



Children of Prisoners Europe Judicial Roundtable II

Hosted by **Alternative Sociale**

13 December 2023

Event Report



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Children of Prisoners Europe: Judicial Roundtable II **Hosted by Alternative Sociale**

"Thinking of children – Respecting children's rights in judicial proceedings"

Ramada Hotel, Strada Grigore Ureche 27, judetul Iasi
13 December 2023

Event report

The event "Thinking of children – Respecting children's rights in judicial proceedings" was co-organised by COPE and Alternative Sociale Association on December 13, 2023 in Iași, Romania. The event aimed to promote EU sensitive practices regarding child-friendly justice to Romanian central, regional and local actors – magistrates, police, prison system, probation and social services, lawyers and NGO. Also, the event aimed to strengthen collaborations with important national and international partners, such as UNICEF Romania, the National Administration of Penitentiaries and the National Institute of Magistracy.

23 professionals were present, including Judge Mona-Maria Pivniceru, former Ministry of Justice and judge of the Romanian Constitutional Court; Ms. Cristina Cernat, Director of the Rehabilitation Service of the National Administration of Penitentiaries; judges of the Iasi Court of Appeal, Tribunal and Local Court and prosecutors of the same courts; representatives of the Iasi County Police Inspectorate; the Deputy Director in Charge of the Rehabilitation Service by the Iasi Maximum Security Prison; the head of the Iasi Probation Service; Mrs. Oana Neda, the Dean of the Iasi Barr etc.

Participants attended presentations and debates during the 4 sections of the event, entitled: '*Child-friendly justice*', '*Children in judicial procedures*', '*Children of prisoners*' and '*What can we do to make justice child-friendly?*' (defining obstacles and opportunities; what can we do today? what needs to be done tomorrow?). A special moment was a presentation held by Mrs. Voica Tomus, Senior Child Protection Specialist, UNICEF Romania, who presented the objectives of UNICEF for the following period and invited the participants to work together on implementing measures and actions of the newly approved Romanian National Strategy for the Protection and the Promotion of Children's Rights 2022-2027.

Main points

Child-friendly justice

Judge Mona Maria Pivniceru presented the “*Guide for hearing children in judicial procedures*”, currently being revised as part of a project implemented by Alternative Sociale (how it was created, challenges faced, why it needs to be revised, the updated version). She highlighted the challenge of operationalising the principle of the best interests of the child, particularly in the context of existing specific procedures and legislation.

Judge Daniel Mireuță of the Iasi Court of Appeal presented, and strongly advocated for, compassionate justice, which, he found, is not always present in Romania. He highlighted the importance of promoting the right of children to be heard in judicial procedures that have an impact on their lives.

Mrs. Voica Tomus (UNICEF Romania) spoke of the plans that UNICEF has for supporting the best interests of the child in judicial procedures. These plans are built around the measures and actions of the newly approved Romanian National Strategy for the Protection and the Promotion of Children’s Rights 2022-2027 and of the Children’s Guarantee. One category of children that need particular care and support is that of children with intellectual disabilities (raised issue: how can an appropriate hearing be made for this category of children when involved in judicial procedures?). Another issue was related to ensuring free access to legal support to children involved in judicial procedures. She noted that there is little information relating to children in detention in Romania – how they are treated, what kind of services they receive; it’s important to make sure the right to proper education is granted also for imprisoned children. Ensuring integrated services for children, victims of abuse and neglect should be a priority, she also explained.

Children in judicial procedures

Judge Chandra Gracias (from Portugal Central Court) highlighted the importance of specific training for all professionals working with children – conducting the hearing, facilitating prison visits etc. She presented the example of Portugal, where hearings in penal cases involving children between the ages of 12 and 16 are conducted by the family court.

Judge Sofia Luca presented her view on how child-friendly justice can be served by providing examples of existing legislation and procedures. She also made a case for training professionals interacting with children during judicial procedures, including lawyers, whose job is often performed in a way that is harmful for children (e.g., their tactics may include confusing children, publicly contesting their accounts and the impact of their experience etc.). Lawyers need to be made of aware of the ways in which they can achieve their professional objectives while protecting the rights of the child.

Mr. Catalin Luca, President of Alternative Sociale Association, a psychologist and one of the co-coordinators of the "*Guide for hearing children in judicial procedures*" presented a psychologist's perspective on how said procedures should be conducted, highlighting risks (the suggestibility of children in specific contexts etc.) and good practices.

Children of prisoners

Mrs. Rachel Brett (COPE) presented the Recommendation CM/Rec(2018)5 of the Committee of Ministers of the Council of Europe to member States concerning children with imprisoned parents. The presentation highlighted relevant jurisprudence, including the case of *Deltuva v. Lithuania* (23 March 2023). She also presented the work of COPE and various resources available to different professionals working with children involved in judicial procedures including COPE's toolkit, ['Keeping children in mind: Moving from 'child-blind' to child-friendly justice during a parent's criminal sentencing'](#).

