



**Report on Roundtable for Judges and Magistrates
Academia im. Andrzeja Frycza Modrzewskiego
Gustawa Herlinga-Grudzińskiego 1, 30-705 Krakow**

Thursday 22 September 2022

'The purpose of emphasising the duty of the sentencing court to acknowledge the interests of the children [...] is not to permit errant parents unreasonably to avoid appropriate punishment. Rather, it is to protect the innocent children as much as is reasonably possible in the circumstances from avoidable harm'.

— Justice Albie Sachs,
from his 2007 judgement on the *S v M* case (South Africa)



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Introduction

Children of Prisoners Europe (COPE) is currently working within the European context to better protect the rights and best interests of children when a parent is in conflict with the law, to ensure that children are heard and to promote the use of prison as a measure of last resort in light of the adverse impact of a parent's incarceration on children.

The Council of the European Union recently adopted Conclusions to the EU Strategy on the Rights of the Child that bolster COPE's work. These Conclusions call for "*Strengthening the Member States' justice systems, so that they are compliant with the rights of all children, in particular by, among others:*

- *Ensuring that the best interests of the child is a primary consideration in all judicial proceedings relating to children,*
- *Developing child-friendly proceedings from the very beginning, including through the provision of age-appropriate and child friendly information and possible ways of participation,*
- *Ensuring, the fulfilment of the right of the child to be heard in proceedings affecting the child, either directly, or through a representative or an appropriate body in a manner consistent with the procedural rules of national law and with EU acquis,*
- *Ensuring, that the right of the child to respect for his or her private life is protected in the best possible way during proceedings,*
- *Ensuring that proceedings in cases involving children are handled without undue delay and that the decisions reached in these proceedings are systematically enforced in compliance with the existing EU legal framework and other relevant international legal means in order to ensure effective implementation of the rights of the child in compliance with the principle of subsidiarity,*
- *Providing the necessary support services to children during, and also after, the proceedings, for as long as the children need them,*
- *Promoting inter-disciplinary cooperation among different services to support the child in the best possible way before, during and after proceedings.*

COPE is taking a holistic, cross-spectrum child-rights approach to working with judges and magistrates at all stages – when issuing arrest warrants; when

deciding on pre-trial/during trial; when reviewing conditions for ongoing child-parent contact (cf COPE /AIRE Centre amicus brief to European Court of Human Rights on *Deltuva v Lithuania*), when sentencing (including what kind of non-custodial measures), and during a parent's release from prison – temporary or permanent and any ongoing restrictions. Integral to COPE's approach is exploring the question: *How can we find ways to give children a right to be heard when a judge is deciding about the imprisonment of their parent?*

To explore these and other issues, COPE organised a roundtable for judges and magistrates to coincide with an international conference on judicial processes organised by Małopolskie Stowarzyszenie Probacja Poland and Andrzej Frycz Modrzewski Krakow Academy on 23 September. The roundtable took place on 22 September, prior to the conference, and was chaired by COPE President Rachel Brett. Overarching objectives of the roundtable beyond the cross-fertilisation of ideas include laying down some overall guidelines for sentencers that can be woven into the intricacies of different jurisdictions and identifying best practices.

Participants

- Dr Heleen Lauwereys, KeKi Children's Rights Knowledge Centre (*Belgium*)
- Judge Svetoslava Koleva, Varna Court of Appeal (*Bulgaria*)
- Dr Shona Minson, Centre for Criminology, Oxford University (*England*)
- Brianna Smith, Children of Prisoners Europe (*France*)
- Rachel Brett, Children of Prisoners Europe President, Human Rights Lawyer (*Ireland*)
- Edoardo Fleischner, Bambinisenzasbarre (*Italy*)
- Judge Paweł Jaros - Division for International Human Rights Protection Procedures, Department for International Cooperation and Human Rights, former child Ombudsman (*Poland*)
- Judge Paweł Kaczor - Division for International Human Rights Protection Procedures, Department for International Cooperation and Human Rights (*Poland*)
- Ewelina Startek, Małopolskie Stowarzyszenie Probacja (*Poland*)
- Agnieszka Szeliga-Żywioł, Małopolskie Stowarzyszenie Probacja (*Poland*)
- Barbara Wilamowska, Małopolskie Stowarzyszenie Probacja (*Poland*)
- Judge Oana Adam, Iasi Court of Appeal (*Romania*)
- Cristian Anghel, Alternative Sociale Association (*Romania*)
- Inspector Ioana-Claudia Antoniu, Iasi County Police Inspectorate (*Romania*)
- Prosecutor Adina Bocai, Prosecutor's Office by the Iasi Court of Appeal (*Romania*)
- Dr Alex Gulei, Alternative Sociale Association (*Romania*)
- Ret. Judge Sofia Luca, Juvenile Justice Expert for the Romanian Institute of Magistracy (*Romania*)
- Judge Daniel Mireuta, Iasi Court of Appeal (*Romania*)

