

## Comparative Summary of Child-Friendly Justice – Bringing Together the Threads

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### 1. Setting the Scene

The examination of children's rights is of paramount importance, as children require increased protection due to their vulnerability. However, it is equally important to recognise that children are also participants in social and legal processes as legal entities. In recent decades, there have been significant developments in international law, particularly with regard to the UN Convention on the Rights of the Child, which has been widely ratified. These developments have had a considerable impact on national legal systems. The objective of this chapter is to provide a synopsis of the examination of the legal frameworks of the countries included in the book. The study pays particular attention to the extent to which children's participation rights are reflected in the text of constitutions and details children's participation in civil, administrative, and criminal court proceedings. This is of particular importance, as it is an essential means for children to express their opinions and participate in order to ensure that their interests are effectively taken into account in judicial and administrative proceedings.

### 2. Brief International Overview

International and European Union conventions and treaties represent a significant component of the legal framework of the countries examined in the book. The UN Convention on the Rights of the Child (CRC) represents the most widely ratified

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human rights convention in the world, encompassing the rights of children, with particular regard to their situation and vulnerability. Article 12 of the Convention constitutes the foundation for child-friendly justice, thereby establishing the basis for the participation and rights of children in civil, criminal, and administrative proceedings. The present article provides a comprehensive overview of the legal and social status of children. It is important to note that, while these individuals do not possess the same level of autonomy as adults, they are nevertheless recognised as legal entities. Article 12 is notable for its introduction of a new right into international human rights law. This right is to express one's own views, a right that is guaranteed to every child capable of forming their own views. Furthermore, the right stipulates that these views must be given due weight in accordance with their age and maturity. Article 12 stipulates that States Parties must guarantee that children, who possess the capacity to formulate independent opinions, are granted the opportunity to articulate these perspectives in all matters that concern them. Furthermore, it is imperative that these views are accorded appropriate weight, commensurate with their age and maturity. The rejection of age limits necessitates the acknowledgement of varied modes of communication, as conventional forms of verbal communication may not wholly represent the perspectives of younger children or children with severe disabilities. It is insufficient to merely listen to the child; their views must be given serious consideration.<sup>1</sup> Article 12(2) stipulates the right of the child to be heard in any judicial and administrative proceedings affecting them. This provision finds application in a variety of contexts, including but not limited to decisions pertaining to parental separation, guardianship, care, adoption, and so forth. The right to be heard can only be exercised in an environment that is safe and appropriate for the child's age. It is imperative that procedures are accessible and child-friendly, with particular attention paid to the provision of child-friendly information, support, appropriately trained staff, the design of courtrooms, and so forth.<sup>2</sup> It is important to acknowledge that Article 3 of the CRC is designed to ensure the optimal welfare of the child. Furthermore, Article 12 outlines the procedure for soliciting the opinions of children and ensuring their involvement in all matters that affect them, including the determination of their best interests. The principle of non-discrimination is also closely linked to Article 12, as every child must be guaranteed the right to express their views and be heard, regardless of their age, religion, skin colour, gender, race, etc.<sup>3</sup> Article 13 of the CRC is a fundamental component of the international legal framework that guarantees the freedom of expression of children. It is important to note that articles 12 and 13 are often confused with each other. Article 13 stipulates that the state is required to adopt a passive approach, that is to say, the state is prohibited from interfering with the expression of children's opinions. Conversely, Article 12 stipulates that States Parties must adopt an active approach and establish a legal

1 Benyusz, 2025, pp. 205–209.

2 Ibid., pp. 209–210.

3 Ibid., p. 212.

framework and appropriate mechanisms to facilitate the involvement of children in all measures and decisions affecting their lives. Moreover, the right to information, as outlined in Article 17, is a prerequisite for the effective exercise of the right to express an opinion.<sup>4</sup>

Alongside the primary source of law, the CRC, general human rights treaties, such as the European Convention on Human Rights, play a significant role in Europe. Article 19 of the European Convention on Human Rights (ECHR) established the European Court of Human Rights (ECtHR), which plays a significant role in the protection and promotion of children's rights. The Court has an increasing impact on the development of children's rights in Europe. The ECtHR has interpreted the ECHR as applying to children, despite the fact that it contains few specific references to children's rights.<sup>5</sup>

All Member States of the European Union and all member states of the Council of Europe are parties to the CRC. The guiding principles of the CRC, such as the principle of the best interests of the child, non-discrimination, the right to survival, and the right of the child to be heard, are therefore applicable. The Council of Europe considers the protection of children's rights and the promotion of child-friendly justice to be a priority. In alignment with the principles of the CRC, the organisation has incorporated these rights into its various conventions, action plans, guidelines, and manuals. The Committee of Ministers has assigned responsibility to four Council of Europe bodies for the development of guidelines on child-friendly justice. The guidelines were developed in close cooperation with the 'Building a Europe for and with children' programme. The Council of Europe initiated this project in 2008, and it was subsequently endorsed by the European Committee on Legal Cooperation. Following this, it was presented to the Committee of Ministers for adoption in 2010. At the policy level, the Council of Europe has been implementing the 'Building a Europe for and with children' programme since 2006. This is a comprehensive action plan involving national governments, civil society, the European Union, and other international organisations and stakeholders. The Council of Europe's intergovernmental work in the field of children's rights is guided by successive strategies on children's rights. Furthermore, in order to consolidate the rights of children within all justice systems, the Council of Europe has published a handbook entitled *European law relating to the rights of the child*, which provides an overview of the fundamental rights of children in the European Union and the member states of the Council of Europe.<sup>6</sup>

As a result of high mobility and population movements, citizens of individual countries have many opportunities to work in other countries, integrate into new environments, and start families. Consequently, it is imperative to ensure legal certainty for children from international families. Such situations are addressed by the 1996 Hague Convention, which deals with a range of issues including jurisdiction,

4 Ibid., p. 216.

5 Tóth, 2025, pp. 231–233.

6 Ibid., pp. 233–236.

applicable law, recognition and enforcement, and cooperation in relation to parental responsibility. The 1980 Hague Convention on the Civil Aspects of International Child Abduction is also applicable in this context.<sup>7</sup>

