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RIGHT OF THE CHILD TO INFORMATION ACCORDING TO THE DIRECTIVE 2016/800/EU ON PROCEDURAL SAFEGUARDS FOR CHILDREN WHO ARE SUSPECTS OR ACCUSED PERSONS IN CRIMINAL PROCEEDINGS

ABSTRACT

*One of the elements that is often neglected in cases when children are suspects or accused persons in criminal proceeding is the fact that children and their parents almost always lack information about their rights during criminal proceeding. Children in that situation face a higher risk of deprivation of their fundamental procedural rights because of their young age, lack of knowledge, their incomplete physical and psychological development, and emotional immaturity. One of the guarantees of the right to a fair trial (article 6 ECHR) that has been developed in the ECtHR jurisprudence is the right to effectively participate in criminal proceeding, but to accomplish that in practice the judicial system first needs to ensure that children are informed in a child-friendly manner what rights they have during criminal proceeding and how they can exercise them. Directive EU 2016/800 sets a minimum number of rules on several procedural rights for children in criminal proceedings, including the right to information (article 4 and 5), in order to ensure a higher standard of protection for children as suspects or accused persons. This paper analyses the right to information according to the Directive EU 2016/800 and other international and regional documents and how this right is regulated in some EU Member States, whether special provisions are applied to children, with special reference to the legislation of the Republic of Croatia. The aim of this paper is to give an overview of how the right to information is regulated in the Directive 2016/800 (EU) and in EU Member States in order to offer new legal solutions (*de lege ferenda*) for implementation of this right in Croatian juvenile criminal legislation.*

Keywords: *right to information, children as suspects or accused persons, criminal proceeding, Directive EU 2016/800*

1. INTRODUCTION

Criminal proceeding in Croatia has undergone significant changes over the last few years, which is proven the best by the number of amendments of the core legal act, Criminal Procedural Act (hereafter: CPA).¹ One of the main reasons for frequent changes of the CPA is the harmonization of Croatian criminal legislation with *acquis communautaire* of the European Union (hereafter: EU). EU was conceived initially as a state union with the aim of establishing a common market; however, after the Lisbon Treaty in 2009, EU received supranational legislative powers in the area of criminal justice, which a few years previously to it seemed unthinkable.² After the Lisbon Treaty, EU authorities were aware that, in order to achieve mutual recognition of court decisions in area of criminal justice, it was necessary to establish common minimum standards in all Member States (hereafter: MS) and that is why harmonization of criminal procedural law became an integrative tool for the EU criminal law area.³

In November 2009, the EU Council adopted a Resolution on a Roadmap for strengthening the procedural rights of suspected or accused in criminal proceeding.⁴ European Council included the Roadmap as a part of the Stockholm programme – An open and secure Europe serving and protecting citizen.⁵ The step-by-step approach from the Roadmap turned out to be very successful because the four measures on procedural rights in criminal proceedings have already been adopted: Directive 2010/64/EU⁶, Directive 2012/13/EU⁷, Directive 2013/48/

¹ Criminal Procedure Act, Official Gazette, No.152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13, 152/14. Konačan prijedlog o izmjenama i dopunama ZKP-a, Vlada RH, Zagreb, lipanj 2017, pp. 41-54

² Čapeta T., Rodin, S., *Osnove prava Europske unije*, II. Izmijenjeno i dopunjeno izdanje, Narodne novine, Zagreb, 2011, pp.4-6; Đurđević, Z., *Lisabonski ugovor: prekretnica u razvoju kaznenog prava u Europi*, HLJKPP, Zagreb, vol. 15, No. 2, 2008, pp. 1079-1083

³ Đurđević, *op. cit.* note 2, pp. 1090-1092; Ivičević Karas, E., Burić, Z., Bonačić, M., *Unapređenje procesnih prava osumnjičenika i okrivljenika u kaznenom postupku: pogled kroz prizmu Europskih pravnih standarda*, HLJKPP, Zagreb, vol. 23, No. 1, 2016, pp.12-14

⁴ Resolution of the Council on a Roadmap for strengthening procedural rights of suspected and accused persons in criminal proceedings, Brussels, 24 November 2009, 15434/09

⁵ The Stockholm Programme – An Open and Secure Europe Serving and Protecting Citizens, OJ C 115, 4. 5. 2010

⁶ Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings (20. 10. 2010), OJ L 280, 26. 10. 2010, p. 1

⁷ Directive 2012/13/EU on the right to information in criminal proceedings (22.5.2012.), OJ L 142, 1.6.2012, p. 1

EU⁸ and Directive 2016/343/EU.⁹ Today, the directives have an important role in the process of the integration and the strengthening of the European criminal law, especially since the ECJ established in its practice that they could have the direct effect on vertical legal relations.¹⁰

2. DIRECTIVE 2016/800/EU – BASIC DEFINITIONS

The last in the series of directives to be adopted in accordance with Roadmap that refers to measure E, is the Directive 2016/800/EU of the European Parliament and of the Council of the 11 May 2016 on the procedural safeguards for children who are suspects or accused persons in criminal proceedings (hereafter: Directive).¹¹ Commission decided that measure E would apply only to one category of vulnerable persons that could be easily defined, namely suspected or accused children.¹² Children are at a greater risk of being discriminated or deprived of their fundamental rights because of their age, incomplete physical and psychological development, lack of knowledge or the ability to act by exercising free will. That risk is even higher in the situations when children are removed from their natural surroundings because a large number of EU citizens travel often and migrate to other countries within the EU where they can become subjects in a criminal proceeding.¹³ Proposal for the Directive was created in 2013 and the Directive was finally adopted on 11 May 2016. MS have to transpose it into their legislation by 11 June 2019.¹⁴

⁸ Directive 2013/48/EU on the right to access to a lawyer in criminal proceedings and in proceedings based on a European arrest warrant and on the right to information by a third party in the event of seizure and communication with third parties and consular authorities (22.10.2013), OJ L 294, 6. 11.2013, p. 1

⁹ Directive 2016/343/EU on the strengthening of certain aspects of the presumptions of innocence and the right to be present at the trial in the criminal proceedings (9.3.2016), OJ L 65, 11.3.2016, p. 1

¹⁰ Goldner Lang, I., *Europsko pravo kao okvir pravosudne suradnje u kaznenim stvarima*, HLJKPP (Zagreb), vol. 21, No. 2, 2014, pp. 240-245; Čapeta, Rodin, *op. cit.* note 2, pp. 78-81