- Prosecutor Laura Mihaela Pamfil, Prosecutor's Office by the Iasi Court of Appeal (*Romania*)
- Dr Nancy Loucks, CEO Families Outside (*Scotland*)
- Retired Sheriff David Mackie (*Scotland*)
- Retired Sheriff Kathrine Mackie (*Scotland*)

Summary of roundtable discussions

- It is a difficult balancing act to consider the best interests of children of the (actual or alleged) offender but at the same time ensure a criminal justice system that maintains accountability for wrongdoing.
- When sentencing decisions are made, they should not only consider whether a sentence should be served in prison or not, but also how the sentence will impact children at every stage.
- Judicial discretion has a significant impact on whether sentencing decisions take into consideration the best interests of children (arrangements for their care, etc.)
- Considerations of children are very different in family court and criminal court. In the family court, children's best interests are a primary consideration, while in criminal court, children are hardly considered.
- There is inconsistency in the information gathered about defendants, this is not typically systematic. Where possible, there could be better cooperation between family courts and criminal courts.
- Processes could be improved so judges receive more detailed information on families and children prior to making sentencing decisions (there is room for better cooperation between actors in the criminal justice system and social services).
- Existing legislation and jurisprudence can be used in advocacy work and in encouraging judges to consider the best interests of the child.
- Hearing children in legal proceedings is not a given. Children's views are more commonly taken into consideration in family courts, and less so in criminal courts.
- It is important to consider the ways in which children are heard, but also the due weight that the child's statement is given.
- Children should not be given the impression they are heard and then they are not. A child being heard and a child's best interests are not the same thing.
- It can be helpful to think about the best interests of the child in future terms – this focus can contribute to the best interests of society in the longer term.
- Judges may not be the best people to be listening to children; counsellors or others trained in working with children should be the ones playing this role.

- There are three key points in the justice system that offer opportunities for information-gathering: 1) during police arrest, 2) at the bail hearing, 3) sentencing.
- Judges should be more exposed to the idea of compassionate sentencing and should be provided with support and information to understand the consequences of a parent's sentence on children.

Welcome and introductions

COPE Director of Operations, Brianna Smith, opened the roundtable by thanking the participants for joining and underlining the aim of the roundtable: to promote and better integrate the best interests of children into sentencing decisions when a parent is in conflict with the law.

COPE President Rachel Brett, Chair of the Roundtable, had participants share their name and role in a "tour du table". Rachel then asked for a show of hands from participants to better understand who is involved during the different stages of the justice/sentencing process. Given the different jurisdictions represented, this exercise provided a snapshot of the range of roles played by roundtable participants.

The stages of the justice process mentioned here include:

- when authorising or supervising an arrest;
- at first presentation of suspect to judge and when deciding on pre-trial measures;
- during trial;
- sentencing;
- post-sentencing/supervision of sentence

A discussion was launched with a focus on different practices at the post-sentencing stage. In Scotland, for example, judges are involved in the review of "community payback orders" and the progress of these orders. Community payback orders were introduced in Scotland in 2011 and replaced the concept of probation. A community payback order represents an opportunity for the individual to pay back to the community – through unpaid work, supervision, attendance at certain programmes. This provides an opportunity to tailor the sentences to the individual. Follow-up can take place monthly or every three months. Similar examples of alternatives to custodial sentences were highlighted: In England and Wales, deferred sentences are a possibility. In addition, if certain conditions are met, sentences can be non-custodial. However, if the conditions are broken, the sentence would then become custodial. In Belgium, defendants are given the opportunity to deal with their drug problems before their case is tried. The judge is assisted by two social work liaisons, who

are independent from the court. In the final judgement, the court can take into consideration the way in which the defendant participated in the drug treatment programme. Prison sentences in these cases are used as *ultimum remedium*. Probation in Poland can include unpaid work, drug treatment and other support programmes. There are possibilities for a holistic approach, however it was mentioned that probation officers are not always concentrated on the results but on the process.

