

# CYPRUS

## Child-friendly justice

<b>1. The child’s legal capacity .....</b>	<b>2</b>
<b>2. Access to adapted proceedings .....</b>	<b>2</b>
<b>3. Multidisciplinary aspects .....</b>	<b>11</b>
<b>4. Training of professionals .....</b>	<b>11</b>
<b>5. Best interests of the child .....</b>	<b>12</b>
<b>6. Monitoring of decisions in proceedings involving children .....</b>	<b>12</b>
<b>7. Access to remedies .....</b>	<b>13</b>
<b>8. Family Life .....</b>	<b>13</b>

## **1. The child's legal capacity**

In Cyprus, the minimum age of criminal responsibility is 14. For all matters, the minimum age at which a plaintiff can bring a case to court in their own right is 18.

Children under fourteen years of age are not criminally liable for any act or omission under the Criminal Code of Cyprus, Cap. 154.

The Juvenile Offenders Law Cap. 157 defines a "child" as a person under the age of 14 years and a "young person" as a person who is 14 years of age or upwards and under the age of 16 years. Offenders over the age of sixteen are treated by the judicial system as adults.

## **2. Access to adapted proceedings**

### **2.1 Criminal justice**

#### **2.1.1 The child as a plaintiff**

In general, a child has no legal capacity to sue and thus can only bring an action through his/her parents/guardian<sup>1</sup>. Children without a guardian can bring proceedings through a guardian ad litem appointed by the court; however, the guardian is not personally liable for any costs properly incurred by him/her in the course of the action<sup>2</sup>. In order to bring an action to civil courts the child's guardian must be described in the writ of summons, which must be endorsed by a statement signed by the guardian confirming that the action is being brought with his/her advice and consent<sup>3</sup>. Similarly a child cannot enter an appearance in court unless his/her memorandum bears a consent in writing from his guardian<sup>4</sup>.

When a child attains the age of 18 during the proceedings, the title of the case is amended to replace the name of the parent/guardian with that of the child that has reached maturity, the SWS ceases to be involved in the procedure and the case continues with the child who turned 18 in the place of the plaintiff<sup>5</sup>. For the period prior to maturity, the guardian has absolute discretion on how to handle the case, bearing in mind that every decision of the parents in the course of the exercise of parental care must always aim at the child's interests<sup>6</sup>. A child who has no guardian authorised to bring proceedings on his/her behalf may bring a legal action through a person to be named in the writ of summons and therein described as his next friend.

No special case<sup>7</sup> in any matter to which a child is a party can be set down for argument without leave of the court. The application for such leave must be supported by sufficient evidence that the statements contained in such special case, so far as they affect the interests of the child, are true. Either party may set down a special case for argument, but if such case affects a child, the application to the courts registrar to fix a day must be accompanied by an office copy of the order giving leave to set down the case for argument<sup>8</sup>.

Where by reason of death, bankruptcy, or any other event occurring after the commencement of a trial, and causing a change or transmission of interest or liability, or by reason of any person with an interest in the case having been born after the commencement of the trial, it becomes necessary or desirable that any person

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<sup>1</sup> Civil Procedure rules Cap. 6 (*Ο περί Πολιτικής Δικονομίας Νόμος (ΚΕΦ.6)*), Order 9, clause 12; information confirmed through consultation with stakeholders (AG's office).

<sup>2</sup> Civil Procedure rules Cap. 6, Order 9, clause 12.

<sup>3</sup> Civil Procedure rules Cap. 6, Order 2, clause 4b and 15.

<sup>4</sup> Civil Procedure rules Cap. 6, Order 16, clause 10.

<sup>5</sup> Information obtained through consultation with stakeholder (AG's office).

<sup>6</sup> Law on the relations between parents and children N.216/1990, Article 6(1).

<sup>7</sup> A 'special case' is a preliminary hearing on a point of law. According to Order 29, clause 1 of the Civil Procedure rules Cap. 6, the parties to any cause or matter may concur in stating the questions of law arising therein in the form of a special case for the opinion of the Court'.

<sup>8</sup> Civil Procedure rules Cap. 6, Order 29, rules 4-5.

not already a party should be made a party, an order that the proceedings will be carried on between the continuing parties may be obtained ex parte on application to the court. Where a person served with such an order is a child without a guardian authorised to defend proceedings on his/her behalf, the person on whose application the order was made, or any continuing party to the action, may at any time after the making of the order, apply to the court so that a guardian ad litem be appointed<sup>9</sup>.

The Law provides that children and young persons should not be imprisoned if they can be suitably dealt with in other ways. As a mean of alternative sanctions which are non custodial, there is the probation order with conditions of community service, also applicable to young person. This is a probation order with the specific condition of carrying out community service, imposed by the Court.

Further in Cyprus Police there are no specialized units to deal with juvenile offenders, child victims or child victims of specific crimes. Any crime may be reported to the local police station, or in the cases of serious offences, to the District Crime Investigation Departments. Child sexual abuse or sexual exploitation incidents are reported to the District Crime Investigation Departments.