¹¹ Directive 2016/800/EU of the European Parliament and of the Council of the 11 May 2016 on the procedural safeguards for children who are suspects or accused persons in criminal proceedings (21.5.2016), OJ L 132/1

¹² Cras, S., *The Directive on Procedural Safeguards for Children who Are Suspects or Accused Persons in Criminal Proceedings, Genesis and Descriptive Comments Relating to Selected Articles*, Eucrium, No. 2, 2016, p. 110. Some authors think that it is very problematic that the Directive does not set out a definition of vulnerability. See: de Vocht D.L.F., Panzavolta M., Vanderhallen Miet, Oosterhout M., *Procedural Safeguards for Juvenile Suspects in Interrogations: A Look at the Commission Proposal in Light of an EU Comparative Study*, New journal of European criminal law, Vol. 5, No. 4, 2014, p. 488-490

¹³ Klimek, L., *Mutual Recognitions of Judicial Decisions in European Criminal Law*, Springer- Switzerland, 2017, pp. 650-651

¹⁴ Directive, art. 24, Ireland and UK decided not to participate in the adoption of the Directive and Denmark also. Because of the absence of a uniform position on many issues between MS regarding juvenile

“The purpose of this Directive is to establish procedural safeguard for children who are suspect or accused persons in criminal proceedings in order to ensure that they are able to understand and follow the proceedings and to exercise their right to a fair trial, and to prevent children from re-offending and foster their social integration.”¹⁵ Since its beginning, this Directive differs from the previous ones because it regulates various procedural rights that can be applied only to a specific category of persons, suspect/accused children.¹⁶ Many of those procedural rights have already been regulated by previous directives, but this Directive sets minimum rules on procedural rights for suspects/accused children in order to ensure a higher standard of protection for them and this is why this Directive must be considered as *lex specialis*.¹⁷ Before we start discussing the right to information, first we must determine the scope of application of the Directive in order to resolve any possible doubts about the implementation of the Directive in MS.¹⁸

2.1. Scope of application of the Directive

The Directive applies to children who are suspects or accused persons in criminal proceedings and to children who are wanted persons from the time of their arrest in the executing MS.¹⁹ According to the Directive, a child is a person under the age of 18.²⁰ The Directive does not define the minimum age of criminal responsibility and it states that its provisions do not affect national rules on determining the age of criminal responsibility.²¹ The age of criminal responsibility in EU is not uniform and it varies from 10 (The UK, Switzerland) to 18 years of age (Belgium) because of a different historical, cultural, social and legal reasons that are related to political and legal systems of each MS.²² Despite different opinions in the process

criminal legislation, Directive didn't include in its text the provisions on the minimum age of criminal responsibility, establishment of juvenile courts and the rules on the waiver of judicial systems. Proposal for a Directive on procedural safeguards for children suspected or accused in criminal proceedings, COM (2013) 822/2, p. 10

¹⁵ Directive, para. 1

¹⁶ Cras, *op. cit.* note 12, pp. 110

¹⁷ *Ibid.*, pp. 111

¹⁸ Directive also incorporates all relevant child related international standards and documents. Directive, para. 3, 7, 8

¹⁹ Directive, art. 2 (1) and (2)

²⁰ Directive, art. 3 (1). This definition is in accordance with the art. 1. of the UN CRC 1989

²¹ Directive, art. 2(5)

²² Dünkel, F., Grzywa, J., Pruin, I., Šelih, A., *Juvenile justice in Europe – Legal aspects, policy trends and perspectives in the light of human rights standards* in Dünkel, F., Grzywa, J., Horsfield, P., Pruin, I., (eds.) in *Juvenile Justice Systems in Europe, Current Situation and Reform Developments*, vol. 4., Forum Verlag Godesberg, 2011, pp. 1846-1849

of making the Directive,²³ it can also apply to suspect/accused persons in criminal proceedings or wanted persons who were children when they became subjects of the proceedings but have in the interim reached the age of 18. In these situations, the Directive should be applied only when it is found “appropriate” in the light of all circumstances of the case, including the maturity and vulnerability of the person concerned. MS can decide not to apply provisions of the Directive in cases when the person in question has reached the age of 21.²⁴ Directive also applies to children who were not initially suspects or accused persons but became one in the course of questioning by the police or by another law enforcement authority.²⁵ In cases of persons who were children at the time when the criminal offence had been committed and have already reached the age of 18 when they became a suspect/accused person in criminal proceedings, the Directive encourages MS to apply the procedural guarantees provided by the Directive until such persons reach the age of 21.²⁶

Directive should apply only to criminal proceedings and it should not be applied to other types of proceedings, in particular to proceedings that are specially designed for children.²⁷ In cases of minor offences, with the exception of cases prosecuted before a court which has jurisdiction in criminal matters, the Directive should not be applied because it would be unreasonable to expect from the competent authorities in MS to ensure all the procedural safeguards and rights from the Directive.²⁸ The Directive should be applied fully in situations when a suspect/accused child is deprived of liberty, regardless of the stage of criminal proceedings.²⁹

In regards to the temporal scope of application, Directive states that it “...applies to children who are suspects or accused persons in criminal proceedings”.³⁰ If we compare this provision with the provisions from the previous directives, we can notice the difference.³¹ Previous directives are applied in the criminal proceeding from the moment that the suspect or accused person have been notified by the competent authorities, by formal legal act or otherwise that they are suspect or

²³ Cras, *op. cit.* note 12, pp. 112

²⁴ Directive, art. 2(3), Directive, para. 11

²⁵ Directive, art. 2(4)

²⁶ Directive, para. 12 and 13

²⁷ Directive, art. 5 (1) and para. 17

²⁸ Directive, para. 15 and 16

²⁹ Directive, art. 2(6). For critique of this solution see: De Vocht, Panzavolta, Vanderhallen, Van Oosterhout, *op. cit.* note 12, pp. 484-486

³⁰ Directive, art. 1(1)