In addition to the aforementioned, it is also important to mention the Charter of Fundamental Rights of the European Union as primary EU legislation. In accordance with Article 24, which pertains to the rights of children, it is asserted that children are entitled to the requisite protection and care that is indispensable for their well-being. It is crucial to acknowledge the right of children to articulate their perspectives on issues that impact their lives. Their views must be given due consideration, taking into account their age and maturity levels. It is important to note the EU Strategy on the Rights of the Child, which was adopted in 2021. It is imperative to acknowledge that policies pertaining to children ought not to be formulated without duly considering the perspectives of children. This principle is further reinforced by the Strategy on the Rights of the Child, which sought to incorporate the voices of over 10,000 children through various means of consultation, including online questionnaires. The fourth thematic area of the EU strategy is child-friendly justice, which describes how children can participate directly in court proceedings as defendants, victims, or witnesses. This will be explained in more detail later with regard to individual countries.<sup>8</sup> In 2024, the Council of Europe and the European Commission initiated a project on child-friendly justice. The objective of this project is to develop child-friendly frameworks with the aim of raising awareness among children involved in legal proceedings and their parents about children's rights before, during, and after court proceedings. It is important to note that the Brussels IIa Regulation, which contains a number of innovative provisions, merits particular attention. The Regulation adopts a markedly child-centred approach, which is significantly more effective than that of the Brussels IIa Regulation.<sup>9</sup>

### 3. The Constitutional Protection of Children's Rights

As the constitutions of individual countries provide the legal framework for all national legislation, it is imperative to examine whether the constitutions of the countries under review guarantee children's participation rights at the constitutional level. The constitution is regarded as the supreme norm within the legal system of a given state, serving not only as a guideline for values and legal policy, but also establishing the fundamental principles to which all other legislation is required to conform. The constitutional recognition, or lack thereof, of children's participation rights is therefore not merely of declarative significance, but also defines the framework for child-friendly justice. In the following review, the constitution of each state

<sup>7</sup> Tomczewska, 2025, p. 270.

<sup>8</sup> Wopera, 2025, pp. 306–308.

<sup>9</sup> Wopera, 2025, p. 309.

will be examined, country by country, to ascertain how and to what extent children's participation rights are guaranteed.

The Hungarian Fundamental Law does not provide for children's rights in general, but rather for their right to protection, stating that every child has the right to the protection and care necessary for their physical, mental, and moral development. The Fundamental Law provides specific protection for designated groups, including families, children, women, and individuals with disabilities.<sup>10</sup> A distinctive feature of the Hungarian Fundamental Law is that it specifically names children as one of the groups in need of protection and guarantees them the right to the care and protection necessary for their physical, mental, and moral development. This regulatory framework imposes a significant obligation on the state, yet it exhibits a lesser emphasis on children's autonomy and participatory rights when compared to the Slovenian model, and it adopts a less comprehensive approach to fundamental rights in contrast to the Czech system.

A perusal of the Constitution of the Slovak Republic reveals the absence of any explicit reference to the right of minor children to judicial protection or to express their opinion or be informed in court proceedings. The sole reference to minors stipulates that special protection for children and young people is guaranteed, yet the detailed rules must be established by law.<sup>11</sup> In essence, Slovak constitutional law enumerates children among the groups that are entitled to special protection. However, it does not establish any independent participation or procedural rights for them. Consequently, the practical enforcement of children's rights is primarily delegated to lower-level legislation.

The Constitution of the Republic of Croatia, in a manner analogous to the Hungarian constitution, makes reference to children's rights in generic terms. However, in a manner similar to the Slovak constitution, it remains silent on the question of children's rights to participate in court proceedings.<sup>12</sup> Consequently, it can be deduced that Croatian constitutional law embodies a median stance, as it expressly acknowledges children's rights as a distinct constitutional realm, yet derives the particulars of participation rights exclusively from general human rights guarantees and international conventions.

As with the Croatian Constitution, the Serbian Constitution does not contain explicit provisions on children's participation rights. However, it does stipulate that children enjoy human rights in accordance with their age and maturity.<sup>13</sup>

The right of children to be heard is enshrined in the Polish Constitution as an independent constitutional value, which derives from the right to human dignity that is inherent to all people. The concept of dignity serves as the foundational principle underpinning all forms of freedom and rights, including the right to freedom of

10 Nagy, 2025, pp. 83–85.

11 Koromház, 2025, pp. 157–158.

12 Kunda and Smojver, 2025, pp. 23–24.

13 Knežević, 2025, p. 141.

expression. The right of children to express their views in matters affecting them is therefore guaranteed by the Polish Constitution, which universally guarantees freedom of expression to all people. The Constitution expressly stipulates that when determining the rights of the child, the authorities and persons responsible for the child have a duty to listen to the child and take their views into account as far as possible.<sup>14</sup>

Romania explicitly recognises at the constitutional level the right of children to special protection and participation, which is elaborated in detail in child protection laws.<sup>15</sup>

By contrast, Czech constitutional regulations are much more restrained in the area of protecting children's rights than the solutions adopted by the other countries examined. Despite the fact that the Czech Republic is a signatory to numerous international treaties and human rights conventions that stipulate or reinforce the protection of children's rights, and these form part of the domestic legal system, the text of the constitution does not contain any explicit provisions on children's participation rights. The general provisions of the Czech Constitution, which include the right to a fair trial and equality before the law, apply to all individuals, including children. Moreover, the practice of the Czech Constitutional Court substantiates the notion that these guarantees are applicable to children in full.<sup>16</sup>

The French Constitution does not contain any explicit provisions pertaining to the participation of children in individual proceedings. However, it is important to note that the constitutional principles of the French legal system, such as the presumption of innocence and the principle of adversarial proceedings, apply universally to all persons, regardless of age. Consequently, children are entitled to the same fundamental legal guarantees as adults. The constitutional recognition of children's rights has been confirmed in judicial practice, thereby establishing the specific nature of the criminal justice system for minors.<sup>17</sup> Consequently, constitutional protection of children in France is implicitly implemented through general principles and the interpretative practice of the Constitutional Council. In terms of participatory rights, it offers weaker guarantees than those enshrined in Czech legislation.

In contrast to the above, the Constitution of the Republic of Slovenia provides particularly robust and intricate constitutional protection of children's rights, which extends beyond the framework of the general catalogue of fundamental rights. It is evident that a number of provisions within the Constitution are explicitly designed to safeguard the well-being of children and young people. These provisions impose active obligations on the state, compelling it to protect its most vulnerable citizens and to establish the necessary conditions to ensure their protection. The Slovenian Constitution stipulates that children are to be accorded specific protection and care,

14 Lis, 2025, pp. 105–107.

15 Fegyveresi, 2025, p. 125.

16 Kissová, 2025, pp. 43–44.

17 Nord-Wagner, 2025, p. 65.

and that their human rights and fundamental freedoms are to be determined by their age and maturity. It is imperative that children are accorded special protection against the economic, social, physical and mental exploitation and abuse to which they are vulnerable. It is particularly noteworthy that the state provides special protection to children who are deprived of parental or family care.<sup>18</sup> The Slovenian Constitution provides stronger guarantees than the constitutions of many other Central European countries, as it treats children's rights not merely as an adjunct to parental rights, but as a separate and priority area of protection.

