Social Fieldwork Research

Child Participation in Justice Report

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EXECUTIVE SUMMARY

The social and legal professionals interviewed in this research project assess both civil and criminal proceedings to be relatively child-friendly. Much progress has been made in terms of children's right to be heard during the last 10 years. The methodology of child hearings has become more scientifically valid, and consequently children's statements are more credible and have more weight in terms of the outcomes of the proceedings. There is legislation and other regulations on how children should be heard in different proceedings and children's needs are usually taken into consideration when conducting hearings.

There is training provided for professionals who work with child hearings, and almost all interviewees have participated in some kind of training. They all assess that the training is of good quality, but many recognise the need for getting more training in specific aspects of child hearings. Some courts, police stations and social services offices have hearing rooms and waiting rooms decorated for the purpose of child hearings. There are however differences in the level of training and quality of facilities from municipality to municipality, and this can put children in an unequal position depending on where they live. Civil justice proceedings handled in administrative courts are considered to be more child-friendly than criminal proceedings heard by district courts. The lack of resources and recent austerity measures in the public sphere make it more difficult to develop child-friendly practices.

Children's right to be informed can be considered a key component in their participation in legal proceedings since a child who does not understand why a hearing takes place should not be heard. However, the practices of informing children and the amount and type of information provided differ greatly depending on the type of the case and the age and developmental phase of the child. Harmful information should be withheld from a child if it is in the child's best interest. The interviewees throughout professional groups strongly emphasise that the main factor in assessing the child's need to be informed is whether a certain piece of information will be likely to reduce or cause stress and anxiety. Giving children concrete information about what is going to happen next in the proceedings relieves anxiety and uncertainty, whereas too much information can be overwhelming and even harmful. Children should be given information incrementally and little by little, and it should be ascertained that they have understood the information given to them. Furthermore, children should always be properly informed about their rights when participating in legal proceedings, as children not aware of their rights never get a chance to exercise them.

1. BACKGROUND

1.1 Research Methodology

Selection of participants

The selection of participants was based on the guidelines of the research project. The sample was to include legal professionals and social professionals, engaged either with criminal law cases, or civil law cases, or both, and having direct and personal experience with children participating in justice proceedings as witnesses, victims or party to the proceedings. The research sample was limited to professionals who had personally participated in child hearings, and who had experience in custody disagreement, child welfare, domestic violence or sexual abuse cases.

First, desk research based on knowledge of national justice system and mapping of relevant civil society organisations was conducted in order to list possible authorities and organisations, where such persons could be found. Secondly, a few persons working in the field of child justice known to the researchers in advance were contacted and asked, whether they knew persons that they would recommend to be interviewed. Then these persons were contacted and further recommendations acquired. About half of the interviewees were found using this so-called snowball method. After the first half of the interviewees were identified, we started looking for gaps in the sample, missing professional groups or under-represented municipalities. In order to complement the sample, a regionally balanced sample of municipalities was chosen and different professionals were contacted by phone and e-mail in local courts, police stations, social services and non-governmental organisations.

Recruitment of interviewees and conducting interviews and focus groups

Possible interviewees identified by the methods explained above were contacted either by phoning or by E-mail. Many interviewees, especially judges, were quite hard to get contact with and several attempts were needed before an interview date was set. Social workers have a heavy work load and are constantly on a tight schedule, so they were not always easy to persuade in participating.

The persons invited to the focus groups were all interviewed before individually. We chose a number of people who had been talkative and informative, and were representing different professional groups. In anticipation that it would be difficult to find dates that would be suitable for many of them, we offered 19 different dates and points in time asking them to choose all that were possible for them. Of these dates we chose the two, which suited the biggest number of participants. Still, it was impossible to get 6-8 to be participating at the same time.

Each interview was conducted by a pair of researchers, one of them conducting the interview and the other making notes, supplementary to the recording. There were four interviewers conducting the interviews. Three of them belong to the age group < 45, one of them to the age group 45-65. One of the interviewers has a B.Soc.Sc. degree, one a M. Soc.Sc. degree, one a M. A. degree, and one has Dr.Soc.Sc. degree. All of them are female and native Finns.

Conducting interviews was extremely interesting but hard work. The most positive feature was that many of the interviewees were sincerely interested in the topic of the interview and the research project. Furthermore, many interviewees seemed to be genuinely content to have the chance to discuss their work with the interviewers. Some interviews clearly had a need to discuss the more difficult aspects of their work, and some examples provided during the interviews were truly heart-breaking for the interviewers to hear.

Difficulties encountered during fieldwork

The main difficulty encountered during the fieldwork was the extended length of some interviews. This was probably partly due to the interviewees' being very competent and motivated in the field of child hearings, but also due to the interview schedule's being very detailed. Some interview questions were quite complicated and had to be repeated for the interviewees to understand them, and some interviewees felt that the questions started to repeat themselves toward the end of the interview.

Many interviewees grew quite tired toward the end of the interview, and found it taxing to give thorough answers to the last questions. Especially the interview question about research in the field of child hearings was a difficult one to answer, and came as a total surprise for many interviewees. Some clearly felt that they were tested about their knowledge in the field, and instead of citing resources started lamenting that they do not have the time to follow latest research. It was at times difficult to motivate interviewees to concentrate towards the end of the interview, as the interviews lasted longer than expected. This was not as much a problem after the research team had conducted a number of interviews and found out that they would last much longer than anticipated, and were able to inform the interviewees more realistically about the length of the interview.

Conducting the analysis of the results

The analysis of the interview data was conducted according to the reporting structure provided by the FRA. Firstly, the interviews were classified in various ways to help systemising the data. The Master table served as a basis for this classification, and additional Master tables were drafted representing social and legal professionals, civil and criminal justice, and lastly different professional groups divided by experience in civil, criminal or both fields.

After the initial classification of the interviews, the reporting templates served as the main source of material for the analysis. Several word documents were created in which all reporting templates from a certain group of interviewees were gathered together. One file would then include for example all the reporting templates from interviewees who are social workers with experience on criminal justice, or judges with experience on civil justice, and so on.

After this initial classification of data, the data on certain research topics was gathered from the data files. This resulted in raw text material on for example the assessment on right to information, which was gathered from the reporting templates' sections 2.3.1 and 2.3.2. This data was then systemised by recognising regularities, recurring issues and points of view, as well as singular ideas presented by the interviewees.

1.2 Sample

The sample consists of:

- 25 legal and 25 social professionals
- 8 judges, 5 prosecutors, 6 law enforcement officials, 6 lawyers, 5 guardians, 2 support persons, 10 social workers, 4 psychologists, 1 interpreter and 3 others (professional expert, specialist adviser, social ombudsman)
- Justice field: 17 criminal, 17 civil, 16 both
- 8 male, 42 female
- 22 persons between 26-45 of age, 28 persons between 46-65 of age
- 10 from rural or smaller municipalities, 40 from urban or big cities;
- the big cities were Helsinki, Espoo, Vantaa, Tampere and Turku (200 000 – 500 000 inhabitants)

- the smaller municipalities were Jyväskylä, Kouvola, Vaasa, Pori, Järvenpää, Hyvinkää, Lahti, Kotka, Mikkeli (40 000 - 130 000 inhabitants)
- Participants were from following regions: 39 from Southern Finland, 5 from South-Western Finland, 5 from Western-Central Finland, 1 from Eastern Finland
- Participants per job title: administrative court judge (1), coordinator (1), Court of Appeal judge (1), detective sergeant (1), Director (guardian) (1), District Court Judge (6), District manager (guardian) (1), district prosecutor (5), guardian (3), interpreter (1), lawyer (6), professional expert/specialist in child welfare (2), psychologist (4), Senior Constable (3), Senior Detective Constable (2), senior social worker (3), social worker (6), social ombudsman (1), specialist adviser (1), support person (1)
- Role of interviewee: 45 interviewees participate in child hearings in the role of actors, 3 in the roles of actors and observers, and 2 in the support role
- Primary types of issues focused on: sexual abuse (26)/domestic violence (23)/custody (23)/child welfare (12). Many interviewees focus on many types of cases: sexual abuse and domestic violence (11), sexual abuse, domestic violence and custody (7), custody and child welfare (3), all types of cases (3).
- courts (10), NGOs (8), other public institutions (24), private organisations (7)
- Interviewees total: 50 / focus group participants 8
- Number of people who were interviewed individually and were also part of focus groups: 8
- The focus groups were both conducted in Helsinki

Most interviewees were female, as most professionals working with children are female. In the social services, a clear majority of all employees are female – in Helsinki in 2011 for example, only 10 % of all employees in the Health and Social Services department were male[1]. Among legal professionals, the professionals working on child cases are predominantly female. Especially among police officers, it is striking how often the one person trained in child hearings in a police district is female, even though a clear majority of police officers in general are male. Whenever possible, a male interviewee was chosen to be interviewed instead of a female interviewee by the same professional background.

The professionals interviewed have quite different areas of expertise. District courts handle both civil and criminal cases, and many interviewees who work in district court have experience on both criminal cases and custody disputes. The social workers and the guardians commented more of the family context of the child, whereas judges' knowledge was more limited in that respect. Police officers and prosecutors talked mostly about the concrete procedures, whereas guardians and support persons were most involved in assessing the impacts of child hearing on the child.

Information on individual interviews:

- Duration: average length 90 min, range: minimum length 53 min – maximum length 135 min
- Level of confidence: high (average)
- Level of confidentiality: high (average)
- Amount of interruptions: low (average)

Information on the focus group discussions:

- the number of participants per focus group: 3 (Civil) & 5 (Criminal)
- average level of participation and involvement of group members was high in both groups

[1] See the personnel report of the Municipality of Helsinki from 2011, URL: http://www.hel.fi/wps/wcm/connect/f84782804aad2954963bffd4af519c57/Henkrapsu2011.pdf?MOD=AJPERES&CACHEID=f84782804aad2954963bffd4af519c57

1.3. Legal Context

There are no special courts dealing with cases related to children or family law matters in Finland. The cases involving children are handled by the district courts. Moreover, the administrative courts review the decisions of the authorities, for example in cases that involve taking a child into care. The district court decisions can generally be appealed against in a court of appeal. The decisions of the courts of appeal can be appealed against to the Supreme Court with the leave of appeal from the Supreme Court. The decisions of the administrative courts can be appealed against to the Supreme Administrative Court.

Criminal proceeding

In general, children under 15 years of age are not heard in court, unless there are special grounds for the hearing. The Code of Judicial Procedure (oikeudenkäymiskaari / rättegångs balk, 4/1734) allows using as evidence audio-visual registration of pre-trial investigation when a child under 15 years age is concerned. Moreover, the defendant has to be reserved the possibility of presenting questions to the child. After the pre-trial phase, in case of a child under 15 years of age, her/his right to be heard is exercised by the person responsible for her/his care and custody or her/his other legal representative.

The Pre-trial Investigations Act (esitutkintalaki / förundersökningslag, 449/19879) regulates how to hear the child subtly, and in the span of the proceeding there are regulations (in Chapter 17) regarding who can be heard as a witness. Moreover, section 33 defines who can be present at the hearing if a child is under 15 years old. In principle, a child should be heard by a police specialised in investigating children, as provided in Section 11 of the Pre-Trial Investigation and Coercive Measures Decree (*asetus esitutkinnasta ja pakkokeinoista / förordning om förundersökning och tvångsmedel*, 575/1988).

The person hearing the child is required to take into consideration the age of the child and his/her level of development. Age and development are referred to in legislation but not further developed. Both courts and pre-trial investigators may turn to experts for assessment if needed.[2] Small children and children with development disorders are usually heard by psychologists working in the Forensic Child and Adolescent Psychiatry Centres (*Lasten ja nuorten oikeuspsykiatrinen osaamiskeskus/Rättspsykiatriskt kunskapscentrum för barn och unga*).

The Code of Judicial Procedure includes rules on hearing of injured party or witness before the court. A minor who has attained 15 years of age has an independent right to be heard in a matter concerning his/her person, parallel to that of the person responsible for his or her care and custody or his or her other legal representative. Even if a child has been under 15 years old during pre-trial investigation phase and thus heard on video, the child must still be heard again in court, if s/he turns fifteen by the time the case enters the district court.

There are no actual rules to how children should be informed in criminal proceedings. In practice there are many professionals involved in informing: the police and/or the psychologist, the judge, the legal counsellor, the guardian etc. The police and the psychologists follow the guidelines by the National Research and Development Centre for Welfare and Health (*Sosiaali- ja terveysalan tutkimus- ja kehittämiskeskus, Stakes / Forsknings- och utvecklingscentralen för social- och hälsovården, Stakes*) for hearing and informing children (Stakes 2003: Opas lapsen seksuaalisen hyväksikäytön ja pahoinpitelyn selvittämisestä, not available in public).

[2] Hirvelä P. (2006), *Rikosprosessi lapsiin kohdistuvissa seksuaalirikoksissa*, Helsinki, WSOY.

Civil proceedings

The Child Welfare Act (lastensuojelulaki / barnskyddslag, 417/2007) states that child´s wishes and views must be ascertained and taken into account in accordance with the child´s age and level of development. Unnecessary harm should not be caused to the relationship between the child and his/her parents (or others close to the child).

As in criminal proceedings, a minor who has attained 15 years of age has an independent right to be heard in a matter concerning her/his person in civil proceedings. The Child Welfare Act states that a child, 12-years-old or above, is entitled to be heard in a child welfare case concerning her/himself, in a manner ruled by the Administrative Procedure Act (hallintomenettelylak*i /* lag om förvaltningsförfarande, 598/1982). Moreover, in accordance with The Decree on the Execution of the Child Custody and Right of Access Decree (asetus lapsen huoltoa ja tapaamisoikeutta koskevan päätöksen täytäntöönpanosta / förordning om verkställighet av beslut beträffande vårdnad om barn och umgängesrätt, 729/1996) a child over 12-years-old must be heard unless the hearing might cause the child harm or there is some other special reason for not to hear the child. There is no minimum age for child hearing in legislation, but there is scholarly writing about suitable ages or assessment of development.[3]

The Child Custody and Right of Access Act (laki lapsen huollosta ja tapaamisoikeudesta / lag angående vårdnad om barn och umgängesrätt, 361/1983) requires that the child's opinion should be obtained as soon as possible and this should not affect the relationship between the child and his/her parents. Nevertheless, as provided in Section 11, the starting point of the Child Custody and Right of Access Act is that a child is not considered a party to a case on custody or right of access. If the parents agree on custody and right of access, the matter can be decided without ascertaining the wishes and views of the child, if there is no reason to believe that the decision would be against the best interest of the child.

It is exceptional to hear children before the court in custody or right of access cases. Child´s views are generally ascertained by the social service. This is not directly stipulated by the law, but can be indirectly read from Section 15 of the Child Custody and Right of Access Act. The place of the hearing and the persons present are not defined in legislation. The hearing usually takes place at the social services and home of the child.[4]

In accordance with the Child Welfare Act (section 86) a child can be heard in administrative courts or the Supreme Administrative Court if a child requests it or consents to it. Children younger than twelve years old are usually heard outside the court session by a professional expert of the court.

Informing the child is based on the Child Welfare Act, which states that children's right to obtain information in a child welfare case affecting them, and the opportunity for them to present a view on the case, must be safeguarded for the child in a manner in keeping with their age and level of development. The Act on the Status and Rights of Social Welfare Clients (Laki sosiaalihuollon asiakkaan asemasta ja oikeuksista / Lag om klientens ställning och rättigheter inom socialvården, 812/2000) provides that the client, be it an adult or a child, must be told about his/her rights and obligations and it must be made sure that he/she understands them.

There does not exist a clear provision on informing the child in the proceedings concerning custody or right of access. In practice the informing is usually done by the person conducting the hearing (social worker).

[3] For instance, Aaltonen A.-K. (2009), *Lapsioikeus ja lapsen oikeus tuomioistuimissa*, Helsinki, Edita, referring to others, pp. 241-248, 269.
[4] Aaltonen A.-K. (2009), *Lapsioikeus ja lapsen oikeus tuomioistuimissa*, Helsinki, Edita, pp. 262.

It is quite rare that a child, who is part of any kind of proceedings, is heard at the Court of Appeal. Most cases at the court of appeal are handled in written form and there are no hearings during the proceedings. If it is absolutely necessary to hear the child at the Court of Appeal the child must be over 15-years-old.

Legal developments

The expert-assisted judicial mediation in custody and right of access cases has been applied in parts of the country since 2011. In the mediation process, which is carried out without a trial, the judge is assisted by a psychologist or a social worker. There are plans in reforming the legislation and applying the practice to the whole country.

There has been discussion about bringing the "children´s house" model applied in some Northern European countries to Finland. The aim of the model is to improve the cooperation between different professionals working in criminal proceedings involving a child, so that the process would be faster and more efficient and children would get more support.

A guardian must be designated for the child to guard his/her best interest, in accordance with the Child Welfare Act, if the parents are not seen competent to use their voice in the child's case. There are plans to enhance and extend the appointment of guardians, so that a guardian could be appointed more often and faster to different processes (criminal and civil).