³¹ Directive on the right to information, art. 2(1), Directive on the right to lawyer, art. 2(1)

accused of having committed a criminal offence.³² In the process of adopting the Directive, it was decided that this Directive should apply in criminal proceedings from the moment when the child becomes suspect or accused of committing a criminal offence. This means that the Directive applies in criminal proceedings even before the child has been in any way, orally or in writing (by formal legal act) informed by the competent authorities that he/she is suspect or accused for committing a criminal offence.³³ Reasons why this solution has been accepted is the fact that many of the procedural rights from the Directive are being used only in the later stages of the criminal proceeding and because in the meantime the same solution has been accepted in the Directive on the presumption of innocence.³⁴ The Directive should be applied “...until the final determination of the question whether the suspect or accused person has committed a criminal offence, including where applicable, sentencing and the resolution of any appeal.”³⁵ That means that the Directive should be applied until the final sentence has been proclaimed, which includes the stage of appeal process.³⁶ The Directive, as all other directives, also has a non-regression clause.³⁷

3. THE RIGHT OF SUSPECT/ACCUSED CHILD TO INFORMATION IN CRIMINAL PROCEEDING IN INTERNATIONAL DOCUMENTS

Charter of the Fundamental Rights of the EU³⁸ in several provisions establishes the basic rights of access to justice that sustain fair trial guarantees for both adults

³² Ivičević Karas, Burić, Bonačić, *op. cit.* note 3, pp. 15-16; Krapac, D. i suradnici: *Kazneno procesno pravo, Prva knjiga: Institucije*, Narodne novine, Zagreb, VI. Izmijenjeno i dopunjeno izdanje, studeni 2014, pp. 230-231

³³ Cras, *op. cit.* note 12, pp. 112

³⁴ Directive 2016/343 / EU, art 2. In the introduction of this directive, it is stated that it should be applied from the moment when a person is suspected or accused of committing a criminal offense and therefore even before the competent authorities of a MS have notified the person by letter or otherwise, that he/she is the suspect or the accused. Directive 2016/343 / EU, para 12

³⁵ Directive, art. 2(1)

³⁶ During the process of adopting the Directive there's been some discussion whether Directive should be applied even in the execution phase in order to ensure protection of children especially in the cases of sanction that include deprivation of liberty, but that proposal was not accepted. Cras, *op. cit.* note 12, pp. 112-113

³⁷ Klimek, *op. cit.* note 13, pp. 654

³⁸ Charter of the Fundamental Rights of the EU, OJ C 326/395, 26. 12. 2012

and children.³⁹ Children's rights are mentioned in article 24, but there are no child-specific provisions regarding their rights in criminal procedure.⁴⁰

One of the most important rights that has been established by the UN Convention on the Rights of the Child (hereafter: CRC)⁴¹ is the child's right to participate in the judicial proceedings and the right to express their opinion on the matters that concern them. These rights should naturally include the right of child to be opportunely informed about his rights in a child-friendly manner.⁴² Regarding the right to information, CRC stipulates that the child has the right to be "...informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians...".⁴³ The UN Committee on the Rights of the Child (hereafter: Committee)⁴⁴ in their General comment No. 10 specifically states that in order for the child to effectively participate in the criminal proceeding, he/she must first be informed not only of the charges brought against him/her, but also of the juvenile justice process as such, and the possible measures and sanctions.⁴⁵ The child has to be informed promptly and directly (as soon as possible) of the charges brought against him/her and the Committee emphasises that it is the job of the legal authorities (e.g. police, prosecutor, judge) to explain to the child those charges in a language and manner that the child can understand (child-friendly manner) and to make sure that the child understands the given information. They should not leave this to the child's parents or legal guardians.⁴⁶

³⁹ Charter of Fundamental Rights, art 47 and 49. Handbook on European law relating to the rights of the child, European Union Agency for Fundamental Rights and Council of Europe, Belgium, June 2015, pp. 197

⁴⁰ Regardless of the fact that Charter of Fundamental Rights does not contain any child-specific related provision, MS must always observe the EU Charter when implementing the provisions of any of the directive. Handbook on European law relating to the rights of the child, *op. cit.* note 39, pp. 198

⁴¹ Convention on the Rights of the Child (CRC,) General Assembly Resolution 44/25 of 20 November 1989, entry into force 2 September 1990, text: [<http://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>] Accessed 20.3.2016.

⁴² Kovačević, M., *Maloletničko pravosuđe u Evropi i maloletnici kao aktivni učesnici krivičnog postupka*, Zbornik PF u Splitu, year 51., No. 4, 2014, pp. 879

⁴³ UN CRC 1989, art. 40(2) ii)

⁴⁴ The UN Committee in charge of monitoring the implementation of the CRC issued in 2007 General Comment No. 10 on Children's Rights in Juvenile Justice. CRC/C/GC/10, 25 April 2007. Text: [<http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf>] Accessed 15.3.2018

⁴⁵ General Comment No. 10, para. 44, p. 14

⁴⁶ General Comment No. 10, para. 46-47, p. 15

The European Convention on the Exercise of Children's rights⁴⁷ is primarily applied to family judicial proceedings and it states that one of the rights of children in cases of proceedings before a judicial authority that affects them is the right to receive all relevant information.⁴⁸

One of the international documents that specifically regulates the right of children to information in criminal proceedings are Guidelines on child-friendly justice (hereafter: Guidelines).⁴⁹ Guidelines states that children and their parents should be promptly and adequately informed about their rights from their first involvement with the justice system or other competent authorities and throughout the process, and they should be informed about the instruments that are available to remedy possible violations of their rights.⁵⁰ Information should be given to children and their parents as soon as possible, directly, in a manner that is adapted to the child's age and maturity, and in a language that they can understand according to the needs of every individual case.⁵¹ After receiving the information, children should be able to understand what is happening, how things will move forward and which options they have in the current situation.⁵²

ECHR⁵³ does not contain any child-specific provisions regarding the children's right in criminal proceedings, but from the jurisprudence of ECtHR, we can conclude that all of the guarantees contained in article 6 ECHR regarding the right

⁴⁷ European Convention on the exercise of the children's rights from 1996, Međunarodni ugovori Official Gazette No. 1/2010

⁴⁸ European Convention on the exercise of the children's rights, art 1, 2 and 3. Hrabar, D., *Nova procesna prava djeteta- europski pogled*, Godišnjak Akademija pravnih znanosti, vol. IV, No. 1, April 2013, pp. 70-73

⁴⁹ Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, adopted by the Committee of Ministers of the Council of Europe on 17 November 2010 and explanatory memorandum. Council of Europe Publishing, 2010, [<https://rm.coe.int/16804b2cf3>] Accessed 15.3.2018