It can be concluded that the depth of regulation and the scope of guarantees provided by constitutions vary from country to country. While certain states ensure children's rights through detailed and explicit provisions, others rely more on general human rights frameworks and ratified international conventions. In summary, it can be stated that the constitutions of the countries examined – with the exception of the Constitution of the Republic of Slovenia – rarely contain explicit and detailed provisions concerning minors. Rather, specific rules concerning minors are defined within the framework of general human rights guarantees or other legislation, such as family law, civil procedure law, criminal procedure law, or child protection laws. However, despite the absence of explicit mention in constitutions, the right of children to participate in court proceedings is widely considered to be constitutionally guaranteed. This is due to the fact that the rights of children are widely regarded as a subset of human rights, the legal protection of which is enshrined in the constitutions of nations.

#### **4. The Participation of Children in Legal Proceedings**

As demonstrated above, while constitutions universally establish a human rights framework, the rights of children to participate are seldom articulated in a consistent and explicit manner at this tier. Instead, the regulations demonstrate a particular national diversity, with children's rights not being regulated by a single, comprehensive codified law, but rather included in various laws. It is evident that provisions for the safeguarding and involvement of children are dispersed across a range of legal domains, including family law, civil law, civil procedure law, criminal procedure law, education, health, and social legislation.

The realities of life demonstrate that children, like adults, can come into contact with the justice system in various ways. Children may be involved in a variety of legal proceedings, including civil (e.g., divorce of parents and the settlement of maintenance and contact rights, adoption), administrative (e.g., settlement of citizenship) and criminal proceedings. However, it is important to note that during such proceedings, children frequently lack the capacity to comprehensively grasp the legal processes that pertain to them or their own role in these processes. This underscores

18 Burkelc Juras, 2025, pp. 179–182.

the imperative for the justice system to adapt its operations to address the particular requirements of juveniles. Such adaptations play a fundamental role in ensuring that legal proceedings are conducted in the best interests of the child.

#### ***4.1. Participation of Children in Civil Court Proceedings – With Particular Regard to the Expression and Hearing of Children's Opinions***

Within the legal framework of Hungary, the fundamental principles of private law that pertain to minors are enshrined within the provisions of the Civil Code, specifically within the sections entitled 'legal entity' and 'family law'. The law stipulates that, within the context of family relationships, the interests and rights of children are to be accorded heightened protection. According to the Hungarian legal system, a minor is defined as any individual under the age of 18, unless they have attained the age of majority by entering into marriage after attaining the age of 16. It is an irrefutable legal fact that individuals under the age of 14 years are not legally capable, and that, upon reaching the age of 14, their legal capability is, to a significant extent, circumscribed. It is an incontrovertible fact that individuals below the age of 18 are under the supervision or guardianship of their parents. Parental supervision encompasses the legal responsibility to act as legal guardian for the child, as parents are entitled to represent their child in personal and financial matters by law. This signifies that the parent or guardian is entitled to instigate legal proceedings on behalf of the minor, and to act as their legal representative in court. Exceptions to this rule are cases where the interests of the parent and the child conflict. However, it should be noted that these regulations do not apply to the hearing of children in court. This is because the hearing represents an expression of the child's personal rights and is conducted by the child themselves in a court of law. It is imperative to acknowledge that a parent may not act as legal representative for their child in cases where the parent, their spouse, partner, close relative, or any other individual whom the parent legally represents, has interests that are in opposition to those of the child. In such cases, an ad hoc guardian is appointed for the child. The Hungarian Civil Code guarantees children's rights in several ways, one of the most significant of which is the involvement of children in decision-making, which is closely linked to their right to express their opinion. Parents have a legal obligation to inform their children of any decisions that may impact them. They must also ensure that children who are capable of forming their own opinions are given the opportunity to express these views prior to the decision being made. Parents are then required to take these opinions into consideration when making the decision, ensuring that it aligns with the child's age and level of maturity. Furthermore, the court is obliged to inform the child that they may express their opinion during the proceedings. In judicial proceedings, a range of notifications are employed, each tailored to the specific age group concerned. In the notice disseminated to children, the court informs them that they are at liberty to express their opinion in various ways (in accordance with Croatian regulations, this can be done in writing, by electronic message, video message, or even by drawing). It is possible for these to be dispatched to the court electronically, either with the assistance of parents



or independently, thus obviating the need for appearance in court. Hungarian civil law does not provide a definition for the concept of a ‘child with sufficient intellectual capacity’. However, according to court practice, in all cases where the child’s age is not a determining factor, the court is obliged to examine whether the child has sufficient intellectual capacity. In accordance with the pertinent legislation, a minor may be deemed to have sufficient intellectual capacity if, in accordance with their age and intellectual and emotional development, they are capable of comprehending the fundamental content of the facts and decisions relevant to their case, and can predict the probable consequences of these decisions. It is important to note that this is a subjective category, the existence of which must be decided by the court.<sup>19</sup> The Hungarian Code of Civil Procedure is the governing legislation that regulates the provisions relating to civil proceedings. In accordance with the provisions of this legislation, any individual who is capable of acquiring rights and obligations under the provisions of civil law is permitted to act as a party in court proceedings. In accordance with the stipulated regulation, the capacity for a minor to act as either plaintiff or defendant in civil proceedings is unrestricted, extending from birth until death. It is an essential prerequisite for a person to possess full legal capacity in order to participate as a party in legal proceedings, as stipulated by the rules of the Civil Code. In the field of civil procedural law, the concept of limited legal capacity is not recognised. Consequently, individuals under the age of 18 do not possess legal capacity, regardless of whether they have attained the age of 14. In such instances, the party concerned acts through their legal representative during the proceedings. In the absence of legal representation for the child, the court is obliged to appoint a notary public to act on behalf of the party. In legal proceedings pertaining to personal status, specific regulations are applicable to children over the age of 14, as they possess full legal capacity in such matters. The law does not stipulate an age limit for the provision of testimony, which signifies that minors under the age of 14 may also be heard in civil proceedings, provided that the evidence anticipated to be provided by their testimony cannot be obtained by alternative means. The presence of the legal representative is permissible during the hearing. It is imperative that warnings and information provided during the hearing are formulated in a manner appropriate to the age and maturity of the minor, ensuring that the content is suitable for children. It is not necessary for minors under the age of 14 to be informed of the legal consequences of providing false testimony; however, they must be instructed to tell the truth. In the event of a conflict of interest between the minor witness and their legal representative, the court shall request the appointment of a guardian to exercise the rights of the legal representative by the guardianship authority. Should the court deem it appropriate to hear the child as an interested party, it shall, where justified, appoint a notary public for the minor *ex officio*. It is vital to ensure that the minor is provided with a hearing in an appropriate atmosphere, taking into account their age and maturity, and that this is conducted in a child-friendly manner. At the commencement of the hearing, the