2. FINDINGS

This chapter provides a detailed description and analysis of the findings of this research project in the fields of civil and criminal justice. The main findings of the field work concern children's right to be heard and their right to information, which will be introduced in the first two sections of this chapter. They are followed by a detailed description and analysis of training and cooperation of professionals. Lastly, horizontal issues as well as the interviewees' familiarity with CoE Guidelines on Child-Friendly Justice will be described.

2.1 Right to be Heard

The practices and regulations of hearing children in judicial proceedings differ greatly in the criminal and civil justice fields. In the criminal field, the professionals interviewed mainly discuss children as victims of crime. In such cases the child hearing is an indispensable piece of evidence, and must be conducted in all cases, unless deemed harmful for the child. However, in custody cases that are mainly discussed by civil justice professionals, a child is not even a party to the proceedings, and is usually not heard officially but by the social services when conducting a family circumstance assessment.

There are, however, commonalities between the two justice fields, especially when it comes to challenges and areas of improvement, as the rights of the child have to be considered in similar ways regardless of the nature of the proceedings. This chapter begins with a detailed depiction of practices of child hearings in criminal justice field, followed by depiction of the practices in the civil field, and ends with a concluding assessment of the practices in both fields.

2.1.1 Right to be heard in the criminal justice field

In this chapter, the data provided by the 33 interviewees with experience in the criminal justice field is summarised and analysed. It is worth noticing that 16 of these 33 interviewees have experience on both criminal and civil justice. The comparative analysis focuses mainly on five professional groups with the most experience on criminal justice: law enforcement officials (6), prosecutors (5), guardians (4), judges (3), and psychologists (3). The interviewees mainly have experience on cases of sexual abuse and domestic abuse,

with the child's role as a victim. Some assault and battery cases are discussed as well, and some interviewees further comment on the child's role as a witness. This chapter mainly focuses on practices when children are in the role of victims, whereas children as witnesses are discussed separately at the end of each section. At first, a general outline of practices in the criminal justice field is presented, followed by a detailed description of practices during the preliminary investigation phase and the court hearing. The chapter ends with an assessment of practices and problematic issues in the field of criminal justice.

Current practices

The practices of hearing children in criminal justice field vary according to the age of the child. Children under 15 years old are usually never summoned and heard in court session. They are heard in the preliminary investigation phase; these hearings are recorded, and then displayed as evidence in the court session. The Pre-trial Investigations Act (esitutkintalaki / förundersökningslag, 449/19879) dictates that the prosecution service must be notified in advance when a child is concerned in a report of an offense to the police. On very rare occasions are children under 15 years old heard during the court hearing. This happens either when they wish to be heard in person themselves, or when additional information is needed in order to make a decision, and the prosecutors and guardians agree that it is best to hear the child in court. When assessing whether it is meaningful and necessary to hear a child, the child's developmental phase, linguistic capabilities and state of health are always assessed, and they also affect the practices of the hearing. Most children are heard in the district courts, and it is very rare that a child is heard again, if the decision is appealed against. According to a prosecutor from the metropolitan area, the whole proceedings usually take from a year to two years: six months in the preliminary investigation phase, at least six months in the prosecution, and then three to six months in the district court.

An interpreter is provided for the preliminary and court hearings in case deemed necessary. There are however differing practices on who decides when an interpreter should participate, and the availability and training of interpreters varies greatly. In the preliminary investigation phase of the investigation of a crime, children with disabilities are usually heard by the Forensic Child and Adolescent Psychiatric Centres if the hearing is deemed necessary. However, children with minor disabilities (e.g. ADHD, disturbance of activity and attention) can be heard by the police.

Every child has the right to a cost-free legal counsel during legal proceedings. The investigating police officers have the responsibility to inform the child's guardian/s about this right during preliminary investigation, and eventually the presiding judge has to make sure that the child has representation in the court session. One judge interviewed has a custom to always phone the guardian or parents of the child to ensure that the child has adequate legal representation. The lawyers who work as legal counsels have different practices in terms of their communication with the child, mainly depending on the age of the child. Most lawyers interviewed prefer not to meet with children who are younger than 15 years old, as they will not be heard in court, and the recording of preliminary hearing with other records provide sufficient information for the counsel. They feel that is easier for the child not having to go through the events with yet another adult. However, two lawyers interviewed have a custom to meet with most clients who are old enough (teenagers) in order to find out the child's opinions and give the child information about the proceedings. The legal counsels have a right to observe the preliminary investigation hearings, but they rarely do, as they respect the police and the Forensic Psychiatry Centres wishes not to have additional persons present during the hearings. However, lawyers must meet with the child to discuss the case before a court hearing if the child has turned 15 and will be heard during trial.

When a child's parents cannot be their guardians during a legal process, usually due to a conflict of interests when a parent is a party to the proceedings, the child must be appointed a guardian ad litem, whose responsibility it is to make decisions and represent the child in court with the child's best interest in mind. In some municipalities the child's legal counsel is also appointed as a guardian ad litem (in Helsinki for example).

However, a social professional can be appointed as the child's guardian ad litem in addition to the legal counsel. This tandem model used in some regions, for example in the Kouvola-Kotka region, but not in the capital region. There is a two week reconsideration period for assigning a guardian ad litem, whereas in acute cases children must be heard immediately, hence a guardian ad litem is not always appointed before the hearing conducted during the preliminary investigation phase. If a guardian is appointed before a hearing, they can observe the hearing from an adjoining observance room. The guardians represent children under 15 years old in the trial, and accompany children who have turned 15 to the court hearing. The parents have a right to be present in the hearing unless they are a party to the case, but this is seen as disruptive and usually not advised, as a parent's presence can affect the child's ability to talk freely. This might however be necessary when interviewing very young children.

Some children are appointed an unofficial and unprofessional support person from the Victim Support Finland (*Rikosuhripäivystys, RIKU / Brottsofferjouren, RIKU*). The organisation is usually contacted by the health services, a police officer, a foster care institution, a school welfare officer, or the parents of a child. The support person provides mental support for the child throughout the proceedings, accompanies the child to the hearings if they wish, and gives the child correct information about the proceedings. The support persons mostly work with teenagers, or with the parents of a younger child. A support person interviewed believes that it is easier for a child to speak about the case in an official hearing after having talked it through with a support person informally, and with the support person present in the official hearing. These support persons work under professional secrecy and do not have a right to speak during trial.

Pre-trial investigation

The pre-trial investigation is conducted either by the police or one of the five Forensic Child Psychiatry Centres. In general, the more difficult cases are heard by the Psychiatry Centres. One police officer interviewed mentions that sometimes a child is first heard at a police station and after that in the Forensic Psychiatry Centre if deemed necessary. The decision to do so is based on an assessment of certain factors: the age of the child, the type of the case at hand, and the developmental phase of the child. Another factor mentioned by the interviewees is financial resources – the Forensic Psychiatry Centres do not have enough resources to hear all children under school age, or all children who are victims of violent crime, even if it would be in the child's best interest to be heard by a psychologist rather than a police officer. A psychologist interviewed explains that battery and assault cases do not have the same status as sexual abuse cases, as the investigation of the latter is funded by the state. Thus the Forensic Psychiatry Centres focus on sexual abuse cases and children who are victims of even serious abuse are heard by the police in most cases.

If the accused is a member of the family, the authorities (the police, the forensic child psychiatry centre and the social welfare) arrange a common meeting to discuss the case. The child´s security must be ensured before the hearing can be conducted, for example via emergency placement. The police or the forensic child psychiatry centre strives for hearing the child during these 60 days. Before the pre-trial investigation the child is examined by a doctor, and this examination is documented, and possible physical evidence is sent to the lab. Medical examination together with the bureaucratic practices of the social services when filing the police report can cause considerable delay before a child is heard.

There are no binding age limits for when a child should be heard, as children of the same age can be in different developmental phases. Children with developmental or psychological disorders are usually heard by a specialist in the Forensic Psychiatry Centre. The same applies in cases in which the accused is a member of the family. Most of the cases that involve children between 7–12 years of age, and practically all cases that involve children over 12 years are heard by the police. Forensic Psychiatry Centre's staff find that 10 years would be a good age limit for the police hearings, but sometimes police officers hear children who are four to six years old. Children under 7 years old are either heard by the Forensic Psychiatry Centre, or the Forensic

Psychiatry Centre is asked to evaluate, whether it is advisable to hear the child at all. Children under four years old are rarely heard.

The National Police Board instructs that child hearings should be conducted by a person who has been trained to do them, but the level of sufficient training hasn't been defined. The children should be heard without a delay, yet no specific timelines are set. The preliminary hearings conducted by the police or Forensic Psychiatry Centres follow the guidelines on child hearings drafted by the National Research and Development Centre for Welfare and Health (Sosiaali- ja terveysalan tutkimus- ja kehittämiskeskus, Stakes / Forsknings- och utvecklingscentralen för social- och hälsovården, Stakes), for hearing and informing children (Stakes 2003: The guidelines on investigating sexual abuse and assault and battery against children, Opas lapsen seksuaalisen hyväksikäytön ja pahoinpitelyn selvittämisestä, not available in public). Furthermore, the psychologists at the Forensic Psychiatry Centres mention using the international interview outline of the National Institute of Child Help and Development (NICHD) for semi-structured interviews.

There is a multi-disciplinary team working on a case in the Forensic Psychiatry Centres: social workers to interview the family and psychologists to interview the child. The Centre has more resources than the police, and children are heard 2,2 times on average. The facilities in the Centres are designed to be welcoming for children – in one of the Forensic Psychiatry Centres, there is even a stuffed giraffe in the lobby to welcome children. The cases that are handled by the centre are sexual abuse cases and cases involving younger children, as well as cases involving children with developmental disabilities. Before a hearing information is gathered from the school, healthcare staff and social workers of the municipality. A psychologist contacts the school or the day care to find out the development level of the child, a social worker organises a negotiation with the police and day care, and parents are heard before hearing the child.

Child hearings are conducted by a psychologist, who sits in the hearing room alone with the child. There is a special room for the interview furnished with neutral but relatively cosy decor, and a camera on the wall by which the interview is recorded and transmitted to the adjoining observance room, where another psychologist and a police official, sometimes also a social worker or the nurse of the unit, a doctor, a prosecutor, or the guardian of the child monitor the interview. The child is usually accompanied to the hearing by a parent or some other close adult, and the accompanying person waits outside the hearing room. If the children are very anxious during the hearing, they can take a break, and go visit the accompanying person outside the hearing room.

Picture 1: The hearing room in a Forensic Child and Adolescent Psychiatry Centre.Cameras transmitting the hearing to the adjoining observance room can be seen on left, in the upper corner of the picture.

At the beginning of the hearing, a relaxed atmosphere is created: the psychologist introduces her/himself, explains the proceeding of the hearing, and talks about everyday matters with the child. The psychologist then conducts a hearing exercise in order to find out the level and abilities of the child. The guiding principle of the actual hearing is to start by making open questions: asking whether the child knows why the hearing takes place, and then asking the child to elaborate. In the next phase, direct questions about the events are asked, and finally questions with a yes or no answer if needed. The psychologists interviewed all agree that the hearing should be focused on discussion, as that is the only reliable way to retrieve information from a child. Interpreting the child's play or drawings is not valid as reliable information, but sometimes drawings can provide concrete information (e.g. body parts touched, rooms and spaces visited). The focus group participants explained that there is a preliminary ruling by the High Court of Justice on how drawings can be used as evidence to supplement the child's statement.

The child is heard once to thrice, 2.2 times on average. After having interviewed the child, the psychologist writes a statement to the police and the court hearing the case, handed in with a DVD recording and a transcript of the interview. The psychologist is often further heard during the court proceedings as well.

Hearing practices in the police

When the hearing of the child is conducted by the police, a lot of background information is gathered in beforehand likewise, including about the vocabulary used by the family about the genitals. The police usually hears the child from one to three times. Often the child is heard just once if the story comes out clearly and coherently, and other parties have no additional questions. Sometimes it takes two or three times, if e.g. the defendant, the child's guardian or the prosecutor want to present questions. The prosecutor works together with the police in order to make sure that the hearing is conducted so that it is valid in court. A hearing typically lasts 30-45 minutes, but can last up to an hour.

Facilities for child hearings vary greatly depending on the police station. Some police stations have a cosily decorated hearing room with integrated recording facilities and usually a mirror wall to the adjoining observance room. However, some have no special rooms for child hearings. A district prosecutor even remembered having seen child hearings conducted in a cleaning cupboard at a police station, or next to a

shooting gallery with gunshots as a backdrop. It is not possible to make regional comparisons from such a small sample, but it is clear, that there are great variations in facilities.

There are differing practices in different municipalities on who observes the hearing in the adjoining room. Some police officers explain that usually there is no one in the observation room, but others mention legal counsels of both parties, the prosecutors or a psychologist being present during a hearing. They can follow the interview and propose questions during a break, or even during the hearing via an earpiece. There seem to be different opinions on who should be present – the legal counsels have a right to be there, as do prosecutors, but they rarely have the time or the possibility to attend. Some police officers prefer there being as few persons present as possible to make the situation easier for the child. The child always has right to know who are observing the hearing.

Picture 2: A hearing room used for child hearings. There are stuffed animals on the chair on the left, and a microphone on the table (the integrated microphones did not function). The room has a mirror window to the adjoining observance room on the wall opposing the chairs.

When the child is over 15 years old, the hearing is only documented in writing, as the child will be further heard during the court session. After the preliminary hearing, the child has a chance to comment on the document, after which it goes to prosecutor and later to the court.

According to a police officer, at least two people are present in the hearings: the interrogator and the witness to the interrogation, both usually police officers. However, a support person mentions a case in which a child, who did not want anyone to be present in the police hearing, and had been alone with the police officer. The child can have a support person, a parent, a guardian, a counsel, or a social worker with them during the hearing.

The hearing itself proceeds much like in the Forensic Psychiatry Centre, as the same guidelines (National Research and Development Centre for Welfare and Health (Stakes) 2003: Opas lapsen seksuaalisen hyväksikäytön ja pahoinpitelyn selvittämisestä, not available in public) are followed by police officers trained in child hearings and the psychiatrists at the Forensic Psychiatry Centres. The investigating police officer introduces himself, chats casually, conducts a rehearsal interview in order to assess the child's developmental phase, and the proceeds from open questions to more specific ones.

Hearing practices in courts

Children who have turned 15 years old are heard during the court session in addition to the hearing in the preliminary investigation phase. There can be a long delay between the two, usually from a few months to half a year, but sometimes even years. Furthermore, children who turn 15 during the proceedings are also heard in the court, despite them having been sometimes even years younger when the crime took place. An injured party has the right to be present during the whole proceedings, but children usually prefer to only be there for the duration of their own hearing. The length of the hearings varies depending on the case and the child's willingness to talk, but it is typically an hour and can even be a whole afternoon. There are no specific guidelines or protocols for court hearings with children, and the presiding judge in a case has the most influence on how the hearing proceeds.

The defendant can be removed from the court room for the duration of the hearing, and precautions are taken if needed to make sure that the child does not have to meet with the defendant before or after the hearing. Some court rooms have separate entrances and waiting rooms for victims. Courts have different facilities for ensuring that the victim does not have to face the defendant: a separate room with blinds for either the injured party or the defendant, or screens that can be used to divide the space. The judge, the prosecutor and the child's legal counsel usually discuss these arrangements before a trial. Some interviewees mention giving children opportunity to familiarise themselves with the court facilities before a trial.

Usually all the parties to the proceedings are present in the court during the hearing: the presiding judge, a court clerk, the prosecutor, the jurors when applicable, the defendant, the defendant's attorney or defence counsel, the child as the injured party, and the attorney of the child. Furthermore, the child's guardian, a parent, or a support person can be present in the hearing. In the most sensitive cases, such as sexual abuse cases, the proceedings are held behind closed doors upon a request of the legal counsel or the prosecutor. In these cases the persons present during a hearing are the injured party with the legal counsel, the prosecutor, the defendant with the legal counsel, the judge, and the jurors when applicable.

Most prosecutors have made a habit out of visiting the waiting room prior to the trial to have a little talk with the child in order to make them feel comfortable. A prosecutor interviewed mentions that meeting with the child before a hearing also makes it easier for the prosecutor to phrase the questions appropriately. Whereas judges are not specialised, there are prosecutors specialised in children, and these prosecutors have a more central role in a child hearing. Often the child's legal counsel is the person who starts questioning the child, but when a specialised prosecutor is prosecuting a case, they might be the ones to interview the child. In some courts the judge starts the questioning. Children are usually taken into account by using child-appropriate language, being less formal, taking breaks, and being more empathetic in general. However, many interviewees mention that there are judges and attorneys who have no training in child hearings, and who do not adequately take a child's needs into account during court hearings.

Child's role as a witness

The interviewees who comment on children's role as witnesses are mainly legal professionals: judges, law enforcement officials and prosecutors. The only social professional commenting on child witnesses is a psychologist.