⁵⁰ Guidelines lists some examples of what kind of information children and their parents should receive: information on the likely duration of the proceedings, the system and procedures involved; information about the support mechanisms for the child, the time and place of court proceedings and other relevant events, such as hearings, if the child is personally affected; the general progress and outcome of the proceedings or intervention; the availability of protective measures and so on. Guidelines on child-friendly justice, part IV, A 1, p. 20-21

⁵¹ Child friendly materials containing relevant legal information should be made available and widely distributed, and special information services for children, such as specialised websites and help lines, established. Guidelines on child friendly justice, Part IV., A 2-5, pp. 21, part B 25, p. 25

⁵² Guidelines on child-friendly justice, Second part, explanatory memorandum, part IV, A. 50, 51, 52, 54, pp. 58-60

⁵³ European Convention on Human Rights, [https://www.echr.coe.int/Documents/Convention_ENG.pdf] Accessed 26.3.2018

to a fair trial equally applies to children.⁵⁴ The right to information in criminal proceeding is not guaranteed in ECHR as a specific right but despite that, the ECtHR has established in its case law some positive obligations for the competent authorities of the States Parties, which refers to their duties to inform the suspect or defendant about his rights that emanate from Article 6 ECHR.⁵⁵

Aspects of the right to a fair trial that have generated child-specific case law, and these are connected to the right to information, the right to an access to a lawyer and the right to an effective participation.⁵⁶ The right to the access to a lawyer is considered one of the fundamental elements of the right to a fair trial. In its case law, ECtHR has established that the judicial authorities are not only obligated to inform accused/suspect person about his right to the access to a lawyer and the right to free legal help, but also that it is not enough that those information are given to the suspect/accused person in written form without the fact that legal authorities have not taken all reasonable measures to make sure that suspect/accused person has understood all of the mentioned rights.⁵⁷ ECtHR scrutiny of whether an applicant had effective access to a lawyer is stricter in cases involving children.⁵⁸

In order to ensure children's effective participation in criminal proceeding, according to the ECtHR case law, as a rule, proceedings have to ensure that the child's age, level of maturity and emotional capacities are taken in to account. This has to be assessed according to the national proceedings and concrete circumstances of each individual case.⁵⁹

4. THE RIGHT TO INFORMATION TO SUSPECTS/ACCUSED CHILDREN IN CRIMINAL PROCEEDINGS IN SOME EU MEMBER STATES

In Austria, same rules apply for the right to information for suspect/accused child in criminal proceeding as for adult suspects/accused.⁶⁰ This means that the police or the public prosecutor must inform the suspect/accused child about his/

⁵⁴ T and V vs. U.K., ECHR 16.12.1999, 24724/94 and S.C. vs. U.K., ECHR15.06.2004, 60958/00. Carić, A., Kustura, I., *Kamo ide brvatsko maloljetničko kazneno zakonodavstvo?*, Zbornik radova PF Split, god. 47, No. 4, 2010, pp. 806-808, Handbook on European law ..., *op. cit.* note 39, pp. 199

⁵⁵ Ivičević Karas, Burić, Bonačić, *op. cit.* note 3, pp. 24

⁵⁶ Handbook on European law....., *op. cit.* note 39, pp. 199

⁵⁷ Ivičević Karas, Burić, Bonačić, *op. cit.* note 3, pp. 24-25

⁵⁸ ECtHR Salduz v Turkey (GC), No. 36391/02, 27 November 2008, para. 51, 61, 62.; ECtHR Panovits v. Cyprus, No. 4268/04, 11 December 2008, Handbook on European law, *op. cit.* note 39, pp. 204

⁵⁹ *Ibid.*, pp. 202

⁶⁰ § 37 (1) Jugendgerichtsgesetz (JGG) 1988, Austrian Juvenile Court Act, BGBl 1988/599... last change: 154/2015,

her rights during the proceeding according to the general provisions of the Austrian Code of Criminal Procedure.⁶¹ The legal representative of the child, usually the parents, benefits from all significant procedural right that the child has.⁶² In Germany, before the first interrogation by the public prosecutor or the president of the youth court, the suspect/accused child has to be informed of his/her rights in criminal proceeding according to the general provisions of German Code of Criminal Procedure that applies to adults suspects/accused persons.⁶³ The only difference is that the child must be informed about his/her rights in a way that considers his/her level of development, education and majority.⁶⁴ Child's parents or legal guardians also have to be informed about the child's rights.⁶⁵

Italy has a special legal act (DPR 448/1988) that applies to children as suspect/accused persons and one of the main principles of that law is that the judge has to verbally explain to the accused child the meaning of the procedural activities that take place in his/her presence and the content and the ethical-social reasons behind the decisions.⁶⁶ Some of the rights of the children in criminal proceeding are the following: the right to legal assistance, the right to be heard and informed about the charges, process and possible sentence and the right to privacy.⁶⁷ Par-

¹<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10002825> Accessed 27.3.2018

⁶¹ § 50, § 51, § 53, § 58, § 61, § 62 Austrian Criminal Procedure Act, Strafprozeßordnung 1975 (StPO) BGBl 631/1975.... last change: BGBl I 117/2017,

¹<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10002326> Accessed 27.3.2018; Maleczky, O., *Jugendstrafrecht*, 4. Auflage, Wien, 2008, Manz, pp. 34-35

⁶² §38 JGG. Bruckmüller, K., Pilgram, A., Stummvoll, G., *Austria* in Dünkel, F., Grzywa, J., Horsfield, P., Pruin, I., (eds.), *Juvenile Justice Systems in Europe*, vol. 1., 2011, Forum Verlag Godesberg, pp. 58-60

⁶³ §136 German Code of Criminal Procedure, Strafprozessordnung BGBl I 1074, last change 30.10.2017 (BGBl. I S. 3618), [<https://dejure.org/gesetze/StPO>] Accessed 27.3.2018

⁶⁴ § 70a JGG, German Juvenile Court Act, Jugendgerichtsgesetz (JGG): BGBl 11.12.1974 (BGBl. I S. 3427) last change 27.08.2017 (BGBl. I S. 3295), [<https://dejure.org/gesetze/JGG>] Accessed 27.3.2018