The local Police Stations and the District Crime Investigation Departments are supported by the Police Headquarters (Domestic Violence and Child Abuse Office, and Juvenile Delinquency Office). Both Offices ensure that the relevant legislation is enforced and maintain close cooperation with the investigating officers, as well as with the relevant and involved agencies. Both Offices review criminal files concerning cases and make recommendations as to further action concerning each case.

In the case of juvenile delinquents, the prosecution procedure is slightly modified, if the juvenile offender is over 14 years of age and below 16 years of age. In such cases, a special Juvenile Committee looks into the circumstances of the offence, of the offender and of his/her social circumstances, making recommendations as to the applicability of non criminal justice measures in each case.

### **2.1.2 Child specific provisions**

As far as the Courts are concerned, criminal cases where the victim is a child are dealt with by the ordinary criminal courts at present. However, specific Laws with specialised child-sensitive provisions for the protection of child victims/witnesses exist.

In Law 119(I)/2000, which deals with Domestic Violence and the Protection Domestic Violence Victims, Part IV of the Law (articles 9-14) provides that when a complaint is made to the police, the deposition of the victim must be taken by an officer of the same sex, unless otherwise requested by the victim or by the family counselor if the victim is underage. Also, in all cases of crimes of violence, whether under the Domestic Violence Law or any other Law, the Court may allow to be adduced as evidence the videotaped testimony of the victim, without prejudice to the right of the defence to cross examine. Therefore, the victim need not repeat his/her testimony in Court, if the videotape of their original deposition along with a transcript is provided. They may, however, be cross examined.

Furthermore, Part V of aforementioned Law 119(I)/2000 (articles 15-20) provides that in cases of domestic violence the investigation and the court proceedings are adjudicated without delay and the Court may issue any orders it deems necessary pending the trial of the case for the protection of members of the family, such as any children involved. Also, to avoid any kind of intimidation, the Court may order that the proceedings or part thereof be in camera (restricted to the public) and any testimony by any victim or other witness (such as a child) be given in the absence of the accused. Safeguards are put in place so that the accused has full knowledge of such testimony: the technical requirements exist in the criminal court so that the victim may testify in the court room, while the accused is in another room and can watch the procedure via live link.

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<sup>9</sup> Civil Procedure rules Cap. 6, Order 12, rules 4 and 6.

Therefore, the child will not see the accused. With regard to the protection of child witnesses by the Court, the Court may intervene during cross examination and give such directions as it deems necessary to avoid intimidation from hostile or intense ways of questioning or from questions that may infer any kind of threat.

In all criminal proceedings, a child under the age of 14 gives unsworn evidence (Criminal Procedure Law, article 55(3)). In addition to that, according to article 13 of the Evidence Law, all persons are considered competent witnesses, unless the Court ascertains that such person doesn't understand that he is obliged to tell the truth or cannot understand the questions, due to his young age or mental incapacity. In deciding this, the Court may engage with the prospective witness in order to ascertain his/her capacity to speak the truth and his/her understanding of the process. This applies in both criminal and civil proceedings.

A more recent law, Law 51(I)/2016, deals with the rights, support and protection of victims of crime. In this law, a child is defined as any person under the age of 18 and the law applies to criminal cases. This Law states the obligations of all services and governmental and non governmental organisations to the victims of crime, including social services and the police. The Law includes specific provisions for the protection of child victims.

Additionally, according to our Constitution (article 30(2)) the Court may order the proceedings to be in camera if it decides that it is in the best interests of the child.

Please note that there is currently a new Bill with plans to create juvenile courts to deal with all criminal cases involving children. However this has not yet been passed into Law. It is important to note that this Bill includes provisions in Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings. The Directive provides that Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with it by 11 June 2019.

## **2.2 Civil justice**

There are no specialist institutions dealing with children in civil judicial proceedings. They are dealt with by the ordinary civil courts, under the existing civil procedure rules. A civil claim on behalf of a minor will normally be brought on their behalf by their parent or guardian, as a person under the age of 18 cannot bring a case to Court as a plaintiff in their own right. The same principle applies if a claim is to be brought against a minor as a defendant.

In case of settlement of a case involving a minor, the settlement has to be approved by the Court, in order to safeguard that it is in the best interests of the child. Any compensation paid thereof should be deposited in an interest-earning account in the name of the minor.

### **2.2.1 Contractual disputes**

In principle, according to the rules of English law, children below 18 years of age do not have capacity to conclude a contract<sup>10</sup>. The general rule in English law is that children are not bound by contracts they conclude, although the adult party with whom they make the contract is bound by them. When the child turns 18, he/she can choose whether or not to ratify the contract s/he made as a child.

Nonetheless, certain exceptions apply to the rule above as children are legally bound to fair and reasonable contracts they have concluded. These are: contracts for the supply of 'necessaries' or goods and services beneficial to them, unless the terms are especially burdensome or unfair; and contracts for employment,

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<sup>10</sup> Prf. Dr Ohly, Introduction to English Law; JC Smith, Smith & Thomas: A Casebook on Contract, Eleventh Edition, 2000, Chapter 17.

discussed below, where these are for the child's general benefit<sup>11</sup>. In both cases, a child can bring an action only through his/her guardian.