19 Nagy, 2025, pp. 91–93.

minor is to be requested to state their name, place and date of birth, mother's name, and address. It is imperative that these individuals are made aware of their right to refuse to testify or answer certain questions, and that they are reminded of their right to do so. The minor is heard by the judge; prior to the hearing, the parties may submit questions, the admissibility of which is decided by the judge. Following the conclusion of the hearing, the statement documented in the written minutes is to be read out or the audio recording is to be played in the presence of the minor. Thereafter, the minor is permitted to amend their statement or augment the information they have provided. It is important to note that Hungarian courts have child interview rooms where minors are interviewed by the court in a child-friendly environment. It has been observed that children under the age of 8 and 10 are typically interviewed in these rooms, while older children are interviewed in the courtroom.<sup>20</sup> It is imperative that the direct hearing of the child is conducted with consideration for the child's age and level of maturity. It is evident that the communication methods employed for young children differ from those utilised for teenagers. Furthermore, the court may elect to hear the minor in conjunction with an expert, in which case a judicial expert is appointed and the court must pose questions to which the expert must respond.<sup>21</sup>

In Slovenia, the position of children in civil and non-contentious proceedings is contingent on the provisions of three sources of law: the Civil Procedure Act, the Non-Contentious Civil Procedure Act, and the Family Law Act.<sup>22</sup> Children attain full legal competence at the age of 18, or earlier in exceptional cases, for example, if – as in Hungarian, Slovak, and Croatian legislation – the child marries or is granted full legal competence by the court because they have become a parent (the latter is analogous to Croatian legislation).<sup>23</sup> It is important to note that children who have reached the age of 15 have limited legal capacity. In accordance with Hungarian legislation, the legal representation of children is provided by their parents or guardians until such time as they attain full legal capacity. In civil litigation and non-contentious proceedings, children have the right to a special representative (conflict guardian), especially in cases where the interests of the parents exercising parental authority and those of the child conflict. Furthermore, the child is entitled to express their opinion with the assistance of a confidant or legal advocate during specific judicial proceedings. The court is obliged to give due consideration to the child's opinion when determining matters pertaining to the child's protection, upbringing and maintenance, contact, the exercise of parental authority and the provision of parental care. In proceedings aimed at protecting the interests of the child, the court shall require the social services centre to inform the child, if he or she is capable of understanding the meaning of the proceedings and the consequences of the decision, about the proceedings and his or her right to express an opinion. The child is afforded the opportunity to

20 Nagy, 2025, pp. 87–90.

21 Ibid., p. 94.

22 Burkelc Juras, 2025, p. 185.

23 Ibid., p. 181.

articulate their perspective at the social services centre, during a dialogue with the children's rights representative, or in an informal conversation with the judge, even in the absence of parental figures. The presence of an individual in whom the child has confidence and who is selected by the child, or the child's advocate, is also permissible. It is imperative to note that minutes of the hearing are taken, and these may also be recorded on audio or video. In the interests of the child, the court may exercise its discretion to withhold the minutes from the parents. It is acknowledged that children have the right to express themselves and articulate their opinions, and this statement may potentially be of significance in determining their rights. Nevertheless, the right to express an opinion is not absolute, as public authorities or courts are not required to hear the child in person in all cases. The necessity for the child's perspective to be considered is contingent upon the specific circumstances of each individual case, as well as the age and maturity of the child.<sup>24</sup>

In accordance with the provisions of the Slovak Civil Code, a child is deemed a minor until the attainment of full legal capacity, which coincides with the age of majority, that is to say, the age of 18 years. In a manner analogous to the regulations governing the attainment of majority status in the Hungarian, Slovenian and Croatian legal systems, the Slovak Civil Code stipulates that an individual may attain the age of majority by entering into marriage, on the condition that they have attained a minimum age of 16 years and have obtained the approval of the court. The provisions of Slovak family law further specify the principle enshrined in their constitution that the opinion of the child must always be taken into account when deciding on matters relating to minor children. This is due to the fact that minors are entitled to express their opinion independently and freely on all matters affecting them. However, the opinion of a minor child must be assessed in accordance with their age and mental maturity. This general provision applies to all countries on the basis that the mental maturity of a minor child increases with age, which suggests that as they grow older, they will be increasingly able to judge what is in their best interests. The Family Law Act contains two specific provisions that explicitly mention the need for the consent of a minor child (similar to Slovenian legislation) in the case of foster care and adoption. It is also pertinent to mention the legal regulation of healthcare, which, akin to Czech regulations, pertains to the right of minor children to information and to express their own opinion on matters that directly affect them. As was the case in the preceding countries, Slovakia also has a provision that has been previously discussed. In circumstances where the interests of a minor child and their legal representative are in conflict in certain proceedings, the court is required to appoint a guardian whose duty it is to resolve the conflict. In accordance with the provisions stipulated within the Civil Procedure Code, any individual is at liberty to appear before the court in their own right, to the extent that they are legally entitled to do so. Full legal capacity, including the capacity to act in legal proceedings, commences upon attaining majority. Consequently, minor children, devoid of legal capacity, are unable to act in

24 Ibid., pp. 185–187.

legal proceedings and thus cannot act independently before the court. However, this does not constitute a direct impediment to the progression of legal proceedings, as it is a procedural deficiency that can be rectified by the court appointing a guardian to represent the concerned party or by the court summoning the legal representative to act on their behalf. In accordance with Slovak civil procedural law, a minor child may be a witness in civil proceedings. However, the law does not provide for a separate procedure for such cases. The court generally hears evidence during the hearing itself. However, according to the law, this is also possible outside the hearing. In theory, it is possible to hear a minor witness outside the hearing, and even outside the court building itself.<sup>25</sup> The Slovak Civil Non-Contentious Proceedings Act imposes a special obligation on the court. If a minor is involved in the proceedings, the court is obliged to inform him or her about the course of the proceedings and all relevant issues related to the subject matter of the case. The court is also obliged to explain the consequences of the court's decision to the minor. It is important to note that in civil non-contentious proceedings, the law regulates the issue of legal capacity in a different manner. In such cases, if circumstances so require, the court may decide that a person who does not have full legal capacity should be represented in the proceedings by their legal representative or guardian ad litem, even if they could act independently in the case.<sup>26</sup> The Civil Non-Contentious Proceedings Act also expressly regulates the evidentiary procedure in proceedings involving minor children. In such cases, the court is required to take into account the opinion of the minor child as a participant in the proceedings, if the child is capable of expressing an independent opinion. It can be concluded from the provisions of the Civil Non-Contentious Proceedings Act and the Family Law Act that the hearing of a minor child must be conducted in an appropriate and suitable manner so as not to cause undue stress to the minor child. Slovak legislation does not preclude the indirect determination of the opinion of a minor child, i.e. without a hearing by the judge.<sup>27</sup>