⁶⁵ § 67a, § 67 JGG, *Study on children's involvement in judicial proceedings, Contextual overview for the criminal justice phase – Germany*, June, 2013, Luxembourg, Publications Office of the European Union, 2014, p. 18-19, [<http://www.childreninjudicialproceedings.eu/docs/ContextualOverview/Germany.pdf>] Accessed 28.3.2018

⁶⁶ See ar. 1.(2) Decreto del Presidente della Repubblica, 1988 - DPR 22. 9. 1988, No 448. [http://www.altalex.com/documents/leggi/2014/06/18/codice-processo-penale-minorile-d-p-r-448-1988#_Toc306371661] Accessed 24.3.2018

⁶⁷ DPR 448/1988, art 9, 11, 12, 13, 28, 31, 33, 38. *Children's right to participation and the juvenile justice system, Italy National Report*, 25.11.2015., Defence for Children, International Italy, 2015, pp. 8-9, 15-16 [https://defenceforchildren.org/wp-content/uploads/2015/12/Twelve_Italy.pdf] Accessed 26.3.2018

ents or the guardians of the child also have to be informed about the rights of the child.⁶⁸

In Netherlands, criminal procedural law for adults is also applicable to children, unless child-specific provisions apply. There are no specific provisions regarding the right to information for suspects/accused children, however, in practice, lawyers, the Child Care and Protection Board, and the Juvenile Probation Service prepare children for the criminal procedure. The lawyer has to provide information to child and his/her parents, from the moment the child comes in contact with the police until the ending of the proceeding. Representatives of the Child Care and Protection Board also have to give information to the child about criminal procedure prior to the hearing. Children can also get information about the criminal proceeding in a more informal way in Juvenile Legal Advice Centres that provide consultation for children and there are different websites, movies and leaflets with information about criminal proceeding for children written in a child-friendly manner.⁶⁹

In Finland, there are no special provisions regarding the right to information for suspect/accused children, which means that general provisions also apply to children. Children have the right to be notified about their role in the investigation and investigated act and about the progress of the investigation as long as that does not harm the investigation. They also have to be informed in writing about the right to have a defence counsel present during the investigation. When the prosecutor decides to bring charges against a child, he/she has to be informed about the charges brought against him/her. Social services must be present during criminal proceeding and inform the child of the possibility of mediation when necessary.⁷⁰

All MS, except Hungary, have legal provisions on the right of suspects/accused child to information about their rights in criminal proceedings. In most of the MS, general provisions that are prescribed by general legislation apply equally to

⁶⁸ *Study on children's involvement in judicial proceedings, Contextual overview for the criminal justice phase – Italy*, June, 2013, Luxembourg, Publications Office of the European Union, 2014, pp. 15-16 [<http://www.childreninjudicialproceedings.eu/docs/ContextualOverview/Italy.pdf>] Accessed 26.3.2018

⁶⁹ *Study on children's involvement in judicial proceedings, Contextual overview for the criminal justice phase – the Netherlands*, June, 2013, Luxembourg, Publications Office of the European Union, 2014, pp. 13-14 [<http://www.childreninjudicialproceedings.eu/docs/ContextualOverview/Netherlands.pdf>] Accessed 26.3.2018; As examples of good practice on informal way of informing children about their rights Guidelines on child-friendly justice mentions Belgium and the Netherlands (part IV. A., pp. 59-60)

⁷⁰ *Study on children's involvement in judicial proceedings, Contextual overview for the criminal justice phase – Finland*, June, 2013, Luxembourg, Publications Office of the European Union, 2014, pp. 13-14 [<http://www.childreninjudicialproceedings.eu/docs/ContextualOverview/Finland.pdf>] Accessed 26.3.2018

children and adults.⁷¹ The amount of information that child receives depends on the MS, but usually they receive the same information as adults,⁷² and maybe certain additional information, such as the right to inform his/her parents. In cases of arrest or detention, the information is usually given in writing. There is also a difference between MS on who gives this information to suspect/accused child. In most of the MS, it is the police, because they are the child's first contact with legal authorities, but in many MS, lawyers, judges, prosecutors, and even social services, also give children the information in different stages of the criminal procedure.⁷³ The biggest problem is that the information are usually given to children verbally in the same manner as to adults, because in most of the MS there are no special provisions and obligation that information needs to be given to the child in a child-friendly manner, or at least in a way that is adapted to the child's level of understanding and maturity. Usually, the right to information about rights in criminal proceeding or children is not regulated in details or in special legal acts that means that practice on the ground varies greatly.⁷⁴

4.1. The right to information for suspect/accused children in criminal proceedings in Croatia

In Croatia, legal status of children⁷⁵ who are suspects or accused of committing a criminal offence is regulated by special law, The Youth Courts Act (hereafter: YCA).⁷⁶ YCA encompasses all relevant provisions on children's rights in criminal proceedings, both under Penal Code and under the Criminal Procedure Act.⁷⁷

⁷¹ *Summary of contextual overviews on children's involvement in criminal judicial proceedings in the 28 MS of the EU*, June, 2013, Luxembourg, Publications Office of the European Union, 2014, pp. 21, 83 [<http://www.childreninjudicialproceedings.eu/docs/EU%20Summary.pdf>] Accessed 26.3.2018

⁷² Children are usually informed about the basic rights of the suspect/accused person in criminal proceedings: right to be informed about the charges brought against him, the right to legal assistance and lawyer, right to be heard, right to use his/her language and so on

⁷³ Summary of contextual overviews on children's involvement in criminal judicial proceedings in the 28 MS of the EU, *op. cit.* note 71, pp. 21

⁷⁴ Duroy, S., Foussard, C., Vanhove, A.: *Pre-trial detention of children in the EU, Analysis of legislation and practice in EU28*, JUST/2014/JACC/AG/PROC/6600, IJJO, pp. 8-9 [http://www.ijjo.org/sites/default/files/mipredet_ijjo2015_updated07122016.pdf] Accessed 26.3.2018

⁷⁵ In Croatia the term "juvenile" is used for children that are criminally responsible. A 'juvenile' is a person who, at the time of committing an offence, was at least 14 years of age but under 18. (YCA art. 2). For purposes of this paper, we will use the term child as a synonym for the term juvenile that is being used in Croatia. Carić, A., *Kazneni postupak prema maloljetnicima*, Split, 2004, p. 2-6