If the suspect is a member of the family, the siblings of the victim might have to be heard as witnesses. A psychologist remembers a few cases of a child being heard as a witness to a crime against another member of the family (a parent or a sibling). It is usually only in the most severe cases, and when there are no other witnesses to the case, that children under 15 years old are required to witness. In the preliminary investigation phase, the hearing of a witness is very similar to a hearing of the injured party.

However, the position of a child witness in a court hearing is quite different from an injured party. A child witness is not officially invited or summoned to court, but the child's parents will inform the child about the hearing. A judge explains that if the child is a witness and is over 15-years-old, they will be heard in court as would adult witnesses. If the child is a witness the hearing will take place in the court room and no special arrangements are made in the court room. A child will have to testify from the witness box in the court room, as would an adult witness. The child's role as a witness affects the documentation of the hearing: when an injured party is heard, the hearing must be videotaped, whereas the hearing of a witness can be recorded in writing. Furthermore, the child's participation during the course of the trial depends on their role in the proceedings: an injured party has a right to be present during the whole trial, whereas witnesses are allowed to be present only for the duration of their own hearing.

Interviewees' assessment of practices with regard to impact on child and proceedings

In general, the manner in which child hearings are conducted is assessed quite positively. All interviewees did recognise that hearings can be stressful, difficult, or scary, and can cause anxiety to the child. However, the majority did assess that most professionals who conduct child hearings are well trained and know how to interview children. The majority of police officers interviewed mention that children often feel nervous before a hearing during preliminary investigation, but are then relieved after the hearing is over. They get to talk about difficult issues that have sometimes bothered them for a long time, and they know that action is taken to make things better.

The three social workers as well as the three judges interviewed with experience in the criminal justice field all have experience in the civil field as well. The social workers say that the hearings in criminal cases can be more difficult for children than hearings in civil proceedings. Children are often scared of the police, and would prefer not to talk about sensitive issues. Two social workers believe that child hearings affect the outcome of civil cases more than those of criminal cases. However, all three judges and all three psychologists interviewed say that the hearing of a child can have the utmost importance in criminal matters, as quite often it is the only proof and evidence in a case.

The judges assess child hearings very important for solving the crime, but very taxing for the child. One judge says that the feedback received from the lawyers of the children heard in the court has been mostly positive and the hearing has been easier than anticipated. Furthermore, a support person interviewed says that the hearing can be a positive experience, as it can be important for a child to be heard, and to be able to tell someone what has happened. In that sense, the hearing can be empowering. Two social workers interviewed believe that a hearing can be a relieving experience for the child.

The two support persons interviewed from different parts of the country say that the atmosphere in the court room is empathetic, and that the court personnel usually adjust their use of language to the developmental level of the child. However, the hearing facilities in police stations are not always child-friendly. A support person interviewed explains that the most difficult part of the proceedings for a teenager is having to go to court and go through the events all over again, after already having done that during the preliminary investigation phase. Teenagers often feel that the hearings are terrible, cause anxiety and are very scary situations, even if the support person would find the interviewer's behaviour very considerate.

The three psychologists with experience in the criminal justice field all agree that the hearing situation is often quite confusing for the child. However, the way a child experiences a hearing depends on many factors, one of which is the child's age – younger children tend to move on and not think about it too much, but older children and teenagers are usually more anxious. The psychologists all agree that it is important to conduct the hearing in an appropriate and professional manner, as children's statements can easily become unreliable if they are questioned by someone who is not qualified. The length of the proceedings influences the way a hearing affects a child. When several hearings are conducted with long intervals and over a long period of

time, even professionally conducted hearings can have a negative effect on the child. The extended length of the proceedings prevents the child from starting the healing process and getting over the crime. Therefore it is always of utmost importance to carefully assess whether the hearing is necessary. This is a point emphasised by all interviewed psychologists and many other social and legal professionals across disciplines.

Good practices on individual and structural level

Most of the interviewees find it a good practice that children under 15 years old are not heard in the court room, but more informally in comfortable surroundings and without hurry. A hearing conducted by a trained interviewer can even be a good experience for a child. The practice of hearing children under 15 years old only during the preliminary investigation and then using a recording of the hearings is considered a good practice. The five Forensic Youth and Adolescent Psychiatry Centres adjoining University Hospitals are considered to have excellent expertise and professional skills in interviewing children and giving assessments, for example on the credibility of a child's statement. The practice of hearing child victims of sexual abuse, young children and children with disabilities in these Centres is unanimously considered a good practice.

Many interviewees across disciplines underline that it is crucial to take a load off the child's shoulders by making clear who is responsible for what: firstly, by explaining that there are adults whose responsibility it is to solve the case, and secondly, by telling that a child is never responsible for becoming victimised. This should be done by the investigating police officers, the legal counsel, the guardian, or even by the judge at the beginning of a court hearing. A psychologist underlines the benefits of giving positive feedback to the child during the hearing.

The practice of arranging the court hearings in such a way that the child does not have to meet, see or hear the defendant is considered very important. This can be done by having the child in a separate booth or dividing the court room with screens to protect the child. Some interviewees do think that it would be better to remove the defendant from the court room than to isolate the injured party, but the practices are limited by the facilities in courts, as the defendant has to be able to hear the child's testimony.

A police officer mentions the support persons provided by the Victim Support Finland as a valuable help to children in criminal processes. The tandem model in appointing guardians and legal assistants for children is seen as a good practice, as a social professional can be appointed as the child's guardian ad litem in addition to the legal counsel. This model is used in some regions, for example in the Kouvola-Kotka region, but not in the capital region.

There are a few practices to speed up the proceedings that are considered especially good. In the city of Lappeenranta, where the district court appoints a guardian for the child, this process has been speeded up so that it now only lasts two days, which consequently speeds up the whole proceedings. A good practise mentioned by the participants of the criminal focus group discussion are the so-called "Jouko-days" in Espoo area, during which children's cases are handled during certain days to speed up their processes. Children's cases are prioritised and automatically skip the queue. However, the participants mention that this type of procedure is not suitable when severe crimes are concerned.

The practice of having five specialised prosecutors who only handle child cases is often mentioned as a great improvement and a good practice by many legal professionals. A district court judge considers it crucially important that professionals are interested in working with children, lest they cause harm to the case as well as the child. Many interviewees mention that there is more specialisation in children in the lower judicial instances than in the Court of Appeals.

Areas of improvement

There are many areas of improvement arising from interviews across professional groups. Much progress has been made in the recent years, but many problematic issues are yet to be solved. Practices vary from district to district, municipality to municipality, and even from judge to judge. Many good practices work well on a local level, but have not been introduced nationally.

Almost all interviewees mention the length of the process as a crucial problem. Difficult crime cases can easily take up to two years, which is altogether too long from a child victim's point of view. There should not be long delays between the event of the crime and the hearing, as it is harder for the child to remember the events accurately, and this lessens the credibility of the child's statement. Austerity measures have influenced the police to such extent that in some cases, the child is not heard until a few months after the assault. It would be in the child's best interest to be heard only during the preliminary investigation, as early on as possible, and not having to participate in the court hearing that takes place much later. This would allow the child to start the healing process, get therapy, and start forgetting the traumatic events.

The guardians interviewed mention that the process of appointing a guardian to a child is often too long, as it is first handled by a register office and then by a district court. This leaves little time for the guardian to get to know the child and the case. The appointment typically takes weeks, even though in the Lappeenranta region the process has purposely been speeded up and now only takes two days. It was seen important by the participants of the focus group interview that the child should be assigned a legal assistant as early in the proceedings as possible, and that the responsibility over making sure that the child has a guardian should be clearer.

A further problem with prolonged proceedings is that a child can turn 15 before the case is heard in the district court, or the case moves to the court of appeal. This means that the child has to be heard in court, even when the preliminary hearing has been recorded. From a legal and a psychological point of view, the hearing conducted in the preliminary hearing phase right after the event of the crime is much more credible than a hearing conducted months or years later during trial.

Furthermore, many interviewees find the age limit of 15 years problematic, as children who have turned 15 are not treated in the most child-friendly manner. The focus group participants as well as a number of legal professionals interviewed individually believe that children are sometimes even treated as adults in a court hearing. Some interviewees think that children over 15 should be treated as other children in the process; their preliminary hearings should be recorded – which would prevent misconduct in hearings - and the recordings shown during the trial. However, as 15 years is the legal age limit for penal responsibility in Finland, which is applied to the injured party as well, the age limit cannot be changed unless the law is amended.

Many interviewees comment on professionals' lack of specialisation in child hearings, especially among police officers and judges. All but one police officer interviewed brought up the need to train more investigators in child hearings, and the restricted possibilities to participate in training due to austerity measures. There used to be a group of investigators in the Helsinki Police District who specialised in child hearings, but the group was disassembled because of organisational restructuring aiming at less specialisation. There are not enough specialised police officers to conduct all child hearings, and many children are heard by police officers with no training and no experience in child hearings. There are not enough resources to guarantee "experienced and specialised" investigators to work with children as required by law. According a prosecutor from the metropolitan area, the most common mistakes are that the police officers asks the questions too directly, or already have an assumption and make it known during the interview, thus prompting the child. This interviewee criticises the judges for not being specialised enough, and especially the level of expertise in the higher court levels.

Many interviewees mention that the use of interpreters can be problematic, as there are not enough qualified interpreters of all languages especially outside the capital region. This makes it difficult for the interviewer to assess whether the interpreters' translations are accurate, which can endanger the whole investigation. A psychologist suggests establishing a database of interpreters with experience in child hearings.

The trial in a court house is considered by many interviewees as the most difficult part of the proceedings from a victim's point of view. Hence the facilities should be made as child-friendly as possible. Children should be able to testify without the presence of the defendant. However, all court houses do not have the facilities required, as the defendant has the right to hear the victim's testimony. There should be separate child-friendly waiting rooms and separate entrances to all courts for the victims to use.

Furthermore, police stations should have more child-friendly facilities, such as a separate waiting rooms and a child-friendly hearing space. There seems to be a lot of variation in the quality of police facilities, and a majority of child hearings is conducted by the police.

The work and practices of the five Forensic Psychiatry Centres are assessed as extremely valuable in general; however, there are areas of improvement in their operations. All the interviewed psychologists think that maltreatment and abuse cases should have equal status and allocated equal resources with sexual abuse cases, since maltreatment can even be more harmful to the child. At the moment, the Forensic Psychiatry Centres mostly investigate sexual abuse cases. One psychologist criticises the Forensic Psychiatric Centres' current placement in psychiatric departments of hospitals, as they conduct hearings as part of criminal investigations instead of diagnosing and treating children. One guardian is very critical toward the interviewing techniques of the two Forensic Psychiatry Centres she has visited, and thinks their methods are old fashioned and not efficient, too long, and even harmful to the child. This is an exceptional point of view among the interviewees, and all others commenting on the practices of the Forensic Psychiatry Centres consider them good or even exemplary.

Eventually, it would be important to have systematic follow-up on families after a child has been part of a criminal process. The time after the actual legal proceedings is seen by some interviewees as the most problematic phase in terms of making sure that the child's best interests are met. There are no standard procedures to guarantee that adequate aftercare is provided, and currently it is the guardian/s' responsibility to assess the child's needs for and to find aftercare services.

Ambivalent, open and challenging issues

Hearing children in criminal processes is always a challenge and there are many ambivalent issues that arise from the interviews. One issue is the lack of common practices, protocols and guidelines. Many legal professionals consider the independence of the judiciary of highest value, especially when it comes to court hearings. This respect for independence has lead to there being no protocols or guidelines with regards to hearing children in courts. Neither is there much specialisation in children among the judiciary, as the judicial system in Finland does not encourage specialisation in general. The combination of these two factors does not always lead to child-friendly court proceedings.

The focus group participants discussed a recent legislative amendment, according to which the duty to report suspected sexual abuse against children was extended. Therapists and doctors among other professionals now have a duty to report if there is a suspicion of a crime, even when the child would rather not press charges. This can seem like a serious breach of confidentiality from the child's point of view.

The parents and even other family members have much influence on the child and on the child's statement, both intentionally and inadvertently. Majority of the social workers mention manipulation and the pressure

put on the child by the parents as a problem. Furthermore, all psychologists stress that parents have great influence on what a child says in a hearing situation, especially pronounced in suspicions within the family. A further frustrating issue mentioned by many interviewees and all psychologists is the way parents sometimes use their child in their child custody dispute by bringing up false abuse accusations against the other parent, in order to restrict visitation rights or to get custody. This causes great harm for the child and uses up valuable resources, but there is no choice but to investigate a case if a police report is filed.

The safety and well-being of a child involved in a criminal process should be ensured in every possible way. In the cases where close family members are suspects, child's safety situation at home is a matter of concern: after the defendant has been questioned, a child can be vulnerable to abuse at home. Children sometimes return home after an emergency placement, and it should always be insured that this is safe. Furthermore, many interviewees see a dilemma between crime investigation and therapy. Therapy affects the child's statements, weakening the value and credibility of the narrative. The child's best interest must always be considered as primary, and it would be important to reduce the length of the investigations in order to make them easier to reconcile with the child's need for therapy.

2.1.2 Right to be heard in the civil justice field

In this chapter, the data provided by the 33 interviewees with experience in the civil justice field is summarised and analysed. It is worth noticing that 16 of these interviewees have experience on both criminal and civil justice. The comparative analysis focuses mainly on four professional groups with the most experience on civil justice: social workers (10), judges (8), lawyers (6), and guardians (5). The interviewees mainly have experience on cases of custody disputes, in which the child is not a party to the proceedings, and child welfare cases are discussed as well. In the beginning of this chapter, a general outline of practices in civil justice field is presented, followed by practices specific to custody dispute cases and then practices specific to child welfare cases.

Current Practices

The practices of hearing children in civil justice proceedings depend mostly on the nature of the case. Custody disagreements are handled in district courts either in a civil trial or in an expert-assisted mediation process. Child welfare cases are handled by administrative courts in cooperation with the social services. In all civil proceedings, child hearings are mostly conducted by the social services.

The hearing practices in civil legal proceedings vary by municipality. There are no specific guidelines and the hearings are often quite informal. Social workers often use various kinds of cards, toys, and other materials as an aid in child hearings. Hearings involve observing the child's interaction with the parents, and rely more on speechless communication than hearings in criminal proceedings. Hearings take place in a child's home, foster home, or in the social services offices, and on a rare occasion in the court. In some municipalities, hearings at home are preferred whereas in some municipalities children are mostly heard in the offices . Siblings are usually heard both together and individually. Many social workers offer the child some juice and biscuits when meeting them in their offices to ease up the situation. Hearings are not recorded but documented in writing afterwards. If meeting at the office, children are usually heard twice, accompanied by each parent to one of the two hearings, to ensure neutrality.

Most social workers prefer hearing children alone, unless the child is very young (under 6 years old), when a parent is present during the hearing. However, in some municipalities the social workers work always in pairs, and hear the child together. The length of the hearing depends on the age and developmental phase of the child and the methods used. The social workers report quite a large variation regarding the length of the hearings. Many say that the hearing lasts around 45 minutes, but one social worker state that the shortest

hearings take only 10 to 15 minutes. One hour is usually given as the longest possible length, but one social worker tells that a long hearing can take even ninety minutes.

Hearings conducted by social workers begin with a casual discussion and getting to know the child, followed by more specific questions. Children are explained that the social worker wants to know their opinions on certain things and it is emphasised that the child does not make any decisions on the matter. The questions are formulated according to the child's developmental phase, and most social workers underline that children are never asked with which parent they want to live. Children are asked specific questions about living arrangements in the parents' homes, about their hobbies, where their friends live, and so on. However, one social worker mentioned often asking where the child wants to live.

Many of the social services offices visited have a special room furnished especially for child hearings. These rooms are furnished comfortably and there are toys, games, drawing paper and crayons, pictures on the walls and such things to make the child feel comfortable. When there is no such room, children are heard in an office room or even outside the offices in a suitable space. Social workers often use different kinds of materials and tools developed for child hearings, for example by an organisation called Pesäpuu ry. A recurring theme were the so called "teddy bear cards" that are often used by social workers in child hearings in order to help younger children to talk about feelings and emotions. These are cards with pictures of teddy bears with different facial expressions and poses.

Picture 3: Teddy bear cards widely used by social workers, but criticised by psychologists.

A guardian might be appointed to the child if there is a conflict of interest with the parents, or in case the child has no legal guardian. This mostly applies to cases concerning child welfare and taking into care issues, but one interviewee mentions being appointed as a guardian in custody disagreement processes, which is exceptional because a child is legally not a party to the proceedings. The guardian´s role is to represent the child and hers/his best interest. The guardian's are not the ones to conduct official hearings, but they get to know the children informally and understand their situation in life. Guardians interviewed underline the importance of getting to know the child personally before talking about the actual issues. They meet the child many times and support the child through the whole process. Some processes can be very long and last for years, and the guardian is the one professional following through the whole proceedings.