What can we do to make justice child-friendly?

- Defining obstacles and opportunities; what can we do today? what needs to be done tomorrow?

During the final section of the roundtable one participant (a prosecutor) raised the issue of children not being heard by prosecutors during judicial procedures; usually children are heard only by police officers and the reason invoked by prosecutors for not hearing the child in conflict with the law is lack of time and the fact that it's not compulsory according to legal procedures. Judge Gracias explained that in Portugal children are heard always by family judges (not the by police officer or prosecutor), as well as all relevant adults (parents, grandparents, neighbours, witnesses etc.). Participants agreed that there are many arguments in favour of such a rule; judges must listen to children, why not the prosecutors? In civil cases

hearing children is mandatory, why not in penal? The cases in which offenses are committed by children represent 10% of the total assigned cases. But likewise, it was noted that further consideration should be granted before making the hearing of children by the prosecutor mandatory before being sent to court (there may be other practical arguments as well, another prosecutor explained).

Those who have committed a crime should feel some responsibility for their actions. During sentencing it is important to emphasise not (only) the punishing aspect but also the responsibility the offender feels for the offence. Participants mentioned some successful programs that contribute to maintaining a good relationship between imprisoned parents and their children in Romania: creating family visiting rooms in prisons, taking into consideration not only young children but also the needs of teenagers; the program 'A day with my parent' had a positive impact but came to an end due to the COVID-19 pandemic; the COPE project 'A Game with Mum and Dad' which organises team games and competitions between parents in prison and their children (i.e. football) – this can also have a positive impact and can be replicated in other prisons/ countries/ regions.

Lawyers interacting with children during judicial procedures should also receive training on the impact that judicial procedures, particularly cross-examination, may have on the wellbeing of children. Lawyers may find themselves in a conflict of interests where they must simultaneously defend the offender and protect the child that is on the opposing side (the best interests of the child). A debate ensued as to whether specific legislation can be used to protect the best interests of the child in such procedures. Participants highlighted that in such cases the principle of the best interests of the child and that of the equality of arms come into conflict. The Dean of the Iasi Barr Association highlighted that lawyers do not decide what part to defend within a trial. A solution may be to ensure that parties share information with greater care in cases involving children but training lawyers on children's needs is a must.

All participants agreed that similar roundtables (with participation of judges, prosecutors and lawyers) should be organised at the local level but also at the international level, in order to exchange good practice and relevant experiences.

Feedback

Participants were enthusiastic about the event, notably for having the opportunity to acquire novel and interesting information and hear professional experience and good practices from afar.

Participants appreciated the diversity of subjects approached. The aspects that participants found to be most interesting were the arguments in favour of a child-friendly justice; the presentation on the best interests of the child; the practical aspects related to conducting hearings involving children, including the '*Guide for hearing children in judicial procedures*' to be published by Alternative Sociale in February 2024; the discussion related to the need of the child to be heard in all procedures; good practices from other countries presented; information on the situation of children of prisoners; the presentation of the *Deltuva vs. Lithuania* case; the differences in the legislation of various EU countries relating to the protection of children in judicial procedures and the argument for compassionate justice.

Next steps

- Alternative Sociale will let participants know about publication of their guide on hearing children in judicial proceedings when it is finalised.
- UNICEF Romania is developing their new child rights strategy and it includes child-friendly justice; opportunity to make proposals.
- Romania is due to be reviewed by the Committee on the Rights of the Child next year so there is an opportunity to raise issues and concerns with the Committee.
- Chandra Garcia is keen to have a judicial roundtable in Lisbon with participation from other countries to enabling sharing and discussion of different approaches - COPE to follow up.
- Further discussion needed in Romania in relation to whether prosecutor should always personally meet/hear from children being prosecuted, and UNICEF Romania should be brought into this discussion.

- Romania (Iasi prison?) could consider organising a 'Game with Mum and Dad' in 2024. Chess Games between prisoners sponsored by the Romanian Chess Federation could be expanded to have games between prisoners and their children.
- Further roundtables should involve lawyers (Bar Association?) in these discussions with the other judicial authorities.
- Child psychologist counselling a child in judicial procedures should be independent of the institution (and same employer) involved in the proceedings. This issue could be raised with the Committee on the Rights of the Child.
- Participants to contact COPE if there are COPE resources which are not in Romanian and they would like to have translated.
- Interest in possibility of participating in further COPE roundtables/events enabling the opportunity to meet and learn from other countries, their experience and practices.

Children of Prisoners Europe (COPE)

COPE is an EU-funded network working with and for the estimated 2.1 million children with a parent in prison in Europe. With its 140 organisations and individuals across 31 Council of Europe countries (and affiliates outside Europe), COPE prevents and responds to violations of the rights of children with a parent or family member in prison, while improving standards and policies to prevent and respond to these violations. COPE's work is further elaborated in the [COPE Principles](#).



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