⁷⁶ Official Gazette No. 84/2011, 143/2012, 148/2013, 56/2015

⁷⁷ See more about the characteristics of YCA in Cvjetko, B., Singer, M., *Kaznenopravna odgovornost mladeži u praksi i teoriji*, Organizator, Zagreb, 2011, pp. 48-49, 83

YCA is *lex specialis* in regards to the Penal Code⁷⁸, Criminal Procedure Act, Courts Act and other general regulations. In cases of children who are suspects or accused in criminal proceedings these acts will be applied only if the matter in question is not regulated otherwise by the YCA.⁷⁹

The right to information for suspects/accused children in criminal proceeding in Croatia is not regulated by special law (YCA) which means that general provisions from CPA that applies to adults also applies to children. The right of child to be informed of his/her right in criminal proceeding is mentioned in only one place in YCA: in the beginning of the court trial, the judge has to inform the accused child of his/her rights before the interrogation at the beginning of the main hearing, and also has to make sure that the accused child understood the Letter of Rights.⁸⁰

Directive 2012/13/EU has been transported into the Croatian legal system with the Law on Amendments to the CPA in November 2013.⁸¹ As a result, the Letter of Rights was introduced into our legal system and criminal proceeding. Article 239 of the CPA prescribes the content of the Letter of Rights, and in which situations during criminal proceeding does the Letter of Rights have to be administered to the suspect or accused person.⁸² CPA also prescribes in which stages of criminal proceedings, and with which procedural acts, does the Letter of Rights have to be delivered to the suspect or accused person.⁸³ Legal authority that carries out the specific action during criminal proceeding *ex officio* before the commencement of the action has to check whether the suspect or accused person has already received the Letter of Rights, and if they establish that the Letter of Rights has not been delivered to the person in question, they have to halt the procedure and give the suspect or accused person the Letter of Right. Only after that can they continue with the criminal proceeding. Information that suspect or accused person has already received the Letter of Rights has to be noted in accordance with the recording procedure.⁸⁴

⁷⁸ Penal Code, Official Gazette No. 125/2011, 144/2012, 56/2015, 61/2015, 101/2017

⁷⁹ YCA, art. 3, PC, art. 7

⁸⁰ YCA, art. 85 (1)

⁸¹ Ivičević Karas, Burić, Bonačić, *op. cit.* note 3, pp. 36-37, Konačan prijedlog ZID-a ZKP-a 145/2013., Vlada RH, studeni, 2013, pp. 48-49, 81-87, 138

⁸² CPA, art. 239 (1) CPA; All rights that suspect or accused person has in criminal proceeding are listed in art. 64. CPA

⁸³ CPA, art. 239 (2) CPA. Arrested person in case of arrest also has to be promptly informed about his/her rights, see CPA, art. 7 (2), 108a, 108b. Krapac, *op. cit.* note 32, pp. 242, 373-375

⁸⁴ CPA, art. 239 (3) and (4) CPA. Before the first interrogation of the suspect/accused person, the police has to make sure that the suspect or accused person has received and fully understood the content of the Letter of Rights. If the suspect or accused person says that he/she does not fully understand his/her rights, according to the Letter of Rights it is the duty of the police to explain to him/her in an un-

In 2016, research was conducted on the application of new legal provisions in Croatian criminal practice, including the right to information.⁸⁵ The results of the conducted research showed that most of the problems regarding the right to information in criminal proceeding in practice happened in the earliest stages of the criminal proceedings, at the stage of police actions related to criminal proceedings. It is important to mention that this problem has been resolved since then with the new Law on Amendments to the CPA 2017.⁸⁶ Regarding the further stages of the criminal procedure, that included actions of attorney general and courts, it was concluded that legal provisions related to the right to information of suspect or accused person, are consistently implemented in practice.⁸⁷

5. THE RIGHT TO INFORMATION ACCORDING TO THE DIRECTIVE EU/2016/800

In the process of adoption of the Directive in EU Parliament, there has not been much discussion about the right to information because MS did not consider this right problematic.⁸⁸ Directive states that after the children are made aware that they are suspects or accused persons in criminal proceedings⁸⁹, MS have to ensure that they are promptly informed about their rights in accordance with the Directive 2012/13/EU, and about general aspects of the conduct of proceedings.⁹⁰ This means that children first have to be informed about the procedural rights that all suspects/accused persons have in criminal proceeding, and then they have to be informed about additional rights they have according to the Directive. The Directive 2012/13/EU distinguishes two types of rights to information: the right to information about rights (art. 3) and the right to information about the accusation

derstandable way his/her rights and their meaning. Only after suspect or accused person confirms that he/she has fully understood his/her rights can the interrogation begin. See: CPA, art. 208a (3). Before the first interrogation before state attorney, the procedure is the same. See: Ivičević Karas, E., Burić, Z., Bonačić, M., *Prava obrane u različitim stadijima hrvatskog kaznenog postupka: rezultati istraživanja prakse*, HLJKPP (Zagreb), Vol. 23., No. 2, 2016, pp. 512-517, 528-530

⁸⁵ For more details about the project: *Ibid.*, pp. 510-512

⁸⁶ Official Gazette No. 70/2017. Konačan prijedlog ZID-a ZKP-a 2017, Ministarstvo pravosuđa, Zagreb, lipanj, 2017, pp. 11-12, 18-19, 45-50, 81-85

⁸⁷ Ivičević Karas, Burić, Bonačić, *op.cit.* note 84, pp. 512-516, 528-530, 536-537, 541-542

⁸⁸ The biggest discussion has been about the right to assistance by a lawyer. Cras, *op. cit.* note 3, pp. 111

⁸⁹ The right to information is the only right from the Directive that is being applied from the moment that the child has been informed by official authorities, by official notifications or otherwise (orally) that he/she is suspected or accused of having committed a criminal offence. That is only a logical solution because in the past the official authorities, which gave children the information on their rights, first had to inform them that they are suspected or accused of having committed a criminal offence

⁹⁰ Directive, art. 4(1)

(art. 6).⁹¹ In this paper, we will analyse the first aspect of the right to information, the right to information about rights.