Keynote message

Professor Ann Skelton – UNESCO Chair, Member of the UN Committee on the Rights of the Child

A video message from Professor Ann Skelton was shared at the beginning of the workshop to provide a backdrop to discussions. She introduced the precedent-setting South African case *S v M*. Up until the time of this case, when primary caregivers were being sentenced, little thought was given to what would happen to the children; they were invisible in this decision that removed their parent. The case of *S v M* was the first time it meant that a sentencing court had to properly consider the circumstances of the child, and what would happen to the child if the caregiver didn't come home as a result of imprisonment. Up until that time, the courts primarily considered the alleged offence, the community and the rights of the accused, perhaps with some thought given to the rights of the children when considering the accused. However, children are separate and thus need to be separately considered. This is what *S v M* set as a precedent in South Africa. Since this case, every case involving the sentencing of a primary caregiver had to give special, separate consideration to the best interests of the child and ask "What is the impact if the caregiver ended up going to prison?" This also meant that thought had to be given to what kind of sentencing alternatives would be appropriate.

Ann's message reflected on the difficult balancing act of considering the best interests of children, but at the same time ensuring a criminal justice system that maintains accountability for wrongdoing. She highlighted that it can be counter-productive to remove a person from society when they are fulfilling a role as a caregiver.

In South Africa, this precedent changed the way courts function and there has been an impact on case law. There is a question of whether relying on precedents is enough. In common law countries, precedents are binding. Within a civil legal system this may be different. Even in common law systems there may be many benefits to be gained from having separate sentencing guidelines and from thinking about what needs to happen if it is impossible to avoid a

period of detention of the primary caregiver. What then should happen to the child?

Justice Sachs pointed out that the criminal justice system need not only be punitive but can also think of the possibility of giving people a chance, to give primary caregivers an opportunity to show they can change their behaviour. Very often, restorative justice sentencing may be the best way to bring that to light, as it was in *S v M*. The other thing to keep in mind is proportionality. Sometimes it will not be possible for a primary caregiver to stay out of imprisonment. But even in these cases, there is a need to temper the length of the sentence in order to make sure that children are not separated from the primary caregiver for any longer than is absolutely necessary. Ann closed her message by saying that in this full range of considerations, it's important to keep the best interests of the child in mind at all times.

Rachel followed up on Ann Skelton's video address by adding some detail on the *S v M* case in South Africa. The defendant was convicted of fraud. While the decision was made for a non-custodial sentence, the restorative justice sentence involved the defendant paying money back in person to the people she had committed fraud against. It should be kept in mind that, in certain cases, the non-custodial sentence may be more challenging than a custodial sentence.

Even if a person is not being sentenced to prison, the alternative should also be considered in terms of its impact on children. It should be kept in mind that when decisions are made, they should not only consider whether a sentence should be served in prison or not, but rather how the sentence will impact the child(ren) at every stage.

In terms of consideration of children prior to or during sentencing, the European Court of Human Rights (ECHR) has addressed that the court has the responsibility for checking that any children have someone caring for them. Unfortunately, there are examples of cases where arrests of parents have been made and the care of the child is not taken into consideration.

Judicial discretion was a topic raised several times during the roundtable. One example was provided from Scotland, where a mother pled guilty after her husband had already been sentenced. She had three children under ten and it was suggested that they would have to enter into the alternative care system. Her crime meant that she would have to serve a custodial sentence of three years, but she was given six weeks to make arrangements for the children prior to serving her sentence.

Shifting paradigms

➤ *Cross-fertilisation from family law to criminal law: How to promote recognition of children's best interests in sentencing decisions when a parent is in conflict with the law?*

During the discussion on how to promote the recognition of children's best interests in sentencing decisions, a number of different elements were raised, the first being sentencing guidelines. In Scotland there are sentencing guidelines that include a consideration of the crime, the aggravating factors or mitigating factors. The guidelines include mention of children.

Information on the family and children was underlined as being a central element to decision-making and promoting the best interests of children. The role of police was raised along with the suggestion that from the first days of the investigation, they should gather information about the family situation. Judges are not necessarily equipped with all of the details about families. In Romania, the information about the family/defendant is not systematically part of the decision-making. In certain cases, depending on the gravity of the crime, judges are able to defer sentences or select alternative measures for pre-trial detention so that parents can make arrangements for their child's care, with considerable room for more judicial discretion in sentencing. If sentences are longer than three years in Romania, there is very little discretion in terms of the deferral of sentences.