Practices specific to custody disagreement cases

Custody, living arrangements, visitation rights and alimony are decided in district court. In custody disagreement cases, a child is not considered a party to proceedings and does not have an official role in the legal process. Custody disputes are considered to be disagreements between parents, and children are protected from having to participate in the disagreement by involving them as little as possible. When a custody disagreement has become prolonged or the parents seem to manipulate the child, the child is not heard. The court usually asks the social services to conduct a family circumstance assessment, which always includes child hearings conducted by social workers. Children are usually only heard during this family circumstance assessment by the social worker, who meets a child at least twice. It must be ascertained that both parents have a possibility to accompany their child to a hearing, which either takes place in their homes or in the social services. The practices vary somewhat from municipality to municipality.

Children under six years old are usually heard with a parent present, and the main focus is their interaction. A judge explains that children under 6 years old are rarely heard at all. If a hearing is arranged in court, for example to speed up the process and avoid the time spent to make a family circumstance assessment, only children over 10 years old are heard.

The presiding judge usually provides the social services with a list of issues that should be addressed during the circumstance assessment. The family circumstance assessment process takes from three to four months, during which children are usually heard two to four times depending on the case and the municipality. Judges rarely hear children during court session in custody cases, but a judge interviewed mentions sometimes hearing a child alone outside the court and then summarising the child's views for the other members of the court, in case the family circumstance assessment does not provide enough information to make a decision. A judge from the metropolitan area says that she hears children alone in her office and never in the court room, but mentions that there are no guidelines on how to hear children because the independence of the judiciary is seen to suffer from such rules.

Some custody dispute cases can be solved through an expert-assisted judicial mediation process that follows the "*Follo-model*". The Espoo area has been pioneering this model mentioned by many interviewees. Currently the *Follo-model* is in use in five municipalities and it is planned as a nation-wide practice. According to the Follo principles, there is always a social expert working with the judge as a team. The mediation process is an alternative to court proceedings when parents are able and willing to communicate with each other. The judge's role is not to provide a decision, but to help the parents find the solution together, with the child's interest always in the focus. The information shared during a mediation process is confidential whereas during legal proceedings, all parties have a right to acquire all information that forms the justifications for a judgement. Children are only heard during a mediation process if the parents agree to take the child's opinion into consideration. The mediation will last from two to three whole days without any rush and if the child is heard that will happen towards the end and it will not take place at the court house, but at the social service's family unit.

Practices specific to child welfare cases

Child welfare decisions, for example decision to take a child into care, are made by the social services, but complaints on child welfare cases are heard by administrative courts. These involve all involuntary taking into care applications, complaints about visitation rights and change of foster care facility, and complaints about taking into care decisions. When someone has a right to object to a decision to take a child into care, social services who have made the decision make an application to the administrative court, and the court then hears the case. The child is only heard when one of the parties demands an oral hearing of the case, usually the parents or an older child. However, the court can decide not to hear the child despite a demand for an oral hearing, for example if a child has been heard from the same family as part of another process.

The social workers hear children when there are questions on the child's welfare and taking into care is considered. The child can be heard if the grounds for the care orders have changed and there are plans of discharging them. In child welfare cases the purpose of hearing a child is to make an assessment on the child's overall circumstances. If the hearing is not official, the child can be heard by a social worker, a social instructor, a psychologist or a psychiatric nurse, preferably someone who has previous acquaintance with the child. The Child Custody and Right of Access Decree (Asetus lapsen huollosta ja tapaamisoikeudesta/Förordning om vårdnad om barn och umgängesrätt, 556/1994) states that a child over 12-years-old must be heard, unless the hearing might cause the child harm, or there is some other special reason for not to hear the child. A child who has turned 12 years old has a right to speak in all matters concerning her/him, and a court decision cannot be executed against the child's will. A possibility for formal hearing has to be provided, but not all children want to be heard. Children are heard if they themselves or their parents wish that a hearing is conducted.

Administrative courts always have social professionals with expertise in child welfare taking part in decisions on child welfare cases. Their role is to make sure that a child's opinions are taken into account, and that a child's best interest is met. Most of the administrative court cases concerning child welfare are what one such professional expert interviewed calls "paper child sessions". A judge and a professional expert make these decisions based on written documents, for example a family circumstance assessment, statements by teachers or psychologists, and medical certificates. Sometimes children themselves have provided a written statement to the court. A child's opinions and wishes should be reflected in these documents, but if not, the decision is postponed until the professional expert hears the child and reports to the presiding judge.

The child hearing is usually conducted by a professional expert, who can be a psychologist or a social worker specialised in child welfare. The hearing can take place in the court or in the child's place of residence. In the Administrative Court of Helsinki, child cases are always heard in the smaller, more informal chambers, with all the participants sitting around one table. In the administrative court, the child can be heard separately before the court session, or during the session. The situation is made as casual and relaxed as possible, and the child is always told that the hearing is a possibility for the child to express opinions, and it is not up to the child to make decisions. Sometimes the child is heard at the beginning of the proceedings, sometimes at a later stage if this is deemed more appropriate. The general rule is to guarantee that the child feels safe and that the information the child gives out does not have any detrimental consequences for the child, the child's family, or their near ones.

The persons present during an administrative court session are usually the judge who hears the case (the presiding judge), the person to present the case (a judge, a notary public or a judicial secretary), the legal counsels of the parties, the parties to the case, and the professional expert. One judge mentions that a few years ago, it became possible to hear a child with just one or two members of the court staff present if necessary with regard to the protection of the child. The parents can be removed from the hearing room if this allows the child to talk more freely, and in these cases the parents' legal counsels usually stay in the room for the hearing. If required, an interpreter is provided during the hearing, regardless of where it takes place. According to the Child Welfare Act (Lastensuojelulaki/ Barnskyddslag, 427/2007), it is not obligatory to let the parents listen to the tape of the hearing, if the court views that it inhibits the child from speaking freely, yet the hearing must be summarised to them.

The practices of recording the hearings vary from municipality to municipality. In Helsinki, administrative court sessions in child welfare cases are always video recorded, but in case a hearing takes place outside the court, the professional member later verbally recounts the child´s views during court session. However, in the Administrative Court of Turku, child hearings conducted outside the court room are always recorded on video and the recording is shown during the court session.

Interviewees' assessment of practices with regard to impact on child and proceedings

The need to hear children in civil proceedings depends on the case at hand and must always be carefully assessed. Most interviewees agree that it is best to hear children only if necessary, and the decision not to hear a child is often justified by protecting the child. Hearing children in custody cases is quite loosely regulated by law, and children are not always heard. However, taking children's views into account is seen as very important in cases concerning them, especially when it comes to child welfare.

Children are often quite anxious before a hearing, but can be relieved afterwards. Especially older children have a strong need to be heard, and it feels important that they finally got to tell about their experience. It is important for them to feel that someone really has believed their statement, and that it has been considered when making a verdict. The hearing situations are often very emotional for the child, and sometimes children are unable to speak as they cry or are highly nervous. In such cases, the need to hear the child must be assessed again, and if necessary, the hearing should be conducted in a safe and child-friendly place.

A professional expert from an Administrative Court says that children often believe that the formal setting of a hearing means that their statements are somehow final, and do not understand that they can correct their statements and give some contradicting information later on. Children often want to give answers that are correct, and say what they think adults expect from them.

However, a hearing can have concrete negative consequences in a child's life. A senior social worker explains that in some cases a child might not speak at all at the hearings for fear of the consequences. For example, possible physical abuse at home could get worse when a child is heard. The hearing might actually cause the child harm, either actual physical harm, or just stress and anxiety for being afraid of the future. The child's right to remain silent must be respected, even if from the social services' point of view it would be in the child's best interest to speak up and get away from the abusive parents.

A judge from the metropolitan area thinks that in custody cases, the legal proceedings and the hearing of the child can be a liberating experience for both children and parents, as it is a chance to discuss the disagreement with a neutral outsider. However, a child should never become a weapon in the parents' argument, and should only be heard if they want to be heard. Many interviewees mention instances when parents have manipulated the child, and demanded more and more hearings in order to get the child to express an opinion favourable to them. Prolonged custody disputes are never in the child's best interest.

Both in custody and child welfare cases, it is important to remember that taking the child's opinions into account does not always mean that they affect the decision made. The child does not have the abilities to assess the family situation in future years. A hearing should focus on providing information about family relations and the everyday life in the family from a child's point of view. The child should not be made to choose between parents, or provide clear opinions about the living arrangements.

According to a social worker, the child's opinion does have great importance for the decision. If the child clearly expresses that s/he, for example, is afraid of going to visit a parent that has to be taken seriously, even if the child would not clearly express what it is that s/he is afraid of. And if the child wishes to meet a parent more often, then it does have weight, and it should be supported. And, of course, when choosing the foster care place, if it is possible to fulfil the child's wishes, then it does have weight.

Comparative assessment of practices by professional groups

Many legal professionals, especially judges, feel that it is better for the child to be heard by a social professional, for example when making a family circumstance assessment. They feel that it is more child-

friendly for hearings to take place in another instance than in a court, since judges and lawyers do not have the expertise, experience and specialisation required to hear children. Social workers agree with them on this issue. However, some legal professionals, most notably lawyers, severely criticise the work of social professionals.

The judges interviewed agree that progress has been made recently in child hearings, but most of them believe that it is better not to involve the child in the trial if at all possible. However, the possibility to hear a child personally is seen as a good development by one administrative court judge, as it builds a closer relationship, and makes it easier for the decision-makers to understand the child's situation. On the one hand, the interviewees say that they themselves try to take a child's needs into account as much as possible, but on the other hand, the expertise and willingness to hear children in the judiciary overall is not considered to be very high. However, a social worker mentioned that the District Court has two judges specialised in child cases, and that they work well with children and families.

Legal proceedings are still very much adult-centred and adult-oriented. There are no general rules and guidelines on how to make them more child-friendly, and there is a lack of specialisation in children in the judiciary. The use of authoritative and official language during legal proceedings is considered particularly problematic by many interviewees across professional groups, and especially by social workers and guardians. The traditional way of using a plural when addressing people in a court room confuses children, and legal professionals handle these situations in very different ways. Some say that they try to use child-friendly language, but some address children as they would adults. The extensive length of legal proceedings is also a problem mentioned by most interviewees. The one psychologist interviewed with experience on hearing children in civil proceedings assesses that the proceedings and legal professionals are very adult-centred and not as child-friendly as they should be.

The quality of the work of social workers is a topical issue in Finnish society. There is a general consensus that the social services are under-financed and that this affects their operations negatively. For example in the municipality of Vantaa, the fourth most populated city in Finland, there are only two social workers making family circumstance assessments for district courts. A psychologist mentions that social workers constantly face difficult situations without enough training, but are still able to promote cooperation with the families during legal proceedings. Lawyers seem to be especially critical of social workers: they comment on social workers' drawing faulty conclusions without much evidence, for example from a child's reaction to picture cards and other materials, being selective in their reporting to courts to further their own views, being difficult to cooperate with, and being unqualified in general, not having enough time to meet and discuss with children, and not sharing information even when it would be in the best interest of a child. The fact that these problems are most often mentioned by lawyers might stem from them having represented clients who are in disagreement with the social services. However, a judge from the metropolitan area finds that the social services lack expertise and sufficient resources to protect children. Furthermore, she thinks that the social services do not document the family circumstance assessment procedures adequately, and they might even hold back information that might lead to a decision against their own impression on what would be best.

The social workers themselves on the other hand lament not getting enough information from the legal professionals and not being able to cooperate with them more. In general, both the social workers and the guardians interviewed do not think that legal proceedings are very child-friendly, but they try to make their own work as child-friendly as possible. It is seen as a positive development that children are now heard more often during legal proceedings than they were before. Legal proceedings are described as adult-oriented and adult-centred, treating children in the same way as adults, governed by adults' laws, too lengthy, and even scary. Some social workers criticise the courts for not making decisions on custody disputes fast enough and giving the parents too many opportunities to make a case in court. Even free legal representation is seen as a negative issue, as it enables a prolonged dispute between the parents.

Good practices on individual and structural level

Most good practices mentioned by the interviewees are individual practices. On a structural level, the practice of hearing children outside the court as often as possible and as part of a family circumstance assessment by the social services is considered good. The system of appointing a guardian to children in legal proceedings is seen as a good practise by many interviewees. A guardian is appointed to support the child throughout the proceedings so that the child has at least one familiar adult who knows the case and the child quite well. A social worker who also works as a guardian sees that a rights-based approach has strengthened. Hearing children is nowadays understood in a broader sense, and is not as dependent on the age and developmental phase of a child as it used to be - even an infant can be heard by observing interaction and behaviour in the family context.

All interviewees who work with administrative courts appreciate their practice of having professional experts in child welfare to work with legal professionals. Furthermore, in the Administrative Court of Helsinki, child-friendly cover letters have been drafted to send out with an invitation to attend a court hearing, which is seen as a good and a child-friendly practice.

A social worker from the metropolitan area mentions that in the years 2000-2010 the social services unit had a psychologist who concentrated mainly on hearing children. This was considered a good practice and beneficial for children, but in 2010 the psychologist was transferred from the unit, because having a psychologist is not required by law, and resources were scarce. It is lamentable that a good practice like this was discontinued, but it could be a lesson learnt on a structural level: good practices should be regulated by legislation to guarantee their continuity.

A senior social worker mentions the Pesäpuu ry organisation's survivals team as one very promising and good practice. The team consists of a group of young people who have been taken into care as children. The idea of the project is to give insight to the child welfare practices from those who have personally been part of it. The children involved have brought up that there is not enough time to explain the proceedings for them, and the justifications of a decision that does not comply with the child's views should also be clearly explained. Many of the children felt that they were left out and would have wanted to be more involved.

A social worker who works with custody disputes likes to give a plastic toy crown and a magic wand to children to wear and asks them what they would wish for if they would have three wishes. She does not prompt answers concerning the custody dispute process. If children comment on the process, they usually wish that their parents would get back together, and that they would not fight. This has proven to be a good way of getting some children to talk about their wishes and opinions through a play-like situation rather than an official interview.

Picture 4: A magic toy crown and wand used by a social worker in child hearings concerning custody cases. Children are encouraged to tell three wishes for the future while wearing the crown and holding the wand.

The Follo model of expert assisted judicial mediation in solving custody disputes is seen as a good practice by all interviewees who mention it. It is always better if parents can agree on a decision without the need of a trial, which might prolong the conflict and deepen the argument. Furthermore, the mediation proceedings reduce the need for family circumstance assessments by the social services, which contributes to a shorter process. A judge from the metropolitan area mentions that when a custody dispute is getting prolonged, and it seems like the child is doing well, the judge can ask for a quick assessment on the family's circumstances, which speeds up the process considerably.

Areas of improvement

The main issue to tackle is the extensive length of legal proceedings, especially from a child's point of view. All interviewees agree that it would be in a child's best interest to always have a speedy process. It seems that good practices are not always recognised as such and are discontinued as part of austerity measures. Many interviewees mention that child and family issues do not enjoy a prominent status in the judiciary, and thus the resources allocated to them do not correspond to the case load and the needs of children involved in legal proceedings.

A guardian interviewed is concerned about how the Child Welfare Act (Lastensuojelulaki/ Barnskyddslag, 427/2007) is at times taken too literally, and the child´s opinion is asked too many times in the same process. This is partially caused by lack of cooperation between professionals, as the child has to explain the same things to different professionals many times over. It would be in the child's best interest to be heard effectively and as few times as possible. Furthermore, a social worker suggests that a process description to child hearing should be developed, as the practices differ so much from municipality to municipality.

Whereas the system of appointing guardians to children in child welfare proceedings is seen as a very good practice, it is seen as problematic by many that guardians are not appointed for children in custody dispute cases. In some municipalities this has been done (e.g. Northern Finland), but it is not legally correct. Custody disputes are long and very taxing and difficult for children involved, and many professionals feel that they would benefit from having the support of a guardian.

A judge from the metropolitan area points out that the Child Welfare Act (Lastensuojelulaki/ Barnskyddslag, 427/2007) dictates that a hearing should not be conducted if it is deemed too burdensome for the child. It is however extremely rare that the social services should practice discretion once a district court has asked for an assessment of the family circumstances. There have been instances when the social services should have protected the children by deciding not to hear them. Another judge sees that one area for improvement is the specialisation of judges. At the moment the specialisation at the judiciary is very low, and judges rarely have expertise in hearing children.

A Ditrict Court judge finds it problematic that there is no regulations or rules on how to record a child hearing, which sometimes leads to there being no official records of a hearing. The lack of regulation in this instance is justified by the independence of the judiciary and the judges. Lack of documentation becomes a problem when a case goes to the Court of Appeal, and there are no records on the justifications of a decision. Non-documentation is also a problem in terms of the involved parties' right to know the justifications of a decision.

In general, legal professionals seem quite eager to point out the lack of expertise and qualifications of social professionals, especially social workers. A judge finds that the social services do not document the family circumstance assessment procedures adequately, and believes that social workers even hold back information that might lead to a decision against their own impression on what would be best. However, it seems that social workers are not provided the resources and the training that would allow them to always follow the best procedures and practices. The cooperation between social workers and legal professionals is definitely an area to improve, and the social workers themselves understand the consequences of their lack of resources better than anyone. A social worker is worried about the amount of different social workers a child might have to interact with during a prolonged legal process. It should be a priority to name a social worker responsible for the process and to make sure that this person does not change.

