Criminal proceedings: procedural safeguards for children suspected or accused

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The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Caterina CHINNICI (S&D, IT) on the proposal for a directive of the European Parliament and of the Council on procedural safeguards for children suspected or accused in criminal proceedings.

The committee recommended that Parliament's position adopted in first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Scope: the Directive applied to suspects or accused persons subject to criminal proceedings who had reached the age of 18 but were still under the age of 21 at the beginning of those proceedings, which related to offences allegedly committed before those persons had reached the age of 18.

Right to information: children must be informed promptly – in writing and orally, by procedures appropriate to their age, understanding, and intellectual ability, in a simple language which they understand – about the charges against them, the conduct of the proceedings and their rights.

Right to mandatory assistance by a lawyer: a lawyer must assist children at every stage in the proceedings. The right to be assisted by a lawyer cannot be waived.

Right to an individual assessment: this assessment must (i) take particular account of the personality and maturity of the child, its family, economic and social background, its living environment and any specific vulnerabilities; (ii) take place at the earliest appropriate stage in the proceedings and in any event before indictment or the ordering of measures involving deprivation of liberty, except where this is impossible; (iii) establish and record such information about the individual characteristics and circumstances of the child as might be of use to the competent authority; (iv) be carried out by qualified persons.

Right to medical examination: where a child has been deprived of liberty, where the proceedings so require, or where it is in the best interests of the child, the child must have access without delay to a medical examination and medical care in order to evaluate, protect and, where necessary, improve the health and well-being of the child.

Questioning: the questioning of children must carried out in a manner that takes account of their age, level of maturity and any other needs determined during the individual assessment conducted

Right to liberty: children may be deprived of liberty before their conviction only as a **measure of last resort,** ensuring in every case respect for the human dignity and the rights of the child in custody. Due account shall be taken of the age, individual situation and personality of the child and the particular circumstances under which the offence was committed. Every child deprived of liberty shall have the **right to challenge the legality** of the deprivation of liberty before a court or other competent, independent and impartial authority. Children placed in **provisional detention** must be kept separately from adults and convicted children.

Right to specific treatment: arrests of children must be carried out on the basis of procedures and with safeguards appropriate to the child's age and degree of maturity. Once arrested the child must have the right to meet the holder of the parental responsibility or another appropriate adult promptly and in any event prior to questioning.

During the period of deprivation of liberty, Member States must take all appropriate measures to: (i) preserve the health and physical and mental development of the child, (ii) protect the dignity and identity of the child (iii) ensure that the special requirements of those children with physical, sensory, and learning disabilities are provided for, (iv) ensure the freedom of the child to express his or her religion or belief; (v) ensure that independent inspections are carried out on a regular basis to check the state of the detention facilities and the treatment of detainees.

Right of children to appear in person at, and take part in, the trial: children must be entitled to be present and to participate in the trial and shall take all necessary steps to enable them to participate fully, including by **giving them the opportunity to be heard** and to express their views.

Remedies: suspected or accused children in criminal proceedings, as well as children subject to European arrest warrant proceedings, must have an effective remedy under national law in the event of a breach of their rights under the Directive.

Non-discrimination: Member States shall: (i) respect and guarantee the rights set out in the Directive as regards any child within their jurisdiction without discrimination of any kind; (ii) promote training of all the professionals involved in the administration of juvenile justice, specifically in the light of particularly vulnerable groups, such as street children, children belonging to racial, ethnic, religious or linguistic minorities, migrant children, indigenous children, girls, children with disabilities.

Derogations: the committee considered that in general, derogations should be allowed only on the basis of assessments of **the best interests of the child.**