Dr Shona Minson referred back to *S v M* and its jurisprudence. Typically, in sentencing, there are three elements to be considered when determining a sentence: the crime, the accused and society. *S v M* determined that dependents should be considered as well.

Shona went on to outline the differences between family court and criminal court considerations of children in England and Wales. In the family court, children's best interests are paramount. There are several protections in place. However, in criminal court, children are not typically considered. This is an institutional blind spot as people are not seeing what is happening. The Parliamentary Joint Committee on Human Rights in the UK parliament found there was a breach of children's rights. Criminal court judges can feel as if it were not their job to consider children, yet they are the ones who are able to allow parents time to make arrangements for the care of their child(ren).

The Romanian penal system was referred to as being quite strict, with prosecutors unable to give too much thought to the children of defendants. However, it was mentioned that when an individual is taken into custody, they must be asked whether they have children. Parents also have the possibility to contest measures taken for the care of their child. The personal situation of the

defendant is one of the criteria considered in the decision; there are some nuances.

Roundtable participants spoke about a need for more or better cooperation between criminal courts and family courts. Family judges can provide information to the criminal judge about the child and the family, however this is not a systematic exchange. In Romania, if there is an appeal in the criminal court about the care of children, this goes to family court. In Poland, if the sole or primary caregiver goes to prison, the case goes to family court to consider the care of the child.

Sentencers and prosecutors should consider whether there are children. Who knows this information already and can share it with the judges? From the Romanian perspective, there is a need for more discretion in making a judgement. Processes and partnerships could be established to formalise information-gathering and decision-making when children are involved.

A discussion was had on improving processes for judges to receive information on families and children prior to making sentencing decisions. The role of police during an arrest was considered, and whether they are the ones to inform children and/or contact the school. It was shared that in Romania only five per cent of children with imprisoned parents are known to social services. There is some disconnect in how civil courts are working with social workers. It was mentioned that when there is not clear evidence that children are present, or when parents are arrested outside of the home, some parents are hesitant to share that they have children, as they are afraid their children will be taken away and placed in care.

The role of NGOs was underlined, as they can provide support to families or even act as a character witness in court. However, this type of support is limited, particularly due to a lack of formal partnerships. Two questions were raised for consideration: how can families learn about NGOs and the support they offer, and how can judges see NGOs as partners? A suggestion was made about high-level pre-sentencing reports being helpful for lawyers and for creating a connection across criminal and family law.

One of the Polish judges present suggested the importance of encouraging judges to use provisions of the UN Convention on the Rights of the Child. There was then mention of the ECHR's 2021 referral of the Committee of Ministers Recommendation CM/Rec(2018)5 to the Council of Europe concerning children with imprisoned parents¹. This was the ECHR's first mention of CM/Rec(2018)5, which specifically addressed the question of contact between the child and the

¹ Danilevich v Russia (no. 31469/08) 19 October 2021, § 30. Available at: [https://hudoc.echr.coe.int/fre#{%22tabview%22:\[%22document%22\],%22itemid%22:\[%22001-212836%22\]}](https://hudoc.echr.coe.int/fre#{%22tabview%22:[%22document%22],%22itemid%22:[%22001-212836%22]})

father in prison. Perhaps there is a role for NGOs here – if the ECHR is encouraged, they may be more inclined to use this and other non-binding legislation.

Change for and with children

➤ *How can we find ways to give children a right to be heard when a judge is deciding about the imprisonment of their parent?*

Hearing children in legal proceedings is not a given.

One example was shared where the school was notified that a student's parent had been arrested. Before saying anything to the student in question, the teacher had the students write an essay about who they would like to stay with if their parents didn't come home. The student whose parents had been arrested indicated he wanted to stay with his aunt, so he was able to go stay with her straight after school.

There are examples of cases where children have written letters to judges, but the judges haven't read the letters. Children and adults will have different understandings of what it means to be heard.

As mentioned above, children's views are more commonly taken into consideration in family courts, and less so in criminal courts. Efforts are increasing to have children share their experience once with a trusted adult and then share a recording, so they do not have to repeat themselves. In some courts there are child-friendly rooms, where a psychologist, judge and recorder are present. The hearing happens once. These are typically used when the child is a witness or a victim, and rarely considered for children with parents in conflict with the law.