5.1. The right to information in criminal proceeding according to the Directive 2012/13/EU

Directive 2012/13/EU states that MS have to ensure that all suspects/accused persons are promptly⁹² informed about: the right to access to a lawyer; any entitlement to free legal advice and the conditions for obtaining such advice; the right to be informed of the accusation, the right to interpretation and translation and the right to remain silent and how these rights are applied under national law so that they can exercise them effectively.⁹³ The Directive 2012/13/EU only regulates the obligation of the MS to inform the suspects/accused person about those rights, while the scope of the regulation of a particular right is left to national legislation.⁹⁴ Information about these rights have to be given orally or in writing,⁹⁵ in simple and accessible language, taking into account any particular needs of vulnerable suspects/accused persons.⁹⁶ Competent authorities should pay particular attention to persons who cannot understand the content or meaning of information, for example, because of their youth, mental or physical condition, but the Directive 2012/13/EU does not elaborate further in what way this should be done.⁹⁷

After children have been informed about their rights, they also have to be informed about the general aspects of the conduct of the proceeding.⁹⁸ They should be given a brief explanation about the next procedural steps in the proceedings, and about the role of the authorities involved. Given information should depend on the circumstances of the case.⁹⁹

⁹¹ Ivičević Karas, Burić, Bonačić, *op. cit.* note 3, pp. 24

⁹² Information should be provided at least before the first official interview of the suspect/accused person by the police or by another competent authority, Directive 2012/13, para. 19

⁹³ Directive 2012/13/EU, art. 3(1)

⁹⁴ Ivičević Karas, Burić, Bonačić, *op. cit.* note 3, p. 26

⁹⁵ If the suspect/accused person is arrested or detained, then they have to receive written Letter of Rights that contains additional rights set in art. 4 Directive 2012/13/EU and they are allow to keep that Letter of Rights throughout the time they are deprived of liberty. Directive 2012/13/EU, art. 4 and para. 21-23

⁹⁶ Directive 2012/13/EU, art. 3(2)

⁹⁷ Directive 2012/13/EU, para. 26, 37 and 38

⁹⁸ This part of right to information enter the Directive as a direct consequence of the ECtHR case law (Pantovis vs. Cyprus, 11 December 2008, Appl. No. 4268/04). The Council was against this because they thought that providing such information should be the obligation of the lawyer and not of the competent authorities. Cras, *op. cit.* note 3, p. 113

⁹⁹ Directive, art. 1(1) and para. 19

5.2. The right to information to suspects/accused children in criminal proceedings according to the Directive 2016/800/EU

In situations when children are provided with the Letter of Rights, pursuant in the Directive 2012/13/EU MS have to ensure that such Letter also includes a reference to their rights from the Directive.¹⁰⁰ We can say that there are three groups of rights that children have to be informed about in different stages of criminal proceeding.

First group of rights can be described as basic rights that children have during the criminal proceedings: the right to have the holder of parental responsibility informed (art. 5 Directive); the right to be assisted by a lawyer (art. 6 Directive); the right to protection of privacy (art. 14 Directive); the right to be accompanied by the holder of parental responsibility during stages of proceedings other than court hearing (art. 15(4) Directive); the right to legal aid (art. 18 Directive). Children have to be informed about these rights promptly after they are made aware that they are considered suspects or accused persons.¹⁰¹ Problem is that the Directive does not clearly define the term “promptly”, but looking at the preamble of the Directive 2012/13/EU¹⁰² and the time scope of application of the Directive, we can conclude that it means that children have to be informed of them at the earliest possible stage of criminal proceedings.¹⁰³

Second group of right are the rights that children need to be informed of at the earliest appropriate stage in the proceedings, which means that those rights are connected with a specific stage or acts during criminal proceeding. In an appropriate stage of criminal proceeding, children have to be informed about: the right to an individual assessment (art. 7 Directive); the right to medical examination, including the right to medical assistance (art. 8 Directive); the right to limitation of deprivation of liberty and the use of alternative measures, including the right to periodic review of detention (art. 10 and 11 Directive); the right to be accompanied by the holder of parental responsibility during court hearings (art. 15(1) Directive); the right to appear in person at trial (art. 16 Directive); the right to effective remedies (art. 19 Directive).¹⁰⁴ The decision not to inform children about all rights that they have in criminal proceeding at the beginning of proceedings, was a good decision made by the Council of the EU.¹⁰⁵ We agree that it is unnecessary to

¹⁰⁰ Directive, art. 1 (3)

¹⁰¹ Directive, art. 1(1a)

¹⁰² Directive 2012/13/EU, para. 19

¹⁰³ See: 2. part of the paper

¹⁰⁴ Directive, art. 1(1b)

¹⁰⁵ Cras, *op. cit.* note 3, pp. 113

inform children about all rights at the beginning of the proceeding because some of those rights are only relevant at a specific stage of criminal proceeding (e.g. the right to effective remedy). It is more effective that children are informed of their rights at the appropriate stage of criminal proceeding so that they can understand them better and exercise them at the right time.

The third group of rights that children need to be informed about refers to the situation when they are deprived of liberty, it is then that they have to be informed of the right to a specific treatment during deprivation of liberty (art. 12 Directive).¹⁰⁶

We can say that some of these rights are “juvenile specific” such as the right to have a holder of parental responsibility informed, while others are more of the traditional procedural safeguards, which are given specific shape and content in connection to the needs of suspects/accused children such as right to a lawyer and the right to legal aid.¹⁰⁷

MS have to ensure that all rights, from all three groups of rights, are given to children in writing, orally, or both, in simple and accessible language. They also have to ensure that given information is noted according to the recording procedure as regulated under national law.¹⁰⁸ Children do not have the same capacity to understand the scope and content of their procedural rights as adults, which means that there should be a difference between administering the right to information to the children, as opposed to adults. This problem has been recognized by the Directive, but the problem is that the Directive does not define or elaborate in detail what the term “simple and accessible language” refers to, meaning that it is left to the practice of each MS to decide how and from whom will the child receive the information about his/her procedural rights in criminal proceeding. Still, the bigger problem is that the Directive did not prescribe the obligation for the competent authorities of the MS to make sure that the suspect/accused child fully understood the content and the meaning of the right that has been administered to him/her.