Ambivalent, open and challenging issues

Even if hearing the child is generally seen very important, quite many of the interviewees believe that a child's safety and protection should always come first, and the right to be heard should be considered secondary to that objective. A right to be heard should not become a duty. There has to be constant assessment whether the hearing truly is in the child's best interest, or if a decision could be reached without hearing the child.

The methodology of child hearings is a constant theme throughout all interviews. The psychologists in the Forensic Psychiatry Centres, who mostly work with criminal cases, all agree that the use of materials, toys and games in hearings does not provide credible statements, as there is too much interpretation involved. However, social workers all mention using some kind of material in child hearings, and especially the "teddy bear" cards come up repeatedly. Some see them as a good way of opening discussion, for example when a child can choose a teddy bear with an expression that reflects the child's state of mind that morning. However, sometimes conclusions are drawn based on how the child chooses these cards, for example when asked to choose cards to reflect the parents' emotional states. This is problematic and criticised by lawyers as well as psychologists.

Custody disputes are always challenging and it is especially important to be careful when hearing a child regarding them. A child should never be made to choose between parents, but it is still important to give children a chance to express their opinions. Children should never feel responsible for a decision, and it should always be made clear that it is the adults' responsibility to determine what is for the best.

2.1.3 Concluding assessments on the right to be heard

In general, legal proceedings are assessed to be relatively child-friendly, and much progress has been made during the last 10 years. Children are more involved in legal proceedings when necessary, and hearings are conducted in a more child-friendly manner than before. The methodology of child hearings has become more scientifically valid, and as a consequence children's statements are more credible. There are regulations on how children should be heard in different proceedings, and the child's needs are usually taken into consideration. There is some training provided for professionals working with child hearings, and some courts, police stations and social services offices have hearing rooms and waiting rooms decorated for the purpose of child hearings. There are however differences in the level of training and quality of facilities from municipality to municipality, and this can put children in an unequal position depending on the part of country they live in. Administrative court proceedings are considered to be more child-friendly than criminal proceedings, and the judges in the Court of Appeal have the least experience and training in child hearings.

Differences between civil and criminal proceedings

Child hearings in criminal and civil justice proceedings differ from each other on many levels. Children are quite actively involved in criminal proceedings, because as a victim or a witness they are a party to the proceedings. In criminal cases, the interviewees all agree that children's statements usually have a lot of weight and they affect the outcome of the proceedings significantly. In the absence of other evidence, a child hearing can produce decisive information for a judgement. In criminal proceedings, the primary consideration is not as much the child's right to be heard, but the necessity to hear the child is an important part of investigating crimes. In civil proceedings, the hearings are conducted in order to find out the child's opinions and views, and while taken into account when making a decision, these are rarely decisive. In custody disputes the child is not officially a party to the proceedings and is not necessarily involved in the legal process in any way.

Austerity measures and lack of resources are common to all organisations in the public sector. Austerity measures have influenced the police to such extent that preliminary hearings are often delayed, there are not enough specialised investigators to conduct child hearings, and units specialised in child and family cases have been disintegrated. The social services lack resources, which lengthens the time required completing a family circumstance assessment, and social workers often feel pressured to meet deadlines. The five Forensic Child and Adolescent Psychiatry Centres conduct child hearings professionally in sexual abuse cases, and have been active in training and educating professionals. However, there seems to be a discrepancy in the methodology of child hearings, as they are conducted very differently by trained police officers and psychologists in the Forensic Centres when compared with social workers. It appears that social workers are not often trained in the latest findings in child hearing methodology. This especially affects civil proceedings in which children are often only heard by social workers when they make a family circumstance assessment.

The training and specialisation of professionals who hear children is regarded as very important. The police force continues to train their staff in child hearings, and despite there being a lack of trained investigators in some areas, the training has affected the child-friendliness of preliminary investigation hearings very positively. There are some prosecutors and judges who are specialised in child cases, and this promotes the child-friendliness of court procedures both in criminal and in civil justice field. However, this specialisation of the judiciary is still a rarity on the national level, and should be further developed.

The role of children in legal proceedings

The role of children in criminal proceedings does affect the way the proceedings take their needs into account, especially when children are heard in court. Children as witnesses are treated quite similarly to adult witnesses, and no special arrangements are usually made, whereas there are concrete arrangements to

accommodate children as victims. Proceedings are not as child-friendly from a child witness's point of view as they are from a victim's. As for civil legal proceedings, a child's position depends on the case at hand. In custody cases, a child is not a party to the proceedings, and thus is not eligible for legal representation or a guardian. However, in many custody cases, children are not heard, and do not directly participate in legal proceedings. In child welfare cases, a child is a party to the proceedings, and has a more secure position.

Changes over the past 10 years and future developments

There has been a change toward more child-friendliness in the courts, and the Follo method in expert-assisted mediation in custody cases is a good example of the progress. According to current plans, this method will be introduced nationally in the near future. Furthermore, child hearings in custody cases handled in the usual court proceedings have also become more child-friendly, and a judge can make the hearing quite an unofficial and conversational event. Cooperation between professionals has been developed and common procedures are agreed upon, for example by the police and the prosecutors in criminal proceedings, or administrative courts and social services in civil proceedings. This is not systematic however, and varies greatly depending on the municipality.

In general, the weight given to children's statements has grown in both civil and criminal proceedings, as hearings are conducted more professionally than before. There is much more training on child hearings available nationwide for professionals, and specialisation of judicial professionals in cases involving children for example is more easily accepted than before. However, the ethos in the judiciary is against specialisation, and professionals still struggle with being able to concentrate on child cases. The police force continuously trains investigators in child hearings, and the training programme is not likely to be cut down as the national legislation requires preliminary hearings with children to be conducted by specialised professionals.

There are some developments that will affect child hearings in criminal proceedings in the near future. The Ministry of Justice, the Ministry of Social Affairs and Health and the Ministry of the Interior are preparing a Guide to Child Victims, with the purpose of giving instructions for parents suspecting their child has fallen victim of a crime. The guide will give instructions on how to act in such a situation, and on how criminal investigations proceed. Furthermore, starting from 2013 or 2014, the police will have the right to apply for a guardian for a child in criminal processes. This will speed up the process and ensure that all children have a guardian from the beginning of the proceedings. A textbook on child hearings for the police will be published in 2013. There is a "children's house model" that is planned to be developed soon in some municipalities in Finland, where the police, the social workers and work group of the Forensic Psychiatric Centre would all be in the same location, and the roles and actions of various professionals would be better coordinated than currently.

In conclusion, progress has been made in child hearings in both civil and legal proceedings, but there is still much left to be done. It would seem likely that there will be further developments in criminal proceedings as well as in custody dispute cases in the civil field, but maybe not as many when it comes to civil proceedings concerning child welfare. All professionals and publicly funded institutions struggle with resources to some extent, with the Forensic Psychiatry Centres quite well funded and the social services maybe in the opposite end of the spectrum.

2.2 Right to information

Children's right to be informed about legal proceedings concerning them is regulated by national legislation. However, there are no guidelines or protocols to offer an outline of practices. The actual practices of informing depend on the professionals working on the case and the municipality. The specifics of informing children do vary: who is responsible for giving out information, what information should be given, and to whom and at which stage of the proceedings. This chapter presents an overview of the practices of informing

children in legal proceedings on the local and the national levels, first in the criminal and then in the civil justice field. The chapter ends with concluding assessments on how children's right to information is realised in legal proceedings in Finland.

2.2.1 Right to be informed in the criminal justice field

In this section, the data provided by the 33 interviewees with experience in the criminal justice field is summarised and analysed. 16 of these 33 interviewees have experience on both criminal and civil justice. Children discussed by the interviewees are mainly victims in the proceedings, thus this section mostly focuses on the victim's right to be informed. Where relevant, children's role as witnesses is discussed separately.

Practices of informing children before a hearing

When a crime has been reported and the victim is a child under 15 years old, the police sends the child's parent an invitation to attend a hearing. When the victim of the crime has turned 15 years old and thus reached the age limit of criminal responsibility, they will be contacted personally by the police, either by phone or by mail. In some cases, especially in assault and battery or sexual abuse cases, the child is heard immediately at the time of filing the report if possible. In all acute cases, the police telephones the parents and informs them how to prepare the child for the hearing. The child should not be given detailed information on the investigation and the case at hand, and only if the child directly asks questions. The child should not be told much beforehand about the hearing. Furthermore, parents are advised not to discuss the actual crime with their child unless the child brings it up, and especially never prompt the child by asking questions about what has happened, as this might endanger the investigation and the credibility of the child's statement.

If the preliminary hearing is conducted by a Forensic Psychiatry Centre, the Centre contacts the parent to arrange the hearing. They instruct the parents to explain that the Centre is a place for children to come and talk about all kinds of things, and for children who have turned 10 years old the context of the hearing is explained in more detail – that the psychologists helps the police in investigating a crime. The parents or the guardian is advised that the child should not have any contact with the suspect at least during two weeks before the hearing. If the child wants to talk about the (suspected) crime, the parents should listen, but no further questions should be asked.

After the preliminary investigation hearings, children who are 15 years old or older will be heard during trial. The court sends their guardian an application for a summons and the summons which includes the demand of the prosecutor and information about the right to get the preliminary investigation records from the police. After the preliminary investigation records are sent to prosecution, they are public to all parties to the case, and the parents have a right to see the recording of the preliminary hearing. Children's demands to see the records are usually made through their legal counsel.

After the case goes to prosecution, the child should get a legal counsel who will then on be responsible for giving information on the proceedings. It must be noted that in some municipalities, the legal counsel is also appointed the child's guardian (when the parents cannot be guardians), and thus serves a double duty in informing a child. In some municipalities a child is appointed a guardian in addition to a legal counsel, and the guardian usually informs the child. Before the proceedings, the legal counsel will invite the child and the parent to the office and go through the proceedings step by step. Some lawyers interviewed mention that they tend to filter all the information through parents who use their judgement to determine what to tell the child, as it is better not to burden the child with too much detail on the proceedings. With young children as victims, it's usually the parents who decide how much information the child is given. In general, children under 10 years old are given as little detailed information as possible, children from 10 to 15 years old are informed in concrete terms about what happens next and their questions are answered to reduce anxiety, and children who have turned 15 years old get as much information as they are capable and willing to receive.

The child has to be informed in a language that the child can understand, and the information is to be as concrete as possible. It has been found useful to for example make a drawing of the court room to depict its physical features and where each person will be seated. The legal counsel or the guardian prepares the child for the court and explains what will be asked during the hearing and finds out the child's mental state before and after the court hearing.

Support persons from the Victim Support Finland have a prominent role in informing the children and their parents. Usually it is the parents who contact the organisation and ask for advice concerning a case in which their child is a victim, and a staff member or a voluntary support person of the Victim Support Finland provides information on the procedures as needed, starting with information on how to file a police report, information about further proceedings, on the way the police investigate crimes in general, the roles of different actors, and the meaning of certain central concepts. When a client is a minor, the support persons are under obligation to inform their parents even if the child contacts them personally. Children who have turned 15 and will attend a court session usually want to know as much as possible about the situation during the hearing – who will be present, will they face the defendant, and so on. The support persons always talk with the child before a hearing to make sure that the child knows about the right to remain silent and the possibility to take breaks during a hearing if need be, and also explains for example how the child is expected to behave during the trial.

Practices of informing children during a hearing

During preliminary investigation, either a police officer or a psychologist conducting the hearing informs the child in the beginning of the interview. The instructions by National Research and Development Centre for Welfare and Health (*Stakes*) for hearing and informing children (Stakes 2003: Opas lapsen seksuaalisen hyväksikäytön ja pahoinpitelyn selvittämisestä, not available in public) provide instructions on what issues should be covered. The person conducting the interview explains that it is their job to ask questions and to find out what has happened, and the psychologists usually explain that they are helping the police. There are practical issues that must be covered: the child must be explained that the hearing is recorded and that the recording will be later displayed in court during trial, and the children are told that they can ask questions and take breaks if they want to during a hearing. If there is an observation room attached to the hearing room and some people are observing the hearing, this must be explained to the child. On a more abstract level, children are informed about their obligation to tell the truth, their right to remain silent, and children in the role of witnesses must be informed about their right not to testify. Additionally, children are given a chance to ask about the hearing. They are often interested about who has filed a police report and this must be explained.

Teenagers are explained more about the actual court proceedings during the preliminary investigation phase, as they are likely to take part in them. However, it is not always certain whether or not a child will turn 15 during proceedings and will have to be heard during trial, as it depends on the delay between the preliminary investigation and the trial, which is very distressing and causes uncertainty for the child. However, the possibility of another hearing should always be made clear to the child to avoid it coming as a surprise later on.

Judges inform children during trial. A judge interviewed has a habit of introducing everybody present in the court room to the child, then explaining how the session will proceed. However, it is left up to each judge to determine whether to inform the child in this way or not, and all judges interviewed stress that informing is the legal counsel's responsibility, not the judge's. It does seem like all judges interviewed provide some information about the proceedings to the child in the beginning of a hearing, but there are no common practices. Most judges underlined that they try to talk in a child-friendly manner and explain the child what will happen during the hearing. Usually a child is only present in the court during the hearing and leaves the

court room after the hearing has been conducted, so there is no need to go through the whole course of the proceedings.

Practices of informing children after a hearing

The legal counsel is responsible for informing the child and the family about the verdict. If the child is over 15, the verdict is delivered personally, although the legal counsel can deliver it to the parents or the guardian instead if the child wishes so. The verdict in the case of a victim under 15 years old is delivered to the legal counsel or the guardian of the child. The guardian or the legal counsel informs the child about all practicalities of a verdict, for example about the payment of damages.

Children are often scared about the consequences of what they have said during a hearing, especially in domestic cases. They can be scared of having to face the defendant or scared of a parent going to prison. However, children might find it difficult to express their feelings and ask questions. It would be important to make sure that a child does not feel responsible for the process, and that talking about the events does not make a child responsible for the end results of the proceedings.

Furthermore, children and parents should be referred to proper aftercare services – in the Helsinki Police Department, each police district has a psychiatric nurse who can sometimes see the family immediately after a hearing. Victim Support Finland provides information on aftercare services if the child has a support person. However, some interviewees feel that there is not enough information on aftercare available, and it should be determined who will make sure that adequate aftercare is provided.

Overall assessment of practices with regard to impact on child and proceedings

The interviewees throughout professional groups strongly emphasise that the main factor in assessing the amount of information given to a child is whether this information will reduce or cause stress and anxiety. On one hand, giving children concrete information about what is going to happen next is seen as crucial in relieving anxiety. The amount of information depends on how actively the child participates in the proceedings. Children who have turned 15 are heard during trial and need to be informed more precisely about the proceedings, and they are also more capable to understand the information provided to them than younger children. It is important to provide them with concrete information about the court hearing.

On the other hand, too much information can become overwhelming, especially if it concerns the facts and justifications of a case, for example the right to see the preliminary investigation records, as these might be very troubling for a child of any age. A district prosecutor says that the difficulty in informing the child is most pronounced in domestic abuse cases. The child often returns to live with the parents after the proceedings, and sometimes has a very detailed knowledge of the context of what has happened. Furthermore, a lawyer mentions that there are sometimes assessments about the children themselves in the documents pertaining to a case, and children can find them hard to read.

The age and the developmental level of the child affect the child's ability to understand the information about the proceedings. The amount and specificity of information should always be adjusted to the child's developmental level. However, most interviewees emphasised that children must be informed truthfully, and that the child should always understand why the hearing takes place. The children should be informed about their rights and responsibilities, especially about the right to remain silent and the responsibility to tell the truth. However, informing children about the right to remain silent is also seen as problematic, as it might encourage the child to exercise that right, which in turn might endanger the whole criminal investigation in case the child's statement is crucial evidence.

Many interviewees thought that the main responsibility on informing the child rests with the parents, and they even filter all the information through parents. Most did however feel that it is the professionals' responsibility to make sure that the child has been informed properly, and usually the main responsibility of informing rests with the child's legal assistant or a guardian ad litem. Children should be informed at all phases of the proceedings and information should be given little by little to make it more easy to absorb. An overflow of information can be very confusing, no matter how old the child is.

Comparative assessment of practices

A balance of giving relevant information to a child and keeping potentially harmful information from a child must always be found. Concrete and understandable information eases anxiety whereas too much information can cause more anxiety. Most interviewees see it as the guardian's or the parents' responsibility to assess the amount of information a child should receive, but legal professionals and especially a child's legal counsel have much responsibility over this as well. Often the guardian or parents and legal counsel communicate with each other on informing a child, especially when a child is under 15 years old. However, some professionals' practice of giving information only to the parents can be problematic, as there is no way of ensuring that even crucial information given to parents will reach a child. Some interviewees report problems caused by the child's lack of information, for example when a child comes to a hearing and does not know why the hearing takes place.