In Romania the child protection department provides some specific support for children when a parent is arrested, but not always. There is a focus on the physical protection of the child and placing children with family members, in foster care or in orphanages.

Dr Heleen Lauwereys mentioned the importance of considering the ways in which children are heard, but also then the due weight that the child's statement is given. This goes a step further than considering the best interests of the child.

When speaking about listening to children in decisions regarding their care, Ewelina Startek highlighted the particularity in Poland where children cannot be looked after by a carer with more than a 40-year age difference. Kinship care was highlighted as it tends to ensure a better relationship with the family

member in prison compared to foster care. Family care in general is perceived to be better for the child; however in many systems, foster carers are paid but family carers are not.

When considering custodial versus non-custodial sentences, the Bangkok Rules indicate that non-custodial sentences should be prioritised for the best interests of the child. At this point, the voice of the child may be less relevant unless they don't want to live with their parent. When the decision is made to send the parent to prison, the voice of the child comes into play in terms of details of contact, care, etc. Adults are typically asked whether they want someone in the home with electronic monitoring, while children are often not asked what they think about this. There is also the issue of single carers serving a sentence. They may have to breach probation to care for the child.

Of the countries represented at the roundtable, there was a similar experience of listening to children within certain circumstances in the criminal justice system, though mainly when they are a witness or a victim. The discussion moved into exploring good practices in terms of listening to children, as well as what is valuable for the court to hear when they are listening to children of defendants.

Moving forward: what could work?

➤ *Highlighting practical steps to move forward by drawing on best practices*

Children should not be given the impression they are heard and then they are not. A child being heard and a child's best interests are not the same thing. In certain cases, the best interests of the child are represented by a custodial sentence for their parent or primary caregiver.

Shona's contribution to a toolkit on sentencing produced by COPE² includes a practical list of outcomes for the child based on the different scenarios. Health care needs are provided as one example:

² *Keeping Children in Mind: Moving from 'child-blind' to child-friendly justice during a parent's criminal sentencing*, p. 23. Available at: <https://childrenofprisoners.eu/keeping-children-in-mind-moving-from-child-blind-to-child-friendly-justice-during-a-parents-criminal-sentencing/>

3. Information about the impacts of parental imprisonment on the individual child or children whose parent is being sentenced. Ensure that the court have information on the following matters:

- * the names and ages of the children;
- * the plan for their care if their parent is imprisoned including the suitability of prospective carers in terms of finances, age and health;
- * whether siblings will be separated as a consequence of parental imprisonment;
- * whether their education will be disrupted by parental imprisonment;
- * any particular health or emotional needs of the children; and,
- * whether the children will be able to visit their parent if they are imprisoned.

If resources are provided on this topic for sentencers, it is also good practice to provide the same information to other criminal justice professionals involved in the sentencing process, e.g. advocates and those who prepare reports for the court so that all are aware of the need to consider the impact of adult sentences on dependent children.

Concerns were shared by roundtable participants from countries where there are penal codes that focus on stricter sentences and prioritise protecting society. They highlighted that it is difficult to listen to children of defendants and prioritise their best interests as a result of strict penal codes.

It was then underlined that contact with the family is known to be one of the best factors for the reintegration of people into society post-imprisonment. As a child rights organisation, COPE prefers to avoid this phrasing, but in certain cases, there is a need to think about what the criminal justice system is trying to achieve and then consider how messages are framed.

It can often be helpful to think of the best interests of the child in future terms – this focus can contribute to the best interests of society in the longer term. Parental imprisonment is considered an Adverse Childhood Experience.³

Judge Svetoslava Koleva of Bulgaria referred back to a previous point of developing expertise so that judges are better informed. She suggested that this expertise could contribute to getting the message across about children who are or who might be affected at different stages of the criminal justice system. Professionals should be aware of this at each step of the process. The aim is to get this message across in the planning and processes at all stages.

³ Adverse Childhood Experiences or ACEs. Parental imprisonment is considered to be one of ten ACEs. Prolonged exposure to ACEs can directly affect social determinants of health, such as education, employment and income. It can also result in physical changes to neurobiological and genetic pathways. This “toxic stress” can directly impact how the brain develops. For more information see: https://childrenofprisoners.eu/wp-content/uploads/2019/09/ACEs_briefing.pdf

COPE can work to promote some of the examples of good practice in hearing from children when they are victims or witnesses.