Note that married children are considered by law as capable to enter into a contract<sup>12</sup>. In the absence of an express legislative provision to the contrary, the general rule that children cannot bring legal actions in their own name may be assumed to apply also to married children.

### **2.2.2 Protecting the child during interviews and when giving testimony**

Children can also be defendants in civil judicial proceedings. However, no person can be sued for torts committed by them when they were under 12 years of age<sup>13</sup>.

With respect to their contractual responsibility children cannot be sued on the basis of contracts they have concluded<sup>14</sup>, unless they are married in which case they are deemed to be capable of entering into a contract<sup>15</sup>. Also, children may be sued under contracts for the supply of necessities or goods and services which are beneficial to them, unless the terms are especially burdensome and unfair on the child.

Where a child is sued and provided that the child does not have a guardian authorised to defend him/her, the child shall defend him/herself through a guardian ad litem appointed by the court<sup>16</sup>. The same rules as in the case of child plaintiffs apply concerning: the identification of the child plaintiff in the writ of summons; the continuation of the proceedings by the child when he/she turns 18 during the proceedings; the way children may be invited to join any proceedings they have an interest in; the rules on the discussion of the case; the requirement to obtain a leave of the court in order to lay down a special case for argument<sup>17</sup>.

There is no minimum age for a child to appear as a witness in court. If the court deems the child to be a suitable witness, there is no need for the child's guardian to approve the child's participation in the proceedings. When summoned as a witness, the child is legally obliged to appear in court. It is at the court's discretion to decide whether a child is mature enough to stand as a witness, although the guidelines and considerations applicable regarding the child's right to express an opinion, as discussed in Section 2(b), will also apply to the case of child witnesses.

Although the law permits the summoning of children as witnesses, courts are very reluctant to allow this in cases beyond family law which do not amount to an exercise of the child's right to be heard. In practice, a child may be called to testify as a witness beyond the realm of family law only where his/her testimony is crucial in delivering justice and the severity of the case goes beyond a monetary dispute<sup>18</sup>.

The court has discretion to accept testimony from a child who is not testifying under oath, when it is satisfied that due to his/her young age, the child should not testify under oath<sup>19</sup>. The law does not entitle a child to refuse to testify against his/her parents.

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<sup>11</sup> In 2010, the Children's Commissioner expressed the position that according to English law children do not have the capacity to enter into contracts except for acquiring necessities, but additionally made use of Article 25 (the right to recreation) of the Convention on the Rights of the Child in order to conclude that a contract entered into by a group of students with a hotel was valid and enforceable.

<sup>12</sup> Law on the Protection of Young Persons at Work N.48(I)/2001, Articles 5-8 and 24.

<sup>13</sup> Law on Civil Wrongs Cap. 148, (*Ο περί Αστικών Αδικημάτων Νόμος (ΚΕΦ.148)*), Article 9.

<sup>14</sup> Law on Civil Wrongs Cap. 148, Article 8.

<sup>15</sup> Law on Contracts Cap.149, Article 11(2).

<sup>16</sup> Civil Procedure rules Cap. 6, Order 9, Rule. 12.

<sup>17</sup> A 'special case' is a preliminary hearing on a point of law. According to Order 29, rule 1 of the Civil Procedure rules Cap. 6, 'the parties to any cause or matter may concur in stating the questions of law arising therein in the form of a special case for the opinion of the Court'.

<sup>18</sup> Information obtained through consultation with stakeholders (lawyer).

<sup>19</sup> Courts of Justice Law N.14/1960 as amended, Article 55.

### 2.2.3 Child protection cases

To initiate legal proceedings in child protection cases, the SWS has the initial responsibility to inform the AG's office that will file the necessary applications for the lawsuit to commence. The applicable rules as regards these proceedings were presented in Section 1 and mainly consist of: the age of legal capacity, the best interests of the child, the child's right to be heard, the submission of reports by the SWS and the Children's Commissioner. Beyond those principles the procedural rules applicable are those which also apply to adult plaintiffs, defendants or witnesses.

### 2.2.4 Parental care cases

The law requires the court to take the child's views into account as regards decisions on parental care when they have an impact on the child's interests and depending on the child's maturity and degree of perception<sup>20</sup>. The duty bestowed upon the judge to establish the views of the child involves the investigation of the authenticity of the child's views, otherwise the power vested in the court would be rendered meaningless. The fact that a judge may interview a child in order to establish the child's views does not mean that the child is rendered a witness<sup>21</sup>.

The views of the child may also be transmitted to the court through the report of the SWS, which is described in Section 2(a). The appointment of an officer from the SWS to investigate the circumstances of the case and submit a report is obligatory in parental care cases<sup>22</sup>. However although the court has the duty to secure such report as a precondition for the exercise of its discretion<sup>23</sup>, the report's content is not binding on the court. The court must merely take the report into consideration together with other factors in order to establish the child's best interests.