In case *T vs. UK*, ECtHR established that the article 6 ECHR has been violated, specifically the right to effective participation. This case demonstrated that, in practice, there is a big difference between simply informing the child about its rights in criminal proceedings, and the process of determining whether the child actually understood all of the information it received. For national justice system it is easy to define by legal provisions who, when and how will give the child information about his rights in criminal proceeding. It is much more complicated to

¹⁰⁶ Directive, art. 1(1c)

¹⁰⁷ de Vocht, Panzavolta, Vanderhallen Miet, Oosterhout, *op. cit.* note 12, pp. 492

¹⁰⁸ Directive, art. 1(2)

determine whether the child in question has the intellectual and emotional capacity to understand the information that has been administered to him/her and if the child actually understood the information that he/she has received.¹⁰⁹

The Americans have conducted several researches on the juvenile's ability to understand and exercise the so-called Miranda rights.¹¹⁰ "Research indicates that young juveniles (14-16) in particular may not yet have obtained the cognitive abilities to understand and effectively participate in juvenile justice proceedings. Multiple studies show that juveniles 15 years of age and younger, as well as 16 and 17 years old with a low IQ (below 85), have far more difficulties understanding Miranda rights than adults do, even compared to adults with low IQ. Most 16 and 17-year-old juveniles, however, are considered cognitively able to understand the meaning of Miranda rights."¹¹¹ Although 16 and 17-year-old juveniles possess the ability to understand Miranda rights, research also showed that they are generally still not able to make grown-up decisions, which means that they are generally still not capable of adequately exercising their Miranda rights. Results of different researches showed that the lower the age of the children, the higher the risk of not understanding the procedural right that they are being informed of.¹¹² It is also important to notice that legal authorities often have prejudice regarding the children that have already been involved in some criminal offence, because then they often presume that the child who has already been in contact with the police or judge has enough knowledge of criminal proceedings, which is also not true.¹¹³

That is why the Directive should have prescribed that every MS should implement in their legislation some kind of procedure to determine in each individual case whether the suspect/accused child fully understood his/her rights, and the concept of criminal proceeding, or if he/she needs extra explanation or help in understanding and exercising those rights.¹¹⁴ This means that it is not enough that MS simply proscribe the legal provisions for ensuring the right to information, but they should also include in their legal provisions an obligation for competent authorities to check if the child in question fully understands the meaning of the

¹⁰⁹ Kovačević, *op. cit.* note 42, pp. 885-886

¹¹⁰ Miranda rights refers to the right to remain silent and the right to legal counsel prior to, and during police interrogations. The concept of Miranda rights was established in the US criminal justice system as the result of the *Miranda vs. Arizona* case, 13 June 1966, 384 US. 436

¹¹¹ Liefwaard, T., van den Brink, Y., *Juveniles Right to Counsel during Police Interrogations: An Interdisciplinary Analysis of a Youth-Specific Approach, with a Particular Focus on the Netherlands*, ELR, December 2014, No. 4, pp. 214

¹¹² *Ibid.*, pp. 214. See also: de Vocht, Panzavolta, Vanderhallen Miet, Oosterhout, *op. cit.* note 12, pp. 493

¹¹³ Kovačević, *op. cit.* note 42, pp. 888

¹¹⁴ *Ibid.*, pp. 885-886

received information and what the consequences of those legal provisions are. If they determine that the child did not understand his/her right, they should be obligated to halt the criminal proceeding and try to explain to him/her those rights, and even try to ensure the help of a professional with special education in working with children. Only after they have established that the child has understood given information, should they continue with the criminal proceeding.

6. CONCLUSION

In cases of suspects/accused children in criminal proceedings, it is often neglected that when they get in contact with criminal justice system, both them and their parents almost always feel intimidated and lack information about their rights during criminal proceeding. Because of that, children face a higher risk of deprivation of their fundamental procedural rights. In order to ensure that suspects/accused children are an active and understanding participant in the criminal proceedings, the justice system first has to provide them with all relevant information in a child-friendly manner.¹¹⁵ Ensuring that children are properly informed about their rights in criminal proceeding can be seen as the prerequisite for the realization of all other procedural rights that the children have during criminal proceeding. In order for an individual to exercise the rights that belong to him, it is necessary to ensure that the subject is acquainted with the rights that belong to him, and that the individual is aware that he is the subject of those rights.¹¹⁶

The Directive 2016/800/EU is a step forward in the right direction because MS are obligated to implement provisions from this Directive to their national legislation and that means that every MS will have a child-specific provision for the right to information in criminal proceeding, which today is not the case. MS first have to implement the right to information for suspects/accused children in criminal proceedings in special legal acts (*lex specialis*) that refer only to children, and if they do not have child specific legal acts, then they have to implement this right into their general criminal procedure act. MS also have to determine who and how will give the information to suspect/accused child about their rights in criminal proceedings according to the nature and characteristics of their criminal proceedings. In most of the MS, the information the child receives promptly will come from the police, because they are the child's first contact with legal authorities, but in the later stages of criminal procedure, it can come from other competent

¹¹⁵ Doek, J., *The UN Convention on the Rights of the Child*, in *Reforming Juvenile Justice*, (ed.) Junger-Tas, J., Dünkel, F., Springer, pp. 25, 26-28

¹¹⁶ Božićević Grbić, M., Roksandić Vidlička, S., *Reforma maloljetničkog prava i sudovanja*, HLJKPP, Zagreb, Vol. 18, No. 2, 2011, pp. 680

authorities (lawyer, public prosecutor, judge and social services), depending on the stage of criminal procedure. It is important to emphasize that all competent authorities should have special education in working with the children, and MS should ensure a special training for them in order to ensure a correct implementation of the Directive.

The biggest problem is how competent authorities will administer information about their procedural right to children. The Directive only states orally or in writing, in simple and accessible language. It would be a good practice if MS would create a written Letter of Rights for children that would include all of information that children have in the criminal proceeding. In that Letter of Rights, they should avoid using too many legal and technical terms that children, and even their parents, cannot understand. MS should try to implement in their practice in juvenile justice system more informal ways of informing children about their rights with leaflets, promotional videos, schools lectures, or by social services.

All thought the Directive does not prescribe that as an obligation, it would be in the child's best interest that MS also proscribe a procedure where competent authorities are obligated to inquire; after the child received the Letter of Rights, whether the child fully understood the concept and the meaning of the received information. If competent authorities find that child is not capable of understanding, or did not understand the received information, they should stop with the procedure and offer legal advice and help. They should continue with the process only after the child says that he/she understood the given information. It is also very important that in this whole process, the parent or legal guardians of the child in question are included.

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