The judges interviewed see the informing of a child as mainly the legal counsel's responsibility, as do the prosecutors. They feel that informing is of great importance, but do not feel that their position allows them to take much responsibility over it, as they usually only meet the children in the court rooms. Judges do not have a responsibility to inform children and it is up to their own discretion to determine what type of and how much information they provide to a child in the beginning of a court hearing. Prosecutors do not have an official role in informing children, and most prosecutors interviewed say that they do not inform children in any way. A prosecutor specialised in child cases and a prosecutor from the metropolitan area have a practice of meeting with the child before a hearing, usually in the waiting room right before a trial, and explaining what will happen next and their role in the proceedings. Some prosecutors contact the parents of a child before a trial and explain the proceedings, and some are in contact with children who will be heard in court, but these seem to be rather exceptional, as most prosecutors leave the informing to the legal counsel.

The police are often the first and sometimes the only party to officially hear a child and to provide information about the procedures. The police usually contact the parents of a child to give instructions on how to prepare the child to a hearing, or in the case of a child who has turned 15, they contact the child personally. They feel that informing children concretely about the proceedings is very important, and children should come to a hearing with information on how it will proceed. In the beginning of a hearing, they explain the situation, their own role, and what will happen during a hearing and after a hearing. Furthermore, children are encouraged to ask questions in case there is something they do not understand, but many police officers say that children are often too shy to ask or tell that they do not understand something. That is why it is important to provide information even when a child does not express a wish to get it. It seems that police officers who are trained in child hearings have good abilities to assess the developmental phase of a child and inform children so that they understand. Furthermore, children are often familiar with the social and professional role of the police, which might make it easier to communicate than for example with a legal counsel or a prosecutor.

When a child is appointed a guardian in a criminal process, the guardian has some responsibility over informing the child, but is under no obligation to inform the parents. The guardians have their own procedures that are discussed in the guidebook and the process description produced by Save the Children Finland. However, it is up to the guardian's discretion whether they want to inform the parents of a child, or a parent who is not accused in a domestic case. Guardians have an unofficial and often quite close

relationship with a child, in addition to which they often meet the child multiple times, which provides opportunities for the child to ask questions in a confidential setting. Some guardians find it more in their responsibility to provide information, while some think that their task is to make sure that the child has been informed by other professionals, and then fill in the holes. A guardian is always appointed to a specific process, and after the proceedings come to an end, so does the guardianship. However, if the child is very young during the proceedings, a guardian might write a report for the child to read later on about the proceedings. The guardians think that children often understand the information given to them quite well, which suggests that it is easier for children to understand information coming from a familiar adult who they have met multiple times.

The social workers interviewed say that they do not have a role in informing children about criminal proceedings. However, one social worker stressed the importance of openly talking to children about the proceedings and the suspected crime, as children know a lot even when they are not told, and trying to hide things often only leads to more anxiety and uncertainty.

Good practices on individual and structural level

The work of the voluntary support persons from the Victim Support Finland is considered very valuable. They have an understanding of the criminal proceedings from a victim's point of view and can also refer the family to aftercare services. As they do not have an official role in the proceedings, they are neutral and unbiased when providing information. A support person interviewed for example considers it important to tell the children beforehand that the defendant's lawyer is going to make them unpleasant questions, and advices the children not to take them personally.

It is very important to be concrete and explain in detail what to expect next in the proceedings, as this reduces uncertainty that is inevitable in legal proceedings. If the child has at least some understanding of the legal procedures and the meaning of the hearing and its consequences, this can also contribute to a better hearing and thus a better process overall. It is always best to regulate the information provided in relation to the child's developmental phase. Some consider withholding information as important as giving information, for example a lawyer mentions a case which went to the Court of Appeal, but it was considered in the child's best interest not to inform the child about these proceedings, as they did not concern the child directly.

The police officers interviewed find it a good practice to simply ask a child whether she/he has understood what has been said, and to encourage the child to ask questions when she/he does not understand something. At the same time, they do recognise that it is not always easy for children to admit when they do not understand something.

The psychologists interviewed consider it important to conduct a test interview before the actual hearing, which consists of asking the child about a nice event in the recent past (for example a visit to a zoo or an amusement park). This practice is used in the Forensic Psychiatry Centres to provide the interviewer information about the child's linguistic abilities, and the child an opportunity to talk about something nice before taking up the suspected crime. However, one guardian criticises this practice, as in her opinion it lengthens the hearing unnecessarily.

In the Helsinki Police Department, each police district has a psychiatric nurse, who can often be arranged to see the family immediately after a hearing. This makes it easier for the police to refer families to these services, and there is no unnecessary delay in getting aftercare service.

A guardian and a support person interviewed feel that it is sometimes in the child's best interest not to remind the child about the case unnecessarily in between hearings. It is important to let the child forget the process for a while at times when nothing really happens that involves the child, and only to give information

when the child is directly involved, or when a decision has been made. When parents are not parties to the case involved, it is sometimes better to give information to a parent instead of the child, and only inform the child when something conclusive happens.

Areas of improvement

There are no clear guidelines on applying a legal counsel for a child. Often it is left to the child's parents to get a counsel, but they do not know that this is free of cost, or do not understand that this would be necessary. It is seen as important for children to get legal assistance as early on as possible, preferably before the first hearing during the preliminary investigation. Many interviewees see this as problematic and recognise a need for more established practices in order to guarantee adequate legal representation to all children.

A support person interviewed thinks that often too much information is given to the child at one time. She believes that children as victims can rarely understand much information at one time, and an overflow of information just confuses the victims. Many other interviewees do mention the necessity to regulate the amount of information given, but it is up to each individual to assess how much a child can take in at a time.

The participants of the focus group on criminal justice think that there should be a leaflet with information for the parents of children who have become or are suspected to be victims of a crime. This should be available on-line as well as handed out to all parents whose children participate in criminal processes.

A recurring theme is the necessity to withhold harmful information from a child. Very detailed information about crimes should not be provided for a child who cannot process it, even though the child does have a right to see the preliminary investigation documents. However, older children should be given as much information as possible.

The children who are likely to turn fifteen during the investigation should be informed about the possibility that they are invited to a court hearing if they turn 15 before it takes place. This should never come as a surprise to the child, but currently it sometimes does.

Ambivalent, open and challenging issues

The parents' role in the proceedings is a much discussed issue among the interviewees. It is very important to inform the parents and other professionals correctly about the way children should be prepared for hearings. There is a fine line between prompting the child and offering the child the support services that are needed. Some parents, for example, have refrained from seeking therapy for their child, as they have been wary of intervening with the investigation. Even professionals at family counselling offices have refused to provide services for children in the midst of a criminal process, although the family was in serious need of support services. The child's health and best interests should always be the first priority, and even when the investigation might be endangered, support services should be provided.

Many interviewees point out that the information given can cause the child pain and anxiety, especially in domestic abuse cases. Children are very loyal to their parents and it can be extremely difficult for them to tell things that can put the parents in a bad light. The processes are difficult and there is no way around it, but children should be provided with support and correct information to lessen their burden.

It was seen as problematic by the focus group participants that the child has to be informed about the right to remain silent. The same issue was brought up in some individual interviews as well. Stressing that right might not be in the child's best interest, if it encourages silence when a statement would be necessary in order to make a conviction. However, a police officer interviewed has experienced teenagers opening up

after being informed about their right to remain silent, as with the right to remain silent comes the responsibility over choosing whether to talk or not. It would seem that younger children might understand the right to remain silent more as a permission not to talk.

Informing children through parents is a challenge when considering a child's right to be informed. Parents usually know their children better than professionals and can better assess their ability to process and receive information. However, there is no way of ensuring that crucial information is given to a child if it is only given to the parents. Professionals are wary of meddling with family life, however they might in some cases be better equipped to provide information to the child and determine when to inform a child. Currently, many professionals rely heavily on the parents' ability to inform their children, which might result a child coming to a hearing without having any previous knowledge of the proceedings in which they participate.

2.2.2 Right to be informed in the civil justice field

In civil proceedings it is usually a social worker's responsibility to inform the child. The social worker in charge of the child´s matters controls the process and makes sure that a child knows what will happen next. Furthermore, in child welfare cases, there is sometimes a hearing in an administrative court, and the court personnel, possible guardian ad litem and a legal counsel also provide information.

Current practices of informing in custody dispute cases

As the child is not an involved party in a custody dispute, children are not informed by legal professionals. The information is given to the parents and it is their responsibility to pass it on to the child. Furthermore, parents have a responsibility to hear their children in all decisions concerning them according to the Child Custody and Right of Access Act (Laki lapsen huollosta ja tapaamisoikeudesta/Lag angående vårdnad om barn och umgängesrätt, 361/1983). However, family life belongs to the sphere of private autonomy, and a court should never intrude that sphere.

In custody cases, the only person outside the family informing the child is often a social worker conducting the family circumstance assessment. There are no rules or guidelines on how to inform a child, but each social services unit has their own internal procedures and practices. Since children are not a party to the proceedings, they do not have a right to see the documents or get information pertaining to a case. However, the social workers' relationship with a child highly depends on the parents' willingness to cooperate. Social workers inform the child about why a hearing takes place, and they talk about future proceedings, for example if further hearings will be arranged.

When a custody dispute is resolved in a mediation process, the child is not necessarily involved at all. However, if a child is heard during the mediation, there is plenty of time to inform the child, as the situations are not official and there are no protocols to follow. If a child is heard as part of expert-assisted mediation process, the parents do not have the right to know what the child has said, which is different from a regular custody dispute process handled in the district court. A child is always informed about why the hearing takes place, how the case will proceed, and what the child's own role is in the proceedings.

Social services have produced two information booklets for children about custody dispute proceedings, one for younger children and one for teenagers (see picture below). These booklets are given to children in the presence of a parent, so that the parents will know to read the booklet with their child. Furthermore, social services have a brochure on mediation in custody disagreements.

Picture 5: "A child's leaflet" (left) and "Brochure for the youth" (right) – information leaflets provided for children about custody dispute processes.

Current practices of informing in child welfare cases

The Child Welfare Act (lastensuojelulaki/barnskyddslag, 427/2007) regulates the practices of informing in child welfare cases. When a child welfare case is heard in court, the child will be sent an invitation to the hearing. The cover letter explains the facts of the case, who are the involved parties, why the hearing takes place, which documents are the basis of the case and that those documents can be acquired from the administrative court as well as read during the court session. The social worker working on the case explains the procedures to the child. Usually children do not have a legal counsel, and a social worker has a big role in informing them. If a child's parents cannot act as guardians, a guardian ad litem is appointed to act on the child's best interest in the case. If the child has a legal counsel and a guardian they cooperate and agree on the details of informing the child, and usually decide that most information is provided by the guardian.

A guardian that when a guardian is named for a child, it is the guardian's responsibility to inform the child about every aspect of the legal process. The guardian provides information on the proceedings of the legal process and on the hearing situation itself. If the child is over ten years old, the guardian goes through the whole process in detail. When a decision is made, the guardian informs the child about it.

The Act on the Openness of Government Activities (Laki viranomaisten toiminnan julkisuudesta/Lag om offentlighet i myndigheternas verksamhet, 621/1999) stipulates that the publicity of all information pertaining to a case is extensive for the involved parties, and in principle, all the involved parties have a right to see all the information. However, if the child's best interest demands that some information is kept secret, their right to information can be limited. Furthermore, the Act dictates that the parent of a minor always has the right to see the child's information. If this is not within the child's best interest, a decision not to give the information is done, and the parent has a right to complain. A child can ask for the parents not to see the information, as stipulated in the Act of the Status and Rights of the Social Welfare clients (Laki sosiaalihuollon asiakkaan asemasta ja oikeuksista/Lag om klientens ställning och rättigheter inom socialvården, 812/2000). However, a decision to withhold information from parents must always be based on the child's best interests in each case.

Children who have turned 12 have a right to speak in matters concerning them, and they are invited to do so by the Administrative Court. The Administrative Court has child-friendly documents and cover letters. During the court session it is ensured that the child understands the purpose of the hearing. Usually the person

informing the child in the course of a hearing is the professional expert member of the court, or the presiding judge. After having heard the child, the professional expert of the court tells the child that the parents will also be heard by the administrative court, and that a decision will be made in another court session. A social ombudsman explains that children sometimes contact her to get information about their case, their rights and possible redress mechanisms available to them.

The guardian has an important role in giving the child neutral information about the process. A big part of the guardian´s job description is to inform the child, so that the child can understand the process and participate in it. The child has a right to see the documents regarding the process, and it is usually the guardian who goes through these documents with the child. If the child is too young to understand the proceedings, a guardian writes a report for the child to read later on. A professional expert working for an Administrative court says that the child should in principle get to know all justifications for a decision, but should not be informed about things that could be harmful, for example about a parent's violent behaviour. If some documents seem harmful, a social worker's decision not to show them to a child has to be approved by the Administrative Court.

The Helsinki social services have brochures for clients about child welfare, taking into care, and foster family care. The brochures provide general information about child welfare processes, the parents' and the child's rights, as well as contact information.

Overall assessment of practices with regard to impact on child and proceedings

Informing is essential in terms of legal protection and in ensuring that a child is fully participating in the process. Information increases children's awareness and sense of belonging as well as their trust in the society. There is great variation in how interested children are in the more abstract information on the proceedings, but all children should know the next steps in the process in order to feel safe and avoid unnecessary feelings of uncertainty. Providing information on civil proceedings, especially in child welfare cases in which children fully participate in, also increases children's awareness of their own rights in the process. Children who are aware of their rights can be more active in the process, file complaints, and have a great impact on the end results and consequently on their own life.

The social workers interviewed describe informing children about proceedings concerning them as essential, crucial, important, and vital. Social workers tend to stress the child's right to know about processes concerning them. The guardians interviewed underline the child's right to know about the process and the professionals' responsibility to provide truthful information to the child. It is an important way for the child to participate and feel empowered. However, the protection of the child should always be considered when providing information.

All professionals agree that the informing procedures should always depend on the child's age and developmental level. Legal issues are complicated and proceedings difficult to understand to anyone, and especially so when children are concerned. Many interviewees stress that there is no need to let the child know everything, as information that is too detailed can cause harm, but a child should receive enough information to be able to participate in the proceedings and be conscious about the consequences of this participation.

Comparative assessment of practices

The judges interviewed all stress the necessity of informing children about their rights in the legal proceedings. Furthermore, they believe that a child should be informed prior to a court hearing, and that a child should be aware of why a hearing takes place before coming to a court session.

An Administrative Court judge believes that in child welfare cases, there is not much information that should be withheld from the child in the name of protection. Even though there are often disturbing things depicted in documents pertaining to a case, but as the child has often lived through them personally, there is no need to protect the child from these things. However, he thinks that discretion and subtleness have to be practised when sensitive topics are discussed. Many interviewees bring up similar views: children often know more than their parents or professionals assume, and it is a relief if someone talks openly about what is going on. It builds a more coherent picture of all the experiences and little bits of information the children might have gotten by chance, and prevents misconceptions, suspicions and mistrust toward officials, the parents and the possible foster care facility.

In custody cases, a child is not a party to the proceedings, and it is considered a child's right not to participate in their parents' disagreements. Furthermore, the parents are under obligation to inform their children about all proceedings and decisions regarding them. When a child is heard as part of a custody disagreement process, the context of the hearing should be made clear, but no additional information about the proceedings should be provided, as there is no legal obligation to do so. A judge specialised in custody disagreements underlined the need to explain the child what the consequences of a statement can be, which in her opinion is necessary to make sure that a child understands how a statement can influence the outcome of the process. Children must know how their statements can be used to justify decisions. Many other interviewees mention that children should not be heard unless they understand that they are participating in a custody disagreement process, and that their statements can influence how custody and visitation is arranged.

The majority of social workers think that children understand the information given to them very well, and that they understand legal proceedings that have a concrete effect on their daily lives. Furthermore, they stress the importance of regulating the amount of information given at a time, as they meet a child multiple times during proceedings and can inform them little by little. Judges and professional experts in an administrative court for example usually only meet a child during the hearing, and do not have an opportunity to provide information incrementally. Social workers are often familiar with the general situation in a family and consider open discussion very important for children who live in these difficult situations. Many social workers feel that it can be a relief, although also confusing, for children to have an outsider find out what is happening in a family.

Children are often worried about very concrete things, for example whether they get to meet their parent after they will be taken into care. Children would almost always prefer to stay with their parents. A lawyer says that children are often relieved when they are informed about their parents' right to meet them even when they don't live with them. The lawyers interviewed stress the child's right to get truthful information delivered in a neutral and appropriate manner.

Good practices on individual and structural level

Informing children in an age-appropriate and child-friendly manner is seen to have utmost importance by the interviewees, and specific child-friendly leaflets and brochures are considered quite useful in this (see annexes 3.2, 3.7 and 3.8). When the information is in written form, a child can go back to it when at home or with parents or some other adult.