### 2.2.5 Non-criminal abduction cases

In cases of non-criminal abduction, the court may refuse to order the child's return if the child opposes such return and is at such age and maturity that his/her views are to be taken into account<sup>24</sup>. This issue is examined in three phases:

First, the court examines whether the child's objections can be proven;

Second, the court examines whether the age and maturity of the child is such that renders it right for the court to take them into account;

If the answers to the above questions are positive, the next question is how the court will exercise its discretion by establishing the reasons for the child's objections and ensuring that the child's views are expressed freely<sup>25</sup>.

### 2.2.6 The child in any other role

In family law cases, and in particular in parental care and non-criminal abduction cases, if the child is deemed to be mature enough to stand in court, then s/he does so not as a witness for one or the other side but as an actor whose opinion is necessary in the framework of the court's investigation. Family law proceedings

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<sup>20</sup> Law on relations between parents and children N.216/1990, Article 6(3). Also, the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (Law 36/1986) Article 15.

<sup>21</sup> *G. Hailis v. Minister of Justice and Public Order* (1994) 1 AAD 530.

<sup>22</sup> Regulations on the custody of minors and prodigals (amendment) 1972, Reg. 5(1).

<sup>23</sup> *F. Damianou v. E. Damianou* (1989)1AAD 29.

<sup>24</sup> The Hague Convention on the Civil Aspects of International Child Abduction N.11(III)/1994, Article 13.

<sup>25</sup> *N. Nicolaou v. Ministry of Justice and Public Order* (2008), Appeal No. 22/2008, 30 December 2008.

are deemed to be inquisitive rather than adversarial, with the aim of establishing and safeguarding the best interests of the child<sup>26</sup>, thus the child's participation is of fundamental importance.

### **2.3. Administrative justice**

The Social Welfare Services of the Ministry of Labour, Welfare and Social Insurance provide services for the protection and support of children throughout the judicial process. All the services provided and policies implemented by the Social Welfare Services have as a primary consideration the best interests of the child.

#### **2.3.1 Employment disputes**

A child may be the plaintiff in employment disputes. The employment of children under 15 years of age in Cyprus is prohibited. However, a child who has turned 14 and has completed or has been discharged from the first cycle of his/her secondary education may be placed in a combined programme of work and vocational training, subject to permission from the Minister of Labour. Subject to the existing regulations, after obtaining the permission of the Minister of Labour as well as following consultation with the SWS, a child under 15 years of age may also be employed in cultural, artistic or athletic activities which are in the child's interests, do not harm the child's health, safety, spiritual, moral or social development and do not impede the child's education. The law introduces restrictions on the number of hours that children below 15 years of age and children 15 to 17 years of age inclusive, can work, prohibits night work and restricts the professions in which children can be employed. The implementation of the law is supervised by inspectors appointed by the Ministry of Labour<sup>27</sup>.

For the purposes of determining a child's age in court, evidence submitted by way of presenting a birth certificate or by way of the testimony of a medical officer that a person is of a certain age will be presumed conclusive until proven wrong<sup>28</sup>. The law creates offences for employers who are in breach of the law's conditions, for the owners of the business, the owners of the premises where the business is conducted or their employees, representatives or other persons, but not for the child. The parent is also responsible if his/her child is employed under conditions which contravene the law, unless the court finds that the parent did not consent to such employment<sup>29</sup>.

In employment law disputes children cannot bring an action in their own name but must act through their parents/guardians.

### **2.4 Legal and policy measures in place to avoid undue delay in the handling of cases involving children**

There are no time limits concerning when civil judicial proceedings must be commenced or terminated, regardless of whether a child or an adult is involved. Nonetheless, Cypriot legislation includes general safeguards for a 'fair trial within reasonable time'<sup>30</sup> which apply to proceedings whether involving children or not. The reasonableness of the length of the proceedings depends on the circumstances of the case, their

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<sup>26</sup> *Esaias Ioannides v. Chada Ioannides* (2002), 1 AAD 1446 (Appeal Nos 129 and 130).

<sup>27</sup> Law on Contracts Cap.149 (*Ο περί Συμβάσεων Νόμος (ΚΕΦ.149)*), Article 11(2).

<sup>28</sup> Law on the Protection of Young Persons at Work N.48(I)/2001, Article 28(1).

<sup>29</sup> Law on the Protection of Young Persons at Work N.48(I)/2001, Article 31.

<sup>30</sup> Article 30.2 of the the Constitution of the Republic of Cyprus stipulates: 'In the determination of his civil rights and obligations or of any criminal charge against him, every person is entitled to a fair and public hearing within a reasonable time by an independent, impartial and competent court established by law. Judgement shall be reasoned and pronounced in public session, but the press and the public may be excluded from all or any part of the trial upon a decision of the court where it is in the interest of the security of the Republic or the constitutional order or the public order or the public safety or the public morals or where the interests of juveniles or the protection of the private life of the parties so require or, in special circumstances where, in the opinion of the court, publicity would prejudice the interests of justice'.

complexity and the conduct of the parties<sup>31</sup>. Where the right to a fair trial within a reasonable time is violated, the litigant concerned, child or adult, may apply to the court, either during the proceedings complained about or within a year from the issue of the decision, claiming compensation for monetary and non-monetary damage. In the case of children, such a claim can be submitted by their parents/guardians, except in cases where they can bring a case in their own name. In assessing such damage, the court will take into account the criteria considered for this purpose by the European Court of Human Rights in relation to violations of Article 6.1 of the ECHR<sup>32</sup>.