In the Czech Republic, provisions concerning children's right to participate can be found in both civil substantive law and civil procedural law. The right of children to participate is regulated by the Czech Civil Code, which stipulates that prior to the court's decision-making process regarding the interests of a child, the court is obliged to provide the child with the information necessary to form and express their own opinion. In the event that the court determines that the child lacks the capacity to comprehend the information, or to formulate an opinion or communicate it, the court is obliged to inform and hear the individual who is best placed to safeguard the child's interests. The Czech Civil Code establishes a presumption that children over the age of 12 are capable of receiving information, forming their own opinions and communicating them. However, the court is also obliged to communicate with children under the age of 12. The judge is obliged to determine whether it is necessary to ascertain the

25 Koromház, 2025, pp. 159–164.

26 Ibid., pp. 169–170.

27 Ibid., pp. 172–173.

child's opinion and how this can be achieved, bearing in mind that even a conversation with a child under the age of 12 can provide important information for the court's decision. The law also stipulates that the court must accord due weight to the child's opinion.<sup>28</sup> The Civil Procedure Act stipulates that the court must proceed in such a way as to ascertain the child's opinion on the matter. The law accords primacy to the procurement of the child's direct opinion. In certain cases, however, the question of whether the court should hear the child directly may depend on what procedural measures the court can take to ensure that the child does not suffer trauma or undue stress during the direct hearing before the court.<sup>29</sup> Moreover, the Act on Special Civil Procedures, which contains rules on non-contentious proceedings, stipulates that the court must act in such a way that the minor is provided with the necessary information about the court proceedings and is informed of the possible consequences of taking their opinion into account and of the consequences of court decisions. In a manner analogous to the regulations of Slovakia and Slovenia, specific provisions are also applicable to adoption proceedings. In accordance with the regulations of the Czech Republic, children are guaranteed specific rights of participation in decisions concerning their health, similar to the provisions in effect in the Slovak Republic.<sup>30</sup> In civil proceedings, children are represented by their legal representatives. In instances where the child lacks the capacity to act independently and is not represented by a legal guardian, the judge will appoint a guardian *ad litem*.<sup>31</sup>

In accordance with the precedent set in previous cases, minors under the age of 18 in Croatia do not possess legal capacity; this capacity is acquired upon reaching the age of majority. There is, however, one exception to the general rule on legal capacity, namely situations where a minor marries before reaching the age of 18. In a manner analogous to the regulations of Hungary, Slovenia and Slovakia, the Croatian judicial system may, in exceptional circumstances, permit individuals over the age of 16 to enter into matrimony. It is noteworthy that under the prevailing family law, an additional exception to the prevailing rule on legal capacity was in effect. This exception pertained to mentally mature minors who became parents prior to attaining the age of 18. In such cases, if a 16- or 17-year-old minor had a child, the court decided on the acquisition of legal capacity. The current Croatian family law no longer contains such a provision; however, this exception still exists in Slovenia. It is an established legal principle that legal capacity is inextricably linked to the capacity to sue. Consequently, in the majority of cases, children under the age of 18 will not be deemed to have legal capacity to sue. Their participation in court proceedings will therefore be through representation (by a parent or guardian). As previously stated, in instances where the interests of the parents are in opposition to those of the child, a special guardian will be appointed to represent the child. However, the child's legal incapacity does not

28 Kissová, 2025, p. 45.

29 Ibid., p. 55.

30 Ibid., pp. 45–46.

31 Ibid., pp. 56–58.

negate their right to be heard. That is to say, the child must be given the opportunity to express their opinion and testify in court, depending on their age and maturity.<sup>32</sup> The Croatian Civil Procedure Act stipulates that legal representatives are generally heard on behalf of parties who do not have legal capacity. However, the court may, at its discretion, decide to hear the child instead of or in addition to the legal representative. As in Slovakia, there are no specific provisions on the hearing of child witnesses, other than that minors are not required to take an oath when giving evidence. However, the Family Law Act contains detailed provisions for cases where the child's opinion is considered particularly important in family law matters. Accordingly, the law stipulates that in any legal proceedings in which the rights of the child are involved or in which the child has a vested interest, the child is entitled to be duly informed of the salient aspects of the case, to be provided with counsel, to articulate their perspective, and to be apprised of the implications of the proceedings. The child's opinion is to be given due consideration, with this being assessed in accordance with the age and level of maturity of the child in question. It is acknowledged that the child may be reluctant to articulate their perspective, a sentiment that the court is obliged to acknowledge and respect. A separate regulation governs the manner in which the child's opinion is to be sought. The regulation stipulates that the child must express their opinion in the absence of parents, guardians, or other persons caring for the child. Determining the child's opinion is a multifaceted process that entails not only the act of listening to the child, but also encompasses a series of preparatory measures, the communication of pertinent rights and the procedural framework, and the evaluation of the child's aptitudes and developmental maturity. This is followed by the expression of opinion, which does not consist of questioning, but rather a kind of conversation in a stimulating and encouraging atmosphere in which the child feels safe and respected and where their opinion is listened to seriously and taken into account. In a manner analogous to Hungarian practice, the child may also express their opinion through non-verbal forms of communication, such as play, body language, facial expressions, drawing, and so forth. The methodology employed in soliciting the child's perspective is subject to variation depending on their age. The latter group is permitted to articulate their perspectives autonomously in a designated forum. The necessity for an expert to be present is contingent upon the court's determination. Conversely, children under the age of 14 typically articulate their perspectives through a guardian or other specialist, such as a psychologist. It is acknowledged that children may express their opinions in an appropriate location that is adapted and equipped for working with children (this may be, for example, a separate room in the court, a home, or other premises).<sup>33</sup>

In Serbia, every natural person has party capacity, which means that every child, regardless of age, maturity or other characteristics, has party capacity, i.e. they can participate in proceedings as a plaintiff or defendant. In contrast, under Serbian law,