The participants of the focus group consider it a good practice in the Administrative Courts that the judge goes through the proceedings in the beginning of a court session.

The Follo method in expert-assisted mediation in custody disputes is seen as beneficial also in terms of informing, as the parents do not need to be informed about everything a child says during a hearing. The

person who hears the child discusses what will be said to the parents, and the child gets to decide if something is left out.

It is best for the child to get information from a trusted and familiar person. Children are often informed by a parent or a guardian, a professional from a foster care facility, or a social worker who works on the case. It is deemed best to give information incrementally, a little by little, while making sure that the child has understood and remembers the information that was given before. A guardian interviewed has a practice of making sure that the child has been informed properly by asking them to explain what has been told to them in their own words.

Many professionals feel that it is in the child's best interest not to be a party to the custody disagreement proceedings, and that a child should only be heard during these proceedings if a decision requires it. Custody hearings are usually very confusing for a child, as children are loyal to both parents.

A child has the right to see the documents pertaining to a case. Some interviewees stress the importance of taking this into account when writing the justifications for a decision: they should be written in a compassionate and thoughtful manner, as they can later have a great impact on children's perception of major events in their lives.

Areas of improvement

A social worker feels that there is not enough child-friendly information available about legal proceedings and children's rights. Not all children are informed about their right to appeal, for example about how a 12-year-old has the right to make an appeal about the process of taking into care. It would be very important to give the child more information after the actual legal proceedings are over, as that is when a decision truly affect a child's life and living arrangements.

The proceedings are often very long and there are many professionals involved in them. It seems that it is not always clear who is responsible for informing the child and at what stage. Often the information is delivered to a parent or a person in a foster care facility, and it is left to the care-takers to inform the child personally. This can be problematic if there is no way to ensure that the information reaches the child.

Ambivalent, open and challenging issues

There is always a certain ambivalence when informing children about legal proceedings, as the amount and content of information must be balanced with its potential harmfulness for the child. Children have a right to know about proceedings concerning them, but harmful information should be withheld if this would serve the child's best interest. There can be no exact regulations about what information can and cannot be provided, as the best interest of the child must be understood in the specific context of the proceedings.

Custody disputes can take many years to resolve and be very painful to the whole family. Children should be heard and given a chance to express their views and opinions, but sometimes it can seem like a child's right to be heard turns into a responsibility. Children should never feel responsible and never feel that their statement is decisive in a case. On the other hand, it is important to let children know how their statements might influence the outcome of a process, for them to be able to weigh what they want to say in a hearing.

2.2.3 Concluding assessments on right to information

The child's right to be informed can be considered as primary in relation to the child's right to be heard. If a child does not understand why a hearing takes place, a child should not be heard. However, the practices of

informing children differ greatly depending on the type of the case and the age and developmental phase of the child.

In general, the older the child, the more information should be provided. The age does not always determine a child's developmental phase, and each child's needs and abilities to be informed are considered individually. Harmful information should be withheld from a child if it is in the child's best interest. In child welfare cases, information given during a child hearing can be withheld from the parents if this is in the child's best interest. The interviewees throughout professional groups strongly emphasise that the main factor in assessing the amount of information given to a child is whether this information will reduce or cause stress and anxiety. On one hand, giving children concrete information about what is going to happen next is seen as crucial in relieving anxiety, and on the other hand, getting too much information and harmful details can be overwhelming and stressful. Children should be given information incrementally and little by little, and it should be ascertained that they have understood the information given to them.

Social workers, parents or guardians and possible legal counsels are the persons responsible for informing children about the proceedings. In criminal cases, most of the informing responsibility lies with the legal counsel or a guardian if the child has both. In child welfare cases, children are mostly informed by social workers, and in custody disagreement cases the parents have an obligation to inform their children. Often the parents are relied upon to inform their children and determine the amount and type of information their children should receive, which can be problematic as it is difficult to ascertain that a child has been properly informed.

Children participating in all legal proceedings should always be informed about their rights, for example their right to remain silent in criminal cases and their right to appeal in child welfare cases. Not all children are adequately informed about their rights and thus never get a chance to exercise them.

Overall Child-Friendliness of the Procedures

The informing procedures in both criminal and civil fields are quite child-oriented and the professionals interviewed do recognise children's needs and rights to be informed. However, there are areas of improvement in both fields.

In child welfare proceedings, informing the child is essential in terms of legal protection and in ensuring that a child is fully participating in the process, as children who are aware of their rights can be more active in the process by way of appeals for example. Furthermore, children should be made more aware of the possible consequences of their statements and the possible outcomes of the proceedings. As there are no specific guidelines on informing children, the practices of informing differ from municipality to municipality. Some municipalities have produced child-friendly information leaflets, which is generally considered a good practice. Children are usually informed by the social worker, who knows their situation and has met with the child multiple times. The procedures if informing might benefit from national guidelines and materials to be shared between municipalities, which would ensure that all children get the same amount of information regardless of where they live and who handles their case. It would seem that in criminal proceedings, the the guidelines by the National Research and Development Centre for Welfare and Health (*Sosiaali- ja terveysalan tutkimus- ja kehittämiskeskus, Stakes / Forsknings- och utvecklingscentralen för social- och hälsovården, Stakes*) for hearing and informing children (Stakes 2003: Opas lapsen seksuaalisen hyväksikäytön ja pahoinpitelyn selvittämisestä, not available in public) have unified the practices of informing children during preliminary investigation hearings. Similar guidelines would certainly be useful in civil proceedings and in later stages of the criminal proceedings.

Informing children during court hearings is not regulated by national law, as some see that it might endanger the independence of the judiciary and intervene with the judge's autonomy. However, it is necessary that a

child is informed when heard in court, and common practices would ensure that all children would be adequately informed regardless of where the case is heard. Currently, some judges seem to consider it the legal counsel's responsibility to inform children, whereas some judges have quite specific practices of informing children in the beginning of a court session.

In both civil and legal proceedings, informing children suffers from the extensive length of the processes. It is difficult for children to understand the course of proceedings that last for years, and the information provided at one phase is easily forgotten by the next. Some professionals have a habit of always making sure that the children have understood and still remember the information provided to them. The length of the proceedings often means that the child does not get to work with the same professionals throughout the process, and for example social workers change. As it is easier for children to understand information from a familiar person they have learnt to trust, having many different professionals to provide information is problematic. The practice of appointing a guardian for a child for the whole course of a criminal or a child welfare process is a very child-friendly practice in terms of informing, as the guardian usually gets to know the child personally, and will be able to follow up on information provided during previous meetings. The interviewees report that there are plans for more efficient practices in appointing guardians, as well as possibly making children in custody disputes eligible for a guardian. These changes would have a positive effect on these children's right to be informed.

2.3 Training and co-operation of professionals

Almost all of the interviewees (44/50) have participated in some type of training, and the majority have participated in training on more than one occasion. However, many of the interviewees do not specify the exact amount of training they have attended. Moreover, the length of the trainings vary a lot, from half a day to two years. The most common type of training lasts for one year, although the actual hours spent on training during the year varies. The second common training type is training that lasts for one to three days. The types of the trainings attended also vary a lot: 7 interviewees (2 legal professionals/ 5 social professionals) have participated in legal training, 29 (17 LP/ 12 SP) interviewees in social/psychological training, and 28 interviewees (17 LP/11 SP) in specific child related training, such as developmental psychology. 5 legal professionals have had training on specific justice issues, such as sexual violence, domestic abuse and custody conflicts, and 27 interviewees (12 LP / 15 SP) have had training related to procedures and methods (such as hearings/interviewing).

2.3.1 Training and co-operation of professionals in the criminal justice field

Most of the police officers and psychologists who work in Forensic Psychiatry centres have attended the one-year training on child hearing organised by The National Police Board in cooperation with the Forensic Psychiatry Centre. The training consists of work counselling (10 sessions), lectures or seminars (10 sessions) and an essay. 15 police officers and 15 health care professionals are accepted to this national training yearly. The quality of the training was considered to be good. Moreover, The Police College organises two-week courses for example on children and sexual abuse. Furthermore, some prosecutors attend the courses organised by the Police College in relation to children in criminal proceedings.

The Office of the Prosecutor General offers training for example on sex crimes against children. However, not all the applicants can be admitted to the courses. Moreover, prosecutors have attended training on forensic psychology and child hearing. Training on child hearings is offered for example by The Forensic Child and Adolescent Psychiatry Centre.

Most of the guardians who work with criminal proceedings also work with civil proceedings. The basic training for guardians is coordinated by Save the Children Finland and it currently lasts for four days, but used to last three days. Furthermore, there is additional training offered for guardians, and most of the guardians also

have the possibility to participate in work counselling. Some additional training is organised together with the police, the district court and social welfare.

Most of the police officers and prosecutors cooperate with each other, for example in relation to specific cases. Three police officers and all the psychologists who work in Forensic Psychiatry Centres mention having cooperation with each other. Moreover, all the prosecutors and most of the psychologists cooperate with each other. A prosecutor says that there are regular meetings to agree on practises. One psychologist wishes that the cooperation with the prosecutor would be more direct.

There are established practices in cooperation between legal and social professionals, and the majority of prosecutors and police officers cooperate with social services. A police officer does not feel that the cooperation works particularly well, as the requests for investigations from the social services do not always include all the necessary information and the social workers sometimes pass too much information to the suspects. Most of the psychologists mention having cooperation with social services. One psychologist says that sometimes there are problems in getting information from the social services about other cases than sex crimes, in which they have a legal right to get all information.

Three police officers mention cooperation with NGOs. In addition, both interviewees from Victim Support services cooperate at least with the police. A police officer from the metropolitan area mentions the MARAK-method, which includes cooperation between the health services, the social services and the police in abuse cases. The client's consent is asked for cooperation. However, these cases concern adults more than children, for example families with a long history of domestic abuse. One police officer mentions SERI-group (sexual crime group) that has common meeting occasionally in Vantaa. The group consists of police officers and social welfare and health care officials. Furthermore he says that there isn't much cooperation with the judges, a part from trainings that are organised every three years.

A police officer says that the police has an internet forum, where police officers share information about issues related to sex crimes, for example guidelines, The High Court decisions and authorities´ contact information. This communication is important in establishing nationwide practices.

There is a lot of cooperation between guardians and different institutions, for example police, magistrate's office, social welfare as well as lawyers. A guardian says that they have a few multi-professional work meetings yearly. A guardian from another region says that multi-professional meetings have been very useful in getting to know the procedures of other professionals. Moreover, most of the guardians meet with each other to discuss cases and compare experiences.

2.3.2 Training and co-operation of professionals in the civil justice field

Almost all of the lawyers interviewed (5/6) have experience of both civil and criminal justice proceedings, while just one of the lawyers only has experience of civil justice. Most of the lawyers (4/6) have received training either on child hearing or child psychology, and half of them assess the quality of training as good. Two lawyers haven't received training specifically in relation to children. The training have been organised for example by different associations, universities and Forensic Psychiatry Centres.

The judges who work in expert-assisted judicial mediation are obliged to attend training on mediation. Moreover, most of the judges mention that the Ministry of Justice organises training on child hearing for judges. The quality of this training is considered to be good. Half of the judges wish for more training in relation to children in proceedings. All of the judges interviewed work with civil proceedings; in addition three of them have experience of criminal proceedings.

Most of the social workers have received some training on child hearings. Furthermore, there is a one-year training for social workers organised by the family law matters unit of Helsinki in cooperation with the University of Helsinki. The training was initiated in 2011 and it consists of theoretical lectures and work-shops for example on child hearing and judicial matters. This particular training is considered to be of a good quality.

A social worker from the metropolitan area says that the municipalities constantly organise training for the social workers. However, it depends a lot on the municipality and its resources how much and what kind of training is available. Both social workers interviewed from outside the metropolitan area wish for more training. One social worker wishes for more training in work practices, so that they would become more uniform. She says that there are different kinds of training days arranged annually (e.g. private care days, the child welfare days), which have different kinds of workshops, where you can discuss with professionals from different fields about new methods or work practices.

Most of the social workers have cooperation with each other, for example in meetings between social workers from different municipalities. Two social workers from the metropolitan area criticise the cooperation with the judges. There is not enough understanding of each other´s work. Moreover, the communication with the judges is usually conducted in writing. The guardians working only in civil proceedings wish for more cooperation with the court, whereas two social workers say that they have regular meetings with the court. The social workers are also in contact with day care centres and schools and the police.

Most of the lawyers have at least some cooperation with the judges, prosecutors and the police. Half of the lawyers feel that the cooperation with social workers is problematic; two of the lawyers mention specifically that it is difficult to get information from the social workers.

Most of the judges have contacts with lawyers and prosecution services. Moreover, the majority of judges cooperate with social workers. Only one of the judges finds the cooperation problematic due to lack of human resources. Two judges mention that they can't have much cooperation with other professionals, because they can't be influenced by others during the judicial proceedings. Moreover, two social professionals make the same remark about judges. However, both of these judges think that training is a good forum to meet other professionals. Two judges say that judicial proceedings are very sectored and there is not enough information flow between the professionals.

2.3.3 Concluding assessments on training and cooperation of professionals

Almost all of the interviewees have participated in training and most on more than one occasion. The length and the type of training vary a lot, the most common types being social/psychological, child related and procedure/method training. The interviewees don't criticise the quality of the training, some only wish for more training and in specific themes.

Criminal justice

Most of the police officers and psychologists working in criminal proceedings have attended one-year training on child hearings. The majority of the psychologists and half of the police officers mention having cooperation with each other. Moreover, most of the psychologists and prosecutors cooperate with each other. Furthermore, the majority of police officers and prosecutors have cooperation with each other, and some prosecutors also attend the training organised by the police. Most of the prosecutors, police officers and psychologists cooperate with social services. Moreover, there is a lot of cooperation between guardians and different institutions, for example police, magistrate office, social welfare as well as lawyers, some of the cooperation is linked to training.

Civil justice

Most of the lawyers have received training on working with child cases and they cooperate with judges, prosecutors and the police. Half of the lawyers feel that the cooperation with social workers is problematic, two of the lawyers (and one psychologist in criminal proceedings) mention specifically that it is difficult to get information from the social workers. Moreover, two judges feel that there are problems in general with the information flow between professionals. Most of the judges mention training organised by the Ministry of Justice on child hearings. The majority have contacts with lawyers or prosecution services. Furthermore, most of the judges cooperate with social workers. Most of the social workers have received some training in child hearing. Some guardians and social workers wish for more cooperation with judges. Hence, the most problematic issues seem to be the information flow between different authorities and the cooperation between lawyers and social workers and social workers and judges.

Future projects

Administrative court judge says that the Ministry of Justice is currently planning with the University of Helsinki and a very broad-based group a training programme, which would last over a year and consist of about ten lectures. The training will require quite a lot of commitment and time from the attending judges, prosecutors and lawyers.

2.4 Horizontal issues

2.4.1 Discrimination

Children's right to be heard is not fully realised in all parts of the country and for all children with special needs. The ethos of equal treatment is very prominent among Finnish authorities, and many interviewees found it hard to discuss discrimination issues, simply passing them off by referring to the principle of equality. When asked about discrimination, many interviewees say that children are equal and that the child's background does not affect the child's ability to participate in legal proceedings. However, many did have specific examples of problematic situations concerning children with disabilities, children from multiproblem families or children with immigration background.

Disabled children's special needs are not always adequately taken into account in legal proceedings. There is no way to conduct a hearing if children do not have the linguistic capabilities to express themselves. The hearing of the child might be renounced, if according to the documents, or the child's diagnosis, the child might have attention deficit disorder, or is unwilling to be heard. Children with disabilities are more vulnerable to sexual abuse and assault, but their cases are more difficult to investigate, which puts them in an unfortunate position in terms of legal protection. The police asks for specialised help if a child has special needs that they do not have expertise on, and the police station spaces are usually but not always made accessible for disabled persons. Children with more severe developmental issues are directed to the Forensic Psychiatry Centre to be heard. However, a police officer feels that currently the personality of the investigating officers affects the way they consider and understand a child's special needs, and thus suggests more regulation and common practices in order to guarantee equal treatment.

It is difficult for professionals to assess how children understand the proceedings and information provided to them if there is no common language with the interviewer, especially if they have recent immigration background. In these situations an interpreter should be provided, but there are not always interpreters with the exact language skills available, especially in the more remote areas. Interpreters do not necessarily have legal training, and it is difficult to adequately monitor what is being said when an interpreter is used. Sometimes children end up acting as interpreters for their parents, as they have better skills in Finnish, and many interviewees condemn this practice. An interpreter interviewed suggests that sometimes interpreters

are not used in order to save resources, even when the child does not have adequate language skills. This certainly creates an unequal situation for the children involved.