The Supreme Court may issue orders for the acceleration of the pending proceedings if a decision has been issued that the right to a trial within a reasonable timeframe has been violated. No maximum limit is set by the law as to what is the reasonable time within which a trial must be completed<sup>33</sup>.

Cases involving children are neither fast-tracked nor prioritised by the courts.

The Law on the establishment of minimum standards on the rights, support and protection of victims of crime 51(I)/2016, provides for fast investigation when the victim is a child (article 23(3)). The same is provided by the Law on Prevention and Combating Sexual Abuse and Sexual Exploitation of Children and Child Pornography 91(I)/2014 (article 20). Moreover, article 15 of the Prevention of Domestic Violence and Protection of Victims Law 119(I)/2000, provides for fast trial without delay (this Law deals with adults and children as victims).

Whether the sentences are reduced for children and the ways that the delays in enforcement are minimized, the age may be one of the mitigating factors that is taken into account by the Court when imposing the sentence.

Further the criminal Courts will always try to prioritise cases involving children, particularly cases involving sexual or other kinds of abuse of children. Also, any requested interim orders for the protection of the welfare of a child victim are dealt with immediately.

In ordinary civil cases, the Courts will try to prioritise cases involving children as far as this is possible, having regard to the huge case load. Any requested interim orders will be dealt with without undue delay.

## **2.5 Child specific support mechanisms**

### **2.5.1 General mechanisms**

In the case of civil judicial proceedings, no arrangements are in place to ensure that court premises are suitable for children and no psychological or other support is offered, unless a particular need for such support is diagnosed. In that case, either upon the request of the parent/guardian or on its own initiative, the judge may appoint a child psychologist or a social worker to prepare, support and inform the child. This applies in all cases where the SWS deem that the child is in a vulnerable position, which can include a child

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<sup>31</sup> Píkis G. M. (2006) *Constitutionalism - Human Rights - Separation of Powers, the Cyprus Precedent*, MartinusNijhoff Publishers, Leiden/Boston, pp. 80-82.

<sup>32</sup> Law on effective remedies for the violation of the right to diagnose civil rights and obligations within a reasonable time N.2(I)/2010 (*Ο περί Αποτελεσματικών Θεραπειών για Παραβίαση του Δικαιώματος σε Διάγνωση Αστικών Δικαιωμάτων και Υποχρεώσεων σε Εύλογο Χρόνο Νόμος του 2010*) (available in Greek).

<sup>33</sup> Cypriot Courts are notorious for their delays and have been repeatedly convicted by the ECtHR for violation of Articles 6 and 13 of the ECHR. See for instance *Clerides & Kynigos v. Cyprus*, 19/04/2006, Application no. 35128/02, European Court of Human Rights, regarding a national Court case that had lasted 12 years as a result of repeated adjournments and delays in transferring the file from the District Court to the Supreme Court. In 2010, Cyprus' compliance with the ECtHR's aforesaid decisions was placed under the supervision of the Council of Europe's Ministerial Committee, as a result of which this law was enacted.

as a plaintiff, as a defendant, as a witness or in any other role. It ought to be stressed, however, that there is no authority or agency with competency to ensure that the child is protected from harm during the civil judicial proceedings. Unless a child is under the care of the SWS, then the role of the SWS is merely to submit the socioeconomic report and, unless specifically appointed by the court to support the child, it does not have any role in otherwise supporting the child and protecting him/her from harm, which then becomes a matter for the parent or guardian to take care of. The use of screens, teleconferencing and other protective measures exists only to criminal proceedings. Regulations for the conduct of the media are described in Section 2.3.

There are no regulations requiring court sessions to be adapted to the child's pace and attention span. If there are images or other material to be presented in court that may be deemed as harmful for the child, the judge may order that the child be removed from the courtroom<sup>34</sup>. The only protective measure for civil proceedings is the conducting of the trial in camera.

If the judge who assesses the child's maturity decides that the child cannot stand in court, then the judge will rely on the report of the SWS in order to understand the child's perspective and position. Where the judge deems that the child is mature enough to participate in the proceedings, then depending on the nature of the case, s/he will be represented either by the guardian/parent or a lawyer appointed by the guardian/parent, the Children's Commissioner or the SWS.