32 Kunda and Smojver, 2025, pp. 26–27.

33 Ibid., pp. 30–33.

litigation capacity signifies the ability of an individual to act independently. In the event that an individual lacks litigation capacity, they are required to be represented by a legal representative. The capacity to engage in legal proceedings is contingent upon the possession of full legal capacity, which is ordinarily acquired at the age of 18. In certain cases, minor children may acquire full legal capacity earlier. For instance, in accordance with Hungarian, Slovenian, Slovak and Croatian legislation, if a minor who has reached the age of 16 enters into marriage, they acquire full legal capacity upon entering into marriage. Furthermore, in accordance with Slovenian legislation, the court has the discretion to confer full legal capacity on a minor aged 16 who has become a parent. A party lacking legal capacity is permitted to participate in proceedings solely through the medium of a legal representative or guardian. In the event of a conflict of interest between the child and their legal guardian, the Serbian Civil Procedure Code, as in previous cases, allows for the appointment of a temporary representative (typically a lawyer) for such cases.<sup>34</sup> When it comes to hearing children in civil proceedings, two different cases must be examined. In the first instance, the child is heard for the purpose of expressing their opinion.<sup>35</sup> The most salient aspects of the child's right to express their opinion are set out in the Serbian Family Law Act. The right to express an opinion is granted to every child capable of forming an opinion, and it would appear that Serbian law does not recognise an age limit in this regard. However, the law stipulates in a subsequent article that children over the age of 10 are permitted to express their opinions directly and freely in all court proceedings. Whilst these two provisions may appear contradictory, it can be argued that the relationship between them is complementary, and that children over the age of 10 are presumed to be capable of forming opinions. It is insufficient for the child merely to articulate their perspective; the court is also obligated to give it due consideration. However, the determination of congruence between the court's decision and the child's opinion is contingent upon the evaluation of whether it is in the child's best interests. In accordance with the principles of family law, the court is obligated to furnish the child with fundamental information, to heed their concerns, and to grant them the opportunity to articulate their perspective, provided that they are deemed a party to the legal proceedings. Conversely, the court appears to have no such obligation if the child is not a party to the court proceedings, even in cases affecting the child's interests. Nevertheless, both case law and academic literature concur that the court is obligated to ensure the effective participation of the child, even in cases where the child is not a party to the proceedings. In accordance with the prevailing jurisprudence, the wishes and feelings of the child, in accordance with their age and maturity, are deemed to be a pertinent factor in determining the best interests of the child. It is imperative to note that this assessment cannot be conducted without first hearing the child's opinion. The court generally lacks the expertise to evaluate a child's capacity to form a judgment; consequently, the assessment is conducted by

34 Knežević, 2025, pp. 146–147.

35 Ibid., p. 152.

professionals, such as psychologists or social workers. It is imperative to note that this evaluation must be conducted prior to the scheduled hearing, and the latter can only proceed if the expert issues a favourable opinion. The court is obliged to refrain from hearing the child if it is clearly contrary to the child's best interests.<sup>36</sup> In the second case, the child is heard as a witness. In a manner analogous to the Slovak and Croatian civil procedure codes, the Serbian civil procedure code does not contain specific provisions on children called to testify. In accordance with the prevailing provision, any individual capable of providing information pertaining to the pertinent facts is eligible to serve as a witness, thereby indicating that the requirement for the individual to have reached the age of majority is not a prerequisite. However, it is advisable to adopt an innovative approach when engaging with children. For instance, the judge is required to first elucidate the procedural framework to the child, and the judge is duty-bound to conduct the hearing in a manner commensurate with the child's age and maturity, employing language that is accessible and comprehensible to them.<sup>37</sup>

The Romanian Civil Code stipulates that only persons of full age have full capacity of exercise. A person becomes of full age upon reaching the age of 18. Minors who have reached the age of 14 have limited capacity of exercise. Similar to the Hungarian, Slovak, Croatian, Slovenian, and Serbian rules described above, minors who have reached the age of 16 and are married have full capacity of exercise in Romania. It is important to note that minors under the age of 14 do not have legal capacity. The Romanian Code of Civil Procedure stipulates that children under the age of 14 may be heard as witnesses without taking an oath, similar to the Croatian rules, but the court is obliged to call on them to tell the truth. Minors are heard as witnesses in the council chamber, and the court decides whether parents, guardians, or other persons may be present at the hearing.<sup>38</sup> In Romania, the law on the protection and promotion of children's rights expressly allows children to express their opinions from a certain age. The law also stipulates that children have the right to freedom of expression, i.e. to seek, receive, and impart information in any form and by any means of their choice. The right of children to participate includes the right to be heard in proceedings, as children who are capable of forming their own opinions have the right to express their views freely on matters affecting them. Under the Romanian Civil Code, as in Serbia, children aged 10 and above must be heard and their opinions taken into account in accordance with their age and maturity. It is important to note that children under the age of 10 may also be heard if the competent court considers it necessary for the resolution of the case. In addition, every child has the right to request a hearing. Similar to Slovak, Slovenian, and Czech regulations, stricter rules apply to adoption, as Romanian regulations require the consent of adopted children over the age of 10 for adoption.<sup>39</sup> Hearings with children are to be conducted in a free, pressure-free,

36 Ibid., pp. 143–146.

37 Ibid., p. 152.

38 Fegyveresi, 2025, pp. 127–128.

39 Ibid., pp. 125–126.



stress-free environment and in a language that the child can understand. Furthermore, the law on the protection and promotion of children's rights provides for a special form of hearing for abused, neglected, and exploited children when special protective measures are established. According to this article, the hearing shall take place exclusively in the courtroom, in the presence of a psychologist, and only after the child has been prepared in advance. The child's statement may be recorded using audiovisual equipment.<sup>40</sup>

French law employs the concept of discernment to determine whether a minor's wishes can be taken into account, whether in decision-making, in expressing opinions on matters affecting them, or in assuming responsibility. This is a subjective concept that depends on the personality and individual development of each child. It is not defined by law, but is determined by the judge on the basis of the minor's age, physical abilities, and intelligence. French law has several age limits that can be combined with the minor's discernment. In the field of civil law, for instance, the age of 16 is the age at which minors can be emancipated. In accordance with the provisions stipulated within the French Civil Code, minors with discernment are heard by the judge in all proceedings concerning them. In addition, minors have the right to be heard if they so request. The hearing may take place individually, in the presence of a lawyer or a person chosen by the minor, unless the judge finds that the chosen person is not in the minor's best interests. As in previous cases, under French law, minors are represented by their parents or tutor. For example, similar to Hungarian regulations, if the interests of a minor conflict with those of their legal representative during proceedings, the presiding judge will appoint an ad hoc administrator to represent them. In court proceedings, they are generally represented by their legal representative.<sup>41</sup> A certain degree of professionalization has taken place among lawyers dealing with minors. The National Charter for Children's Lawyers sets out best practices and the specificities of providing assistance to minors. In particular, it stipulates that children should, as far as possible, be assisted by a lawyer who specializes in dealing with minors.<sup>42</sup> In certain cases, minors may act on their own behalf without representation, for example in cases of educational assistance, i.e. if the minor's health, safety or morals are at risk, or if the conditions for the minor's upbringing and physical, emotional, intellectual and social development are seriously endangered. Minors in such danger may apply directly to the juvenile court judge. Even if the minor does not have the necessary discernment, he or she may still be represented in the educational assistance proceedings by an ad hoc administrator.<sup>43</sup> Pursuant to the French Civil Code, minors may request that the judge hear them in all proceedings concerning them. If the minor has sufficient discernment, the judge is obliged to hear the minor if they so request. The hearing may also be initiated by the child's parents. The French

