Criminal proceedings: procedural safeguards for children suspected or accused

2013/0408(COD) - 03/03/2014

The Council held a **policy debate** on the proposal for a directive on procedural safeguards for children who are suspected or accused in criminal proceedings. The proposal aims to ensure that children are able to understand and follow the criminal proceedings to which they are subject, and that they can exercise their right to a fair trial.

It also seeks to prevent reoffending by children and foster their social integration.

The debate was focused on the following issues:

- **scope**: according to the proposal, the directive also applies to suspects and accused persons who are adults, if these persons were children when they committed the criminal offence and the criminal proceedings started when they were children. While certain Member States consider that the directive should no longer apply when the suspect or accused person comes of age, other Member States consider that certain rights should continue to apply in that situation;
- **right of access to a lawyer**: the proposal provides that Member States must ensure that children are assisted by a lawyer throughout the criminal proceedings in accordance with Directive 2013/48/EU and that the right of access to a lawyer cannot be waived. A large majority of Member States confirmed that children should not be able to waive their right of access to a lawyer, independently of whether or not they are deprived of liberty. Some exceptions for minor cases should however apply;
- **right to protection of privacy**: according to the proposal, Member States must ensure that criminal proceedings involving children take place in the absence of the public, unless, after due consideration of the best interests of the child, exceptional circumstances justify a derogation. A large majority of Member States favour, or can at least accept, the option whereby the directive would not contain any principle on the issue of the protection of privacy, but that Member States should ensure such privacy, taking the interests of children duly into account.

On the basis of this guidance, the preparatory bodies of the Council will continue the work on the proposal. The Presidency aims to reach agreement on a general approach on the text in June, which will then constitute the basis for the negotiations with the European Parliament.