The Social Welfare Services provide support services to families and children. In cases where the child is in need of support and protection and there is a conflict of interest between the child and parents/guardians, the child will be taken in care of the Director of the Social Welfare Services. In cases of unaccompanied minors, as soon as the unaccompanied minor enters the Republic of Cyprus, he/she is placed under the care of the Director of Social Services, who acts as a guardian of the child. The Director of the Social Welfare Services safeguards access of the child to his/her rights based on the best interest of the child. All children under the care of the Director of Social Welfare Services are placed in foster or institutional care.

Every child has the right to express his/her opinion and to be heard in judicial proceedings. According to the age and maturity of the child, a child might be presented in the court. In cases where a child cannot be presented in a court a representative is assigned to the child. Also the Social Welfare Services may provide a court with a report (i.e. in cases of custody) which includes the opinion of the child.

In cases of violence in the family the Social Welfare Services cooperate with all the other relevant services based on a manual of interdepartmental proceedings, approved by the Council of Ministers in 2002. In cases of sexual abuse against children the Social Welfare Services cooperate with the other relevant services establishing a multidisciplinary approach. Within 2017 the Children's House is expected to operate for handling the cases of sexual abuse of children (run by a non-governmental organisation and financed by the government), where all the professionals will work under the same roof, establishing a multidisciplinary approach.

The Social Welfare Services are implementing a protocol of cooperation with a non-governmental organisation (Hope for Children) for the provision of care to unaccompanied minors, under the care of the Director of Social Welfare Services.

Based on a multidisciplinary approach, the professionals working with children will exchange information in order to support those taking decisions enabling them to best serve the children's interest. Confidentiality is applied and respected by all professionals.

Besides, the evolving capacity and maturity of the child is assessed by the Mental Health Services.

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<sup>34</sup> Information obtained through consultation with stakeholders (AG's office).

### 2.5.2 Protection from discrimination

The legal framework as regards non-discrimination comprises of:

- a general prohibition against discrimination ‘on any grounds whatsoever’ found in the Constitution<sup>35</sup>;
- the laws transposing the two Equality Directives (2000/43/EC and 2000/78/EC)<sup>36</sup>;
- the law appointing the Ombudsman as the national equality body, albeit with an extended mandate to combat discrimination on all grounds and in all fields<sup>37</sup>.

Since the anti-discrimination acquis was transposed, very few cases made it to court and the vast majority of them involved age discrimination in recruitment, promotion and pension rights, a handful of cases involved disability and even fewer cases ethnic origin; none of these cases involved children. However, the Equality Body has investigated numerous complaints involving children on a variety of subjects: disability discrimination in education, religious discrimination in education, access of unaccompanied minors to the asylum system, access of Turkish-Cypriot children to citizenship, education of Roma children and others. Although the legal framework provides for resort to either the courts or the equality body, the latter is a far more preferred procedure for victims of discrimination, as it is cost-free and user-friendly in the sense that, unlike the courts, there are no technicalities involved. The equality body has the power to issue binding decisions and impose fines although it has, up to this date, not made use of these powers, preferring to remain in the domain of mediation and recommendations<sup>38</sup>.

Apart from the above rules, no specific provisions aimed at protecting children from discrimination during the civil judicial proceedings have been identified.

Under article 25 of Law 91(I)/2014, Social Services coordinate the cooperation of all Departments that are involved, in order to provide all the tasks mentioned in the question. All the services provided to children (under 18 years old) by the Social Welfare Services are based on the principle of no discrimination. In cases where a child feels she or he has been discriminated against, she or he can file a complaint to the Commissioner of the Rights of the Child as well as to the Ombudsperson.

As regards the measures which are in place to ensure respect for the child’s evolving capacity in the context of criminal judicial proceedings, a child is informed of his rights without delay and is given the appropriate support. It should also be noted that, there is no statutory age limit for expressing views.

All involved Departments, in applying the abovementioned Laws, can assess the child in respect to physical or psychiatric maturity.

Regarding the protection from discrimination, the article 4 of the Law 91(I)/2014 and article 4 of Law 51(I)/2016, provide that the victims are handled without discrimination due to their sex, colour, language, religion, political or other views, etc.

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<sup>35</sup> The Constitution of the Republic of Cyprus, Article 28.

<sup>36</sup> Law on Equal Treatment (Race or Ethnic Origin) N.59(I)/2004 (*Ο Περί Ίσης Μεταχείρισης (Φυλετική ή Εθνοτική Καταγωγή) Νόμος του 2004*) (available in Greek); Equal Treatment in Employment and Occupation N.58(I)/2004 (*Ο Περί Ίσης Μεταχείρισης στην Απασχόληση και την Εργασία Νόμος του 2004*) (available in Greek); Law on Persons with disabilities N.127(I)/2000 (*Ο Περί Ατόμων με Αναπηρίες Νόμος του 2000*) as amended (available in Greek).

<sup>37</sup> The Combating of Racial and other Forms of Discrimination (Commissioner) Law N.42(I)/2004 (*Ο Περί Καταπολέμησης των Φυλετικών και Ορισμένων Άλλων Διακρίσεων (Επίτροπος) Νόμος του 2004*) (available in Greek).