40 Ibid., pp. 130–131.

41 Nord-Wagner, 2025, pp. 68–71.

42 Ibid., p. 74.

43 Ibid., pp. 68–71.

Code of Civil Procedure allows the judge to refuse to hear the minor if he or she does not consider it necessary for the resolution of the dispute or if it appears to be contrary to the minor's interests. The child is heard by the judge or a person appointed by the judge. In certain cases, it may be justified to use judges who are specially trained in hearing children. The person appointed by the judge to hear the child must have no connection with either the minor or the parties to the proceedings and must work in the social, psychological, or medical-psychological field. The hearing of the minor must take place as soon as possible so as not to delay the proceedings.<sup>44</sup>

In the Polish legal system, the institution of hearing children is regulated by the Code of Civil Procedure. The Act stipulates that in matters relating to the person or property of a minor, the court shall hear the child if his or her mental development, state of health and maturity so permit, taking into account, as far as possible, his or her reasonable wishes. It is important to note that merely hearing the child's opinion does not inherently necessitate its consideration in decision-making processes concerning the child. An important criterion is that the child must consent to being heard. Refusal to consent is grounds for not hearing the child. Hearing the child is a procedural act and is not part of the evidentiary process. The hearing is not a means of evidence and does not constitute evidence. Its function is similar to that of witness testimony, as its purpose is to ascertain the child's position in matters directly affecting the child. Hearing the child is particularly important, for example, in matters concerning contact, guardianship, foster parents or, as already mentioned in the Slovak, Slovenian, Czech and Romanian regulations, adoption. The court is obliged to examine each case individually and decide on a case-by-case basis whether the direct involvement of the child is necessary for the court proceedings, taking into account the impact of the hearing on the child's well-being and emotions. If the judges decide to hear the child, they do so when the child is over 13 years of age, as the child has limited legal capacity from that age onwards. As the legislator has not set an age limit for the possibility of hearing a child, it is also possible to hear younger children. The hearing must be conducted at the ideal stage of the proceedings, as contacting the child too early means that the judge does not know which issues need to be clarified and does not have sufficient knowledge to plan and conduct the hearing. On the other hand, a hearing held at the final stage of the proceedings may lead to the child being held responsible for the outcome. Only an expert psychologist may participate in the hearing of the child alongside the judge. Under no circumstances may other persons participate in the hearing, including the child's parents or persons representing the parents. The child may only be heard once during the proceedings, unless this is in the child's best interests or the child requests a new hearing. It is important that the child is properly prepared for the hearing, but this must not influence the content of the child's testimony. However, it is necessary to sensitise the child to tell the truth and describe what actually happened. The child's hearing shall take place in a closed session, which shall be held in a suitably equipped room at the court's premises or

44 Ibid., p. 74.

outside the court's premises. The venue for the hearing must be child-friendly, provide a sense of security, an intimate and discreet atmosphere, and facilitate concentration and free expression of opinion. The room used for hearing the child must meet the conditions of a friendly interview room, i.e. the blue room, and should resemble a living room rather than a staff room. It should be equipped with seating designed for children and accessories that lend it a friendly character, depending on the child's age. The interviewer's attire should be informal; for example, the judge should not wear a robe. The judge should communicate with the child in a language appropriate to the child's age and mental development. Unlike the rules in the countries described above, in Poland, the hearing of a child may not be recorded on audio or video. The activity documented in the official minutes is an appropriate solution, as the purpose of the hearing is not to gather evidence but to ascertain the child's position. In Polish practice, however, minors are most often interviewed in court offices. The institution of the interview ensures procedural subjectivity for the child, but does not confer procedural capacity. As in the previous countries, under Polish law, procedural capacity is reserved for persons with full legal capacity. Persons without procedural capacity may only perform procedural acts through their legal representative.<sup>45</sup>

In summary, it can be concluded that the legal systems of the countries examined all strive to ensure children's rights to participate in court and other proceedings. Individual national laws – typically civil codes and civil procedure codes – define in detail the legal capacity of children and the circumstances and manner of their hearing. A common starting point in this regard is that in most countries, children only become fully capable of acting upon reaching the age of majority, but they are entitled to varying degrees and forms of procedural participation even before that. The countries examined all have rules stating that it is essential to hear the views of children in matters affecting them, which is in line with Article 12 of the CRC. As mentioned in the introduction, the Convention states that children have the right to express their views freely in all matters affecting them, and that those views should be given due weight in accordance with the age and maturity of the child. In all of the countries examined, emphasis is placed on directly ascertaining the views of the child, either through personal interviews or other forms of communication. In Serbia and Romania, hearing children is mandatory even from a lower age, which shows an expansive interpretation of the requirements of the Convention. Although the procedural forms and age limits vary, the common principle is that the expression of children's opinions is not a mere formality, but a legitimate element of judicial and administrative decision-making, which states must ensure. Overall, it can be concluded that the regulations of the countries examined strive to comply with international standards, especially the requirements set out in the CRC.

45 Lis, 2025, pp. 110–120.

#### ***4.2. Participation of Children in Administrative Court Proceedings***

In the Hungarian legal system, the law on child protection and guardianship, along with the related government decree, places a clear obligation on relevant authorities to prioritise the fundamental interests of the child in their application. Furthermore, the law stipulates that children have the right to express their opinions and to be informed about their rights. This obligation to provide information rests primarily with the family and with organizations and individuals involved in the upbringing, care, or other matters concerning the child. It is important to note that children have the right to initiate proceedings before the courts and other bodies specified by law in the event of a violation of their fundamental rights. The law recognises that children between the ages of 14 and 18 with limited legal capacity to initiate proceedings in certain matters on their own initiative. The law provides for extensive consultation with those concerned in guardianship proceedings. Children with sufficient intellectual capacity but who are legally incompetent or have limited legal capacity must also be heard and informed of the possibility of making a statement. In the event that such a child requests a hearing, it cannot be refused, and in general, the hearing cannot be waived in matters concerning the personal and property affairs of such a child. Such hearings should primarily be conducted at the premises of the child welfare authority in the presence of the legal representative. However, the guardianship authority may also hear the child in the absence of the legal representative, which is justified if the interests of the child and the legal representative conflict. In many cases, the office is not the appropriate environment for building trust, and the situation of the person concerned may also make it difficult for them to appear before the authority. Consequently, the law permits the conduct of hearings outside the office premises.<sup>46</sup>