Romania was given as an example, where there are different actors involved in different points in the case, but someone is missing who has the whole picture. Child Protection Services are spread too thin. However, there are “child checks” along the way: when the judge issues an arrest warrant, they have to ask about the child(ren) and who is caring for them. Police also ask whether there are any children when a person is arrested. If there are children, they are typically taken to an emergency child protection centre where a social worker tries to find a relative to care for the child. If there is no relative available, they will try to find a foster carer.

In Italy, when police perform an arrest and there are children present, they contact social workers to determine the care for the child.

A question was raised as to whether in some cases there are not enough alternatives to custodial sentences. In Romania, the limited discretion of the judiciary was mentioned again at this point of the discussion. This discretion was reduced due to questions of corruption.

One suggestion for best practice regarding listening to children was that judges are potentially not the right people to be listening, and that counsellors or someone trained in working with children should be the ones playing this role.

In Scotland, it was suggested that judges are prepared to hear the views of children on how the criminal process would affect them for the most part, but this would be taken as a mitigating factor rather than a determining factor. However, this may also lead to the best interests of the child becoming paramount in terms of decisions of care specifically. Different conventions and Recommendation CM/Rec(2018)5 could be better used as guidance.

Sheriff Kathrine Mackie from Scotland suggested that the principle of hearing the child is not a question, but rather what should be explored is how we best go about hearing children. She emphasised that judges need information in order to make their decisions. Three key points in the justice system were identified as opportunities for information-gathering:

1. During police arrest: judges ought to have information about the family which ought to be communicated to the prosecutor, which should be used in deciding to post bail or not.
2. Bail hearing: the judge needs information to carry out the decision-making process. The principal consideration should be the risk of harm.

Information about children and their views could be made available (remand detention or not).

3. Sentencing: the person being accused is entitled to have a decision made about their sentence in a reasonable amount of time. Obtaining the views of children can be a lengthy process. In sentencing, there is reliance on pre-sentencing reports drafted by the probation department. Children may or may not be consulted as part of this process.

In terms of practicalities when considering best interests and hearing children, as mentioned above, this can contribute to delays in decision-making.

A question was raised about whether steps should be taken to share general information with judges in a broader sense, prior to arrests. One example of this would be a first principle of sentencers being aware of the COE Recommendation CM/Rec(2018)5. There is a great deal of data on the impact of a parent's sentencing on children, what should be considered is how to best communicate this with judges, perhaps through training and ongoing education. It was shared that in Belgium most judges do not learn about the impacts of sentencing on families.

The European Judicial Training Network (EJTN) was suggested as a way of integrating some of this learning on the best interests of children and listening to children. The EJTN is the principal platform and promoter for the training and exchange of knowledge of the European judiciary.⁴ Training for judges is ongoing; however, they are not informed about all of the issues and often have a heavy workload.

It was suggested that judges be more exposed to the idea of compassionate sentencing and that they be provided with support and information to understand the consequences of a parent's sentence on children.

Defining different roles came up again, specifically the question of whose role it is to prepare information on the opinions of children. One suggestion of good practice is for prosecutors to ask specialists (psychologists, social workers) their opinions prior to sentencing and then they provide the judge with a report. The quality of the information obtained should be vetted as well.

There was a consensus that judges cannot be expected to know all the consequences and potential impact of parental imprisonment on children, and it is understandable that they cannot be experts in every field. COPE and its members can however get the ball rolling and create ambassadors and champions within the judiciary, who then share their learning with colleagues.

⁴ <https://www.ejtn.eu/About-us/>

Conclusions

➤ *Defining next steps*

Participants found the roundtable discussions fascinating and informative. Rachel encouraged participants to get in touch with COPE if they had anything else they would like to share, saying this is only the beginning of a process. COPE is available to support judiciary if needed.

Key elements of the roundtable discussions included the emphasis on the importance of establishing quality and timely information on families and children to support judges in their decision-making, the question of whose role it is and how the information will be obtained, and how children will be heard and by whom.

Discussions also raised a comparison between the consideration of children in family courts versus criminal courts, and at the core of this was the attention provided to the best interests of children and the contact between children and their parent when a parent is in conflict with the law. Judges decide the modalities of child-parent contact, whether this be during the remand period, or during a custodial or non-custodial sentence.

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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