<sup>38</sup> Demetriou, C. (2011) *Report on measures to combat discrimination Directives 2000/43/EC and 2000/78/EC Country report 2010, Cyprus*, European Network of Legal Experts in the non-discrimination field.

### **3. Multidisciplinary aspects**

In cases of violence in the family the Social Welfare Services cooperate with all the other relevant services based on a manual of interdepartmental proceeds, approved by the Council of Ministers in 2002. In cases of sexual abuse against children the Social Welfare Services cooperate with the other relevant services establishing a multidisciplinary approach. Within 2017 the Children's House is expected to operate for handling of cases of sexual abuse of children (run by a non-governmental organisation and financed by the government), where all the professionals will work under the same roof, establishing a multidisciplinary approach.

### **4. Training of professionals**

Cyprus Police Academy, which is the educational institution of Cyprus Police, provides lectures on handling juveniles related cases, at all levels of Police training. Such lectures aiming to educate police officers of all ranks, are offered at the basic training Program for recruit Police Officers, at advanced courses as well as at specialized courses. Specifically, the basic qualification training which is obligatory for all recruits covers the following topics:

#### **Basic Training Program**

Prevention of Domestic Violence and Victims Protection

Children Rights in the Criminal Justice System

Handling of Juveniles

Legal framework on Juveniles

Similar subjects are also offered for higher ranking officers at various levels of police training aiming to provide education and raise awareness as follows:

#### **Sergeant Course**

Domestic Violence

Handling of Juveniles

#### **Chief Inspector Course**

Domestic Violence and Juvenile Abuse

#### **Advanced Criminal Investigation Department (C.I.D) Course**

Domestic Violence and Juvenile Abuse

#### **Basic Criminal Investigation Department (C.I.D) Training Course**

Sexual Abuse of Juveniles

Domestic Violence

Further to the above, the Cyprus Police Academy runs the following specialized training programs for officers who are responsible for investigating specific cases:

#### **Specialized program on Video recorded statements.**

The program which has a six day duration focuses on specialized training on the techniques and procedures of conducting video recorded statements with victims/ witnesses, including minors. It should be noted that video recorded statements can only be carried out by specially trained Police Officers who have attended the above mentioned course.

#### **Handling juvenile offenders involved in criminal and traffic cases.**

#### **Handling cases involving the sexual Abuse of Juveniles and**

#### **Handling Juvenile Victims of Domestic Violence.**

The Social Services Officers receive initial as well as on going training on issues related to children, i.e. interview with a child, handling cases involving children, etc.

Concerning judges in ordinary civil and criminal courts, there are no training requirements pertaining to the treatment of children during court proceedings. Judges generally attend training seminars and conferences in Cyprus and abroad as and when organised.

Concerning prosecutors, judges in family courts, social workers, lawyers please refer to those authorities.

All Social Services Officers are subjected to vetting, only upon their initial recruitment. In cases of private day care (ages 0-6 years old), according to legislation, the staff has to be subjected to vetting at the beginning of each school year.

For Social Welfare Service there are cases where there is cooperation with other MS on training, according to professionals' needs. For example the Social Welfare Services have cooperated with an organisation in the Netherlands for a training programme on unaccompanied minors.

For asylum services according to article 4 of the Asylum Procedures Directive Recast, *Member States shall ensure that the personnel of the determining authority referred to in paragraph 1 are properly trained. To that end, Member States shall provide for relevant training which shall include the elements listed in Article 6(4)(a) to (e) of Regulation (EU) No 439/2010. Member States shall also take into account the relevant training established and developed by the European Asylum Support Office (EASO). Persons interviewing applicants pursuant to this Directive shall also have acquired general knowledge of problems which could adversely affect the applicants' ability to be interviewed, such as indications that the applicant may have been tortured in the past. Where an authority is designated in accordance with paragraph 2, Member States shall ensure that the personnel of that authority have the appropriate knowledge or receive the necessary training to fulfil their obligations when implementing this Directive.*

Furthermore, in the framework of the EASO Special Support Plan to Cyprus, relevant training (e.g. by NIDOS or other Member States' experts) is provided to actors dealing with unaccompanied minors, such as the Asylum Service, the Social Welfare Services etc. Cyprus officers also attend relevant trainings in the framework of EASO training curriculum (e.g. module on interviewing children).

## **5. Best interests of the child**

In cases where the court needs to take a decision on the best interests of the child, the court may take into consideration a report prepared by the Social Welfare Services, which contains not only the observations made by the Social Services Officer, but also the views of the child.

According to the Cyprus Refugee Law, the legal guardian of the unaccompanied minor, is the Director of the Social Welfare Services, who, in cooperation with other competent authorities (e.g. the Asylum Service), decides on the best interests of the child (e.g. in cases of family reunification via the Dublin procedures etc.) Depending on the age and maturity of the child, his/her views are taken into consideration, and where required, the child has access to psychological support.