In the Republic of Slovenia, the Social Work Center is entrusted with the responsibility of safeguarding the rights of children and ensuring their well-being, operating under the auspices of a public mandate. It is noteworthy that until 2019, guardianship, foster care and adoption were governed by administrative law. However, with the introduction of the new family law, these matters were transferred to the jurisdiction of the district courts. Consequently, social work centers now cooperate with the courts in these proceedings. These social centers continue to operate in the field of international protection and asylum-seeking children. The ability to be a party is a procedural prerequisite and a condition for conducting administrative proceedings. During the proceedings, the authorities must always examine *ex officio* whether the person acting as a party in the proceedings can actually participate in the proceedings as a party. Slovenian administrative procedure law does not contain any specific provisions on the representation of minors. In administrative proceedings, all children have procedural legitimacy. In these proceedings, the child acts as a subject of the administrative procedure. In administrative disputes, the provisions

<sup>46</sup> Nagy, 2025, pp. 85–87.

of the Civil Procedure Act shall apply, unless the Administrative Dispute Act provides otherwise.<sup>47</sup>

In the Slovak Republic, the Administrative Procedure Act does not exclude minors from participating in administrative proceedings. However, if a minor participating in the proceedings is unable to act independently due to limited legal capacity, the Act requires that they be represented by a legal representative or that a guardian be appointed for them. Furthermore, Slovakia has administrative courts, which deal with cases that have already been or should have been dealt with by administrative authorities. In the context of administrative court proceedings involving minors, the provisions of the Code of Civil Procedure are the governing principles.<sup>48</sup>

Within the legal framework of the Czech Republic, children's right to participate in administrative proceedings is guaranteed by the Administrative Procedure Act. The legal capacity of the subjects corresponds to their capacity to act. Irrespective of their procedural capacity, everyone has the right to be heard during the proceedings, so children must be given the opportunity to express their opinion directly or through their representative or the social and legal protection authority.<sup>49</sup> In addition, the Act on Socio-Legal Protection of Children regulates procedural and substantive legal issues relating to the social and legal protection of children. In accordance with the provisions stipulated within the Act, children who are capable of forming their own opinions have the right to express their opinions freely in all matters affecting them for the purposes of social protection. The social welfare authority takes into account the wishes and feelings of the child in its measures, bearing in mind the child's age and development, so as not to endanger or impair their emotional and psychological development.<sup>50</sup> In accordance with the Czech Civil Code, the Act on Socio-Legal Protection of Children establishes a rebuttable presumption that children over the age of 12 have the capacity to form opinions.<sup>51</sup>

In a manner analogous to that of Slovakia, Croatia also has administrative courts within which children are guaranteed access to proceedings without any specific age limit. However, the participation of children in administrative proceedings is not regulated in detail by the applicable legislation. Consequently, the general rules of participation explained above apply to both representation and hearings.<sup>52</sup>

France also has administrative courts, but these deal with minors less frequently than civil or criminal courts. The fundamental principles of the Civil Code are applicable to administrative court proceedings.<sup>53</sup>

In Serbia, one of the most important features of administrative disputes is the minimal regulation of proceedings. Accordingly, there are no specific regulations

47 Burkelc Juras, 2025, pp. 190–192.

48 Koromház, 2025, pp. 167–168.

49 Kísová, 2025, pp. 55–56.

50 Ibid., pp. 49–50.

51 Ibid., pp. 53–54.

52 Kunda and Smojver, 2025, pp. 38–39.

53 Nord-Wagner, 2025, p. 71.

on the hearing of children in administrative court proceedings.<sup>54</sup> In the absence of specific regulation, issues must be resolved through the application of civil procedure rules by analogy.<sup>55</sup>

Overall, it can be concluded that in the countries examined, the regulation of children's participation in administrative proceedings is typically based primarily on the norms of civil procedural law. There is no uniform codification specifically regulating the participation of minors in administrative or administrative court proceedings that would clearly apply to all situations. Nevertheless, the right of children to be heard and to have their opinions taken into account, in accordance with their age and maturity, is guaranteed in all countries, albeit in different forms and with different levels of guarantees.

### ***4.3. Participation of Children in Criminal Court Proceedings***

In criminal proceedings, children are typically implicated in three distinct roles: as victims, witnesses, or perpetrators of the crime. In this particular context, the primary objective is to protect the interests of children, with particular regard to ensuring that they do not become secondary victims during the proceedings and to reducing the psychological and social harm resulting from the legal process. The cornerstone for the protection of children is provided by national criminal codes and specific child protection provisions, while specific procedural safeguards are laid down in criminal procedure laws and other related legislation. The participation of children in criminal proceedings poses particular challenges, as traditional criminal proceedings are often tailored to the needs and language of adults. As a result, the proceedings can often be frightening for children and may be risky in terms of their understanding and emotional processing. For this reason, modern legal systems place particular emphasis on the development of child-friendly justice, which includes information tailored to the age and maturity of children, special hearing techniques, and the involvement of trained legal and psychological professionals.

#### *4.3.1. The Child as Witness or Victim of Crime*

The Hungarian Criminal Code uniformly regulates provisions relating to vulnerable groups requiring special protection and provides special treatment for those who are impeded in their understanding, exercise of their rights, fulfillment of their obligations, or effective participation in criminal proceedings. It is important to note that special treatment generally applies only to victims and witnesses. In instances where an individual is involved in legal proceedings and has not yet reached the age of 18, the law requires the authorities to classify them as vulnerable. In such cases, the aim is to ensure that the procedural act can be carried out without delay, that it does not have to be repeated if possible, and that there is no need to meet unnecessarily with the person involved in the criminal proceedings. Furthermore, the authorities may

<sup>54</sup> Knežević, 2025, p. 152.

<sup>55</sup> Ibid., p. 149.

also exclude the public from the proceedings. In proceedings against persons under the age of 18, video and audio recordings should be made where possible. In addition, the presence of a forensic psychologist may be required during the proceedings. The testimony of a person under the age of 18 may not be verified by a polygraph, and confrontation may only be ordered with their consent. Even stricter rules apply to proceedings against persons under the age of 14. They may only be questioned if their testimony cannot be replaced by other means. The questioning must be conducted in a room designed or suitable for this purpose, if possible by the same person each time. In the case of persons under the age of 14, the law prohibits confrontation. The law applies even stricter rules in cases where a crime against sexual freedom or sexual morality has been committed against a person under the age of 18. In such cases, more restrictive rules apply to the location of the proceