

6.2. Through legal assistance and psycho-social support, child victims of trafficking and exploitation must have **access to compensation and rehabilitation**.

7. Put in place Integrated child protection systems

7.1. States should create integrated child protection systems that put **children in migration at the centre, connecting the actors** working on their welfare and **facilitating the coordination** of the various procedures in which children in migration may be involved. **Shared language and understanding** are core components of any such system.

7.2. EU should continue to strengthen rights-based integrated child protection systems, which requires **structured cooperation between various stakeholders** (child protection/social services, health services, guardians, schools, police, etc).

8. Train all professionals working with children in migration

8.1. States **must ensure continuous training and capacity building programs** and professional development of all professionals coming into contact with children in migration (lawyers and judges, cultural mediators, interpreters, professionals in care system, officers undertaking interviews, psycho-social workers, etc).

9. Allocate resources for child friendly justice

9.1. States should safeguard **fair and non-discriminatory allocation of funding or programs and services** for the protection of children in migration.



VII. WHO WE ARE

Composed of 31 Members (NGOs, academic institutions, individual experts) across 20 European countries, the **Child Friendly Justice European Network**'s main objective is to ensure that justice systems are adapted to children's needs, specificities and vulnerabilities. More specifically, it aims to empower children to have their rights respected in legal proceedings, to have their voices heard in a participatory manner and to strengthen their capacity to advocate for their own rights.



VIII. USEFUL LINKS

- [Protecting children at Europe's borders – new guidance for border officials and other authorities \(FRA, 2023\)](#)
- [Access to Early Childhood Education and Care for Undocumented Children and Families \(PICUM, 2023\)](#)
- [Analysis of the most important unresolved issues in the Legislative Reform of the common European Asylum System \(Ceas\) and Recommendations to the Co-Legislators \(ECRE, 2023\)](#)
- [Handbook, Child Friendly Justice in Europe \(CFJ-EN, 2023\)](#)
- Films or documentaries, like "[Paper Borders](#),"
- [Report on Enforcing the Rights of Children in Migration \(Children's Rights Study Group, 2023\)](#)
- [A court for Migrant Children. What does it look like?,2023, Equal justice for Migrant Children \(First Rights, 2023\)](#)
- [Handbook for frontline professionals on how to convey child-friendly information to children in migration \(Council of Europe, 2018\)](#)
- [Recommendation on effective guardianship for unaccompanied and separated children in the context of migration \(Council of Europe, 2019\)](#)
- [Promoting child-friendly approaches in the area of migration \(Council of Europe, 2019\)](#)
- [Recommendation on human rights principles and guidelines on age assessment in the context of migration \(Council of Europe, December 2022\)](#)
- [Strategy for the Rights of the Child \(Council of Europe, 2022-2027\)](#)
- [ECtHR, Mubilanzila Mayeka and Kaniki Mitunga v. Belgium, 2006](#)
- [ECtHR, Rahimi v. Greece, 2011](#)
- [ECtHR, Popov v. France, 2012](#)
- [ECtHR, Moustahi v. France, 2020](#)
- [ECtHR, Darboe and Camara v. Italy, 2023](#)



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