A significant volume of case-law provides guidance on how key concepts, e.g. giving priority to the child's best interests, safeguarding his/her right to be heard and assessing a child's evolving capacity, should be interpreted. The rule emerging from legal precedent is that a child has an irrevocable right to be heard; however the weight which the court will attach to his/her views depends on the child's level of maturity, as assessed by the court. Indeed, when a child reaches an age where he/she can make decisions, the court must take his/her wishes into account. The criterion used in legal precedents appears to be age and not the child's developmental level. English precedents have established that such age is 14 for boys and 16 for girls.

## **6. Monitoring of decisions in proceedings involving children**

The Juvenile Offenders Law is expected to be comprehensively revised with the aim to ensure more specifically procedures in favour of children and young persons. This will improve and strengthen the proceedings involving children, for the best interests of the child.

## **7. Access to remedies**

In case of decision not to prosecute, which is the absolute prerogative of the Attorney-General, any individual directly affected as a victim of any crime has the right to bring a private criminal prosecution. However, these are not common in cases concerning children as it is the Police and the Attorney General's office who have the resources to investigate cases and bring a potentially successful prosecution.

A child may access any complaint, legal appeal or judicial review under normal procedures, through their parent, legal guardian or legal representative.

Concerning claims for damages/compensation during or after criminal proceedings in which the child was a victim, if an ordinary civil claim is made for damages/compensation it will have to be made on behalf of the child by their parent or legal guardian. As for orders for compensation of victims within the actual criminal proceedings, the ordinary criminal courts have limited powers.

There is no statute of limitations on criminal prosecutions for serious crimes (felonies).

If there is a conflict of interests between parents and child, then during the investigation and criminal procedure before the Court, Social Services are appointed as representative (article 23(2)(g), Law 51(I)/2016).

Moreover, according to the provisions of the Law 91(I)/2014, if there is a conflict of interests between parents and child, the Court may appoint the Commissioner for Children's Rights, as the legal representative of the child.

Finally, it should be noted that, a child care authority, can appeal certain court decisions involving children.

A civil claim on behalf of a minor will normally be brought on their behalf by their parent or legal guardian. Decisions regarding making submissions and/or appeals are normally made by the parent or guardian after receiving legal advice.

As to the support provided to the child, please refer to the appropriate authorities (e.g. social services, Commissioner for Children's Rights).

The Court is obliged to ensure that all parties involved are acting in the best interests of the child. In case of settlement of a case involving a minor, the settlement has to be approved by the Court and any compensation paid thereof should be deposited in an interest-earning account in the name of the minor.

Appeals can be made by the parties involved in a case. Therefore, a child care authority can only appeal if it was directly involved in the proceedings.

In case where there is a conflict of interests between the child and his/her parents/guardians, the Social Welfare Service may take the child under the care of the Director of Social Welfare Services, who is the guardian of the child and is deemed necessary will assign a legal representative for the child.

Moreover, a child care authority can appeal against court decisions involving children.

## **8. Family Life**

### **8.1 Procedure for adoption, including international adoption.**

The procedure for adoption, begins when a couple or a person express their wish to the Social Welfare Services to adopt a child (i.e. by sending a letter). A Social Services Officer is assigned to the case and a report is prepared on the eligibility of the couple or the person to adopt a child. The process of examination takes about 6 to 12 months in practice and the report is submitted to the District Committee for approval or rejection. In case of an approval the couple or the person is eligible to adopt a child. In case a child is available for adoption in the Republic of Cyprus, a Central Committee meets in order to match a child with a couple or a person, who has been approved as eligible to adopt a child.

Furthermore, the couple or person may express their wish to adopt a child from another country. The Social Welfare Services of the Ministry of Labour, Welfare and Social Insurance (Central Authority for Adoptions) contact the Central Authorities or accredited organisations of other countries in order to apply for an adoption of a child.

### **Different types of adoption**

In the Republic of Cyprus there are different types of adoption:

- National adoptions
- Intercountry adoptions
- Adoption of his/her spouse's child from a previous marriage

### **8.2 Measures in place to ensure that the child's best interests are taken as the paramount consideration**

In all cases of an adoption, the child's best interests are taken as the paramount consideration, based on article 21 of the UN Convention on the Rights of the Child. The Republic of Cyprus has signed and ratified the UN Convention on the Rights of the Child. Concerning national adoptions, the Adoption Law of 1995 applies and in cases of intercountry adoption the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Ratification) Law of 1994 applies.

### **8.3 Measures in place to respect the child's right to be heard in adoption cases**

The wish of the child is always taken into consideration and the child be heard in adoption cases, according to the age and maturity of the child.

### **8.4 Which are the competent authorities for adoption (national/international)**

In the Republic of Cyprus the Central Authority for adoption is the Social Welfare Services of the Ministry of Labour, Welfare and Social Insurance.

### **8.5 Possibility for an adopted child to have access to information held by the competent authorities on his or her origins**

When a child turns 18, he/she has the right to apply to the Family Court in the Republic of Cyprus, in order for the adoption file to be opened and retrieve information on the adoption and the biological parents. In cases on Intercountry adoptions the Central Authority of the Republic of Cyprus may request the assistance of central authorities of other countries for the trace and contact of the biological parents/family members.