There are several cultural challenges in hearing children with immigration background or from national minorities. A good practice when interviewing children with an unfamiliar cultural background is to turn to cultural professionals, for example researchers, to get correct background information before a hearing. There is likely to be underreporting of abuse and sexual abuse cases when the victim is a child with immigration or minority background. Bringing up sexual abuse might be a bigger problem in families with immigrant background or minority children. An interviewee mentions that sexuality is a taboo issue for the Roma, and Roma children rarely bring up cases of sexual abuse as there is fear of being condemned by the community. A guardian finds that there is not enough expertise in Finland to work with children with different cultural backgrounds. Children should have a right to preserve their culture and language, but it is often challenged in child welfare cases when children are taken into care. Recently immigrated parents who do not have an established position in the Finnish society do not necessarily trust the authorities, which can be the case with asylum seekers for example. Furthermore, a legal decision made against the parents' cultural values can be very difficult for them to accept.

In conclusion, discrimination is not seen as a major issue among the interviewees, but there are clear areas of improvement. There should be more established practices and clear guidelines in hearing children with immigrant background and children with disabilities in order to avoid unequal treatment depending on the child's place of residence and the professionals working on the case. It would be important for all professionals to understand that ensuring equal treatment for all children also requires acknowledging and addressing children's special needs.

2.4.2 Best interest of the child

The child´s best interest is a combination of what is considered to be in the children's best interest in general and a particular child's best interest in a certain situation. In criminal cases, the professionals might have to balance between the need to solve a crime and the child´s best interest. One has to assess whether the case can be proved in court and what is the effect of the child hearing on the outcome, whether it is worth putting the child through the process. The child´s age and development level must be taken into consideration when deciding what is in the best interest of the child, and the hearing should never cause the child harm. One police officer says that the child´s best interest is that information is received, so that the child can be helped. The most important thing is that the child is safe and he/she gets help, the judicial proceedings only come second. One judge says that it is the child´s best interest (in sexual offences) that the child gets reconciliation and the offenders are punished for the crime.

Some interviewees do not believe that the child's best interest is met in the proceedings. In custody disputes the parents argue about their own rights and forget about the child. One interviewee even feels that in criminal proceedings, the defendant's rights often overrule the child's rights. In custody disputes one must be careful not to put the child into a situation where he/she feels that he/she has to choose between the parents, while keeping in mind that the child´s best interest is not always the same as the child's own wishes.

Always in a decision to take a child into care one has to consider whether it's in the best interest of the child, even if the prerequisites for it are met. Child´s possibilities to succeed in the future must be secured: one has to take into consideration, for example, where the child could finish his/her school. Moreover, it is important to consider, where the child would have at least one firm emotional bond. Furthermore, the child´s best interest is that the security and some kind of relationship with a parent are restored. As one interviewee put it, very often the court has to choose the smaller evil when there's no good solution.

With regard to child's right to be informed, it is in the child's best interest that the information that is given to the child is in accordance with his/her age.

2.4.3 Differences and similarities in regional, national and international context

Child hearing is something rather new in the judicial culture of Finland. Hearing children in courts is not a generally accepted practice, and it's not as prominent in all parts of the country. This has been discussed a lot in the network of judges all around Finland.

At the moment the specialisation at the judiciary is very low, which is a problem in Finland compared to other countries in Europe where there are family laws or judges who only handle child cases. According to a district court judge the problem is that Finland is a small country where this kind of specialisation is almost impossible. This could maybe be possible in the metropolitan area, but impossible at the provinces where the district courts are very small and the resources scarce. This would also create inequality in the country if some areas would have more specialisation than others.

A social ombudsman interviewed finds it strange that for example in Helsinki guardians are not appointed, although in the legislation it is specifically said that guardian must be assigned to the child in certain circumstances.

The publicity of legal processes is quite different in Finland than in many other countries. Trial documents are public by rule unless concealed. Act on the Openness of Government Activities (laki viranomaisten toiminnan julkisuudesta / lag om offentlighet i myndigheternas verksamhet 621/1999) prescribes information that should be concealed, documents and medical certificates for example. Trial can be conducted as a closed session if requested, however this is rare.

A judge interviewed thinks that Nordic countries are ahead of the rest of the Europe in child issues, as well as in how to protect children during legal proceedings. The Finnish system in which an outside expert hears the child has been approved by the European Court of Human Rights. In the Finnish system, a child is very rarely an active, individual actor in the course of court proceedings when it comes to custody disputes, because the child is not an official party to the proceedings like the parents/custodians are.

International custody disputes are especially difficult as the practices differ even within Europe, for example there is no family circumstance assessment in many countries. One judge criticises the authorities, even within EU, as the co-operation is often difficult or non-existent. For example, there is no family circumstance assessment in France and when there was a custody dispute between a French father and a Finnish mother the father was heard by the police in France as the child and the mother were heard together by the social workers in Finland. In this case the decision had to be made with information that varied a lot between the countries which made it very difficult. A social worker says that that it is a big disparity between the parents if the other parent and the children are heard in Finland and the social worker has visited their home and the other parent is only heard via telephone, if even that. Sometimes, if it has been impossible to reach the other parent, so then his/her circumstances might not be assessed at all. It depends a lot on the country and the authorities what kind of executive assistance they will offer.

One judge suggests that there could be a family court of even a child court in Finland that would only handle family matters or child crimes, as there has been good experience on family courts from other countries. However, many judges disagree on that.

2.5 CoE Guidelines

Only 8 of the interviewees reported that they were familiar with CoE Guidelines: 3 of them were legal, 5 of them social professionals. 12 of the legal professionals and 5 of the social professionals said that they had only heard of them but had not read them. Of the interviewees who had never heard of them 15 were social professionals and 10 legal professionals. One could say that legal professionals were slightly more familiar with the guidelines, however more social professionals than legal professionals knew them more profoundly.

Only few interviewees have applied the guidelines in their work. Two interviewees say that the content of the guidelines is already well applied in Finland, one thinks that they are a good starting point to developing practices and one interviewee says that the guidelines are part of the recent legal reform. However, one interviewee says that they are not well applicable in Finland. Two interviewees mention that the guidelines are useful in defining the role of the children and children´s rights in legal proceedings.

In conclusion, the guidelines are only applied by three interviewees in their own work; in addition, only three interviewees think that the guidelines are applied in a wider context in Finland.

3. CONCLUSIONS

3.1 Overarching issues

It is always a challenge to make legal proceedings child-friendly, as no child benefits from having to participate in a legal process. However, taking children's need into account when conducting hearings and properly informing children, can considerably reduce stress, anxiety and uncertainty during the proceedings. All interviewees agree that child hearings are confusing for children, but many mention that at the same time, a hearing can be a positive experience: children get a chance to express their opinions and talk with an adult about difficult things that have in some cases burdened them for a long time.

There are major differences in the way children are heard in civil and criminal proceedings. In criminal proceedings in which children are victims, the child's statement is often crucial evidence, and a hearing's importance is easy to pinpoint. Child victims' statements have a lot of weight and greatly affect the outcome, and the importance of conducting these hearings professionally is recognised by all professionals with experience in the criminal field. However, children are easily prompted and a statement's credibility easily impaired by an unqualified or an unprofessional interviewer. Almost all interviewees have participated in training, and assess that the training is of good quality, but many recognise the need for getting more training.

Parents have a great influence on children, both in a positive and in a negative way. Many interviewees from both civil and criminal fields mention how some parents pressure and manipulate their children and try to influence what they say during a hearing. However, parents are relied upon to inform their children and act on their best interests. Children are very loyal to their parents: in criminal cases children often find it difficult to say something that might harm the parents, and in child welfare cases children almost always would prefer to live with their parents. Family life and child-parent relationships must be protected and adequate services provided to guarantee a child's right to have a relationship with the parents even in these difficult situations.

There are few guidelines and national protocols on child hearings in Finland, and thus a lot of variation in practices between municipalities. This puts children in an unequal position depending on where they live. The training on child hearings is of good quality in general, but more training should be available to all professionals. The police provides training in child hearings for investigating officers, but there are not enough trained police officers to conduct all child hearings, especially in smaller municipalities. The practices of child hearings conducted by the social services are very different from the practices of the police or the Forensic Psychiatry Centres, who apply the latest research data in their interviewing methodology. These methods should be introduced in all institutions conducting child hearings.

The practices of appointing guardians and legal counsels for children vary greatly, and there is confusion on who is responsible for ascertaining that a child has appropriate legal representation. Many individual interviewees from different professional groups say that they have a practice of making sure that a child has a legal counsel at some point in the proceedings, but it is not clearly assigned as some party's responsibility. A child's right to legal representation should be more systematically realised.

The research sample in this project is not exhaustive and has its limitations, and thus the main findings of this project must be considered to be an analysis of the interviewees' singular points of view. It is difficult to draw exact conclusions about regional differences for example, but it is safe to say that these differences exist. Furthermore, many themes and issues clearly recur in the interviews, and there is enough regional and professional variation among the interviewees to draw a general picture of how child hearings are conducted in Finland.

3.2 Research

Many of the interviewees find it an interesting idea to conduct further research and interview children with experience on legal proceedings. They believe that it would give valuable information and that it would be a good experience for some children to participate in such research. It is also seen important that children's own opinions and experiences would be found out.

However, many interviewees warn that such research could traumatise children as they should once again recall the issues that were dealt with during the court proceeding. Some say that it depends on the nature of the case, sexual assault cases should be left out of the research. Some say that they would not suggest it to their own clients. Most of the interviewees find that it would not make sense to interview very young children.

The research should be done in a correct way and very carefully. It could be done by someone close to the child. Some interviewees think that it would be acceptable to do such research, if the children were interviewed almost immediately after their hearings.

Many interviewees wonder how to contact children who have participated in proceedings, especially if the case has been heard behind closed doors, as is usual in sexual abuse cases. However, the interviewees have many ideas about how to find such children:

- through advertisements in newspapers
- through the websites of different associations or municipalities
- through ombudsmen
- through guardians
- through lawyers
- through residential institutions
- through social workers (an official research permit would be necessary)
- through public court decisions
- through courts, by delivering information about the study during proceedings

The children should not be contacted personally, but through their parents, who should give their consent. Children themselves should also be willing to participate.

ANNEXES

Documentation

Quotes

- “Yes, in my opinion the police has […] tried to make [the hearing situation] as easy as possible. And for example if it’s a sexual crime, which the adolescents find difficult to talk about any way, then the police says, tells about her/his own background. For example that she/he has investigated this type of crime for years and there’s no need to worry about being ashamed to say something that it’s her/his work and she/he has heard all sorts of things and is used to hearing them.”

- ” I think it is important especially in relation to those things, […] which have a direct effect on the child´s life and quality of life and future and the situation. Let´s say that there is a suspicion of an abuse and a police inquire has been carried out […] that the hearing has been done and it is already a thing in the past, so then it´s not, hearing the child again might do more harm than good, but then if it´s about the child´s living arrangements and the right to meet his/her parents or his/her placement or taking in the care […] or the right to live with the parent.”

- “I too would consider it really important that all the attorneys who are handling the matter would be present in the hearing with the child, in other words the attorney for the child as well as the defendant and then also, the representative of the judicial system, ie. the prosecutor at this stage. [...] The judge can't be there but, that in addition to the police the prosecutor would be there as often as possible. The child is the most important witness for the prosecution as well. And it's peculiar if the prosecutor doesn't ask a single question from the most important witness.”

- Then, if I may blow my own trumpet despite being Finnish, when I look at this internationally, how these things are investigated. How the hearings with children are conducted, the instructions that we have in Finland.. bears comparison internationally in that it's based on empirical research, and the methods that are most researched, and that have the most scientific proof. There we do have, at least an evidence-based practice that is well used. And testing the hypothesis, a scientific, transparent way of thinking. And practice, that's pretty unique too, from what I've seen of other systems in use out there. And having the recommendation be in use more or less nationwide, everywhere, that too.”

- ”[…] the experts have said that the child is no poorer party to be heard than an adult. Basically, the child doesn’t, some even say that the child is a better party to be heard, because basically the child doesn’t lie in the same way as an adult.”

- “If I think about the the judicial process the judge´s actions, when he/she sees that the child is having a hard time in that situation, that he/she should have some kind of understanding for the child, that this is a difficult situation, and that one can get nervous, and some kind of calming talk and a break could be offered during the court session, well some judges do act a bit like this, but it depends on the individual judge, that in what way they take these things into account.”

- “Previously it was thought [...] that the child should only be heard once, that everything else is harmful for the child, but now we know according to new research that the child should always be heard at least twice, because a person’s memory just works that way that different things come to mind in different times, and if it has been long since the incident took place, the memory can pick up and so on. And then, I have to say from experience, that with some children, they just feel so nervous about the first meeting that they can be a lot more relaxed during the second meeting.”

- “Then comes the hearing exercise, which is some event, something that the child has participated in and what s/he hopefully remembers. Here often they have been in a children's zoo, so we want to ask about it. For example, please tell about the pigs you saw there, tell from the beginning to the end, what happened. This prepares the child to this interview, and on the other hand s/he learns to tell a story, and we can evaluate how well s/he is able to tell about an incident.”

- “We have been thinking a lot about, […] if the child is to be heard and what the grounds should be […], is it probable that judicially relevant information can be obtained from the child and is it then in the child’s best interest to put him/her through this process?”

- “Of course you can’t secure, that it [information] always creates security, that quite on the opposite it can even create more anxiety. In a way we shouldn’t think it too much as adults, that children must be protected. Of course you inevitably have to think of that element too, that is the function of protecting the child more important than the function of the child being part of the process. [...] But then again if you only tell about the process and how it’s going to go there can’t ever be any harm in that.”

- “The specialist member usually always first ask how the child is doing now, and where the child lives at the moment, and where the child goes to school, and how the child is doing in the school, and who else live in the same place as the child, and in a way very everyday kind of questions. And then he/she approaches the matter telling the child that what the matter involves: whether the child should live with the father or the mother, or with the mother, or then in the children’s home where the child has temporarily been, and how has it been going there, and what… But that, the specialists also do ask about the family circumstances or about how, who do you think, who is the boss at home, or such things.”

- “I kind of think that, that they are really confusing for the children. […] for the children it must be hard to understand that it´s about some process, which has been going on for a long time, that maybe for the children the meaning of the session is somehow quite hard to perceive.”

- “Yes we tend to always explain the child for example that “you are an involved party with a right to speak, and you can be present if you want to. You can pose questions to others and they can question you. But you are not obliged to be here for example, and you can leave at any given moment.”

- “Others are very brave in the hearing, and don’t ask for any special arrangements, they tell very bravely and wonder why everybody is so astonished about the whole thing, what all the hassle is for. [...] Then others can’t even open their mouth, and we have to have breaks, and then in some situations we have to use the pre-trial report, in the situations where the child just can’t get his/her

mouth open. Then the prosecutor or the attorney has to help them by saying, 'now, you've told in the pre-trial report this', and this way try to move the narration forward.

- "Well, the child has to have some sort of understanding why he/she is here. It doesn't go like that, that now you're here and this lady is going to make some questions, or this man; you have to know what's going on."

- "The purpose is not to withhold information, but […] the kind of information that can be dealt with and that is relevant in the matter, not something unnecessary, it should be avoided, a kind of mud-slinging or […] that somebody familiar or the child is talked ill of, there can be kind of tough assessments about the child too, so it is not nice to read those."

Tables

Table 1: Research sample (Gender, location, age group)

	Gender		Location		Age Group			
Professional Group	Male	Female	Rural/small municipality	Urban/big cities	< 45	45-65	> 65	Total
Legal								25
Criminal	2	9	3	8	8	3	-	11
Civil	1	5	-	6	1	5	-	6
Both areas	1	7	1	7	2	6	-	8
Social								25
Criminal	2	4	1	5	5	1		6
Civil	2	9	1	10	4	7	-	11
Both areas	-	8	4	4	2	6		8
Mixed								
Criminal	-	-	-	-	-	-	-	
Civil	-	-	-	-	-	-	-	
Both areas	-	-	-	-	-	-	-	
All professionals	8	42	10	40	22	28	-	50

Table 2: Interviewees' familiarity with CoE guidelines:

Ad CoE guidelines:	**Familiarity with Guidelines**			
Profession	Familiar with CoE guidelines	Just heard of them/somehow familiar	Never heard/not familiar	Total
Legal				
Civil	2	3	3	8
Criminal	1	6	4	11
Both areas	-	3	3	6
Social				
Civil	3	3	2	8
Criminal	1	-	7	8
Both areas	1	2	6	9
Mixed				
Civil	-	-	-	-
Criminal	-	-	-	-
Both areas	-	-	-	-
All professionals	8	17	25	50

Table 3: Training Participation of Interviewees:

	Training Participation		
Profession	no	yes	Total
Legal			
Civil	1	7	
Criminal	-	11	
Both areas	1	5	
Social			
Civil	1	7	
Criminal	1	7	
Both areas	2	7	
Mixed			
Civil	-	-	
Criminal	-	-	
Both areas	-	-	
All professionals	6	44	50

Table 4: Type of Training received by Interviewees:

	Type of Training				
Professional Group	Legal	Social/ psychological	Specific justice issues	Specific child issues	Methods/ procedures
Legal	2	17	5	17	12
Social	5	12	-	11	15
Mixed	-	-	-	-	-
All professionals	7	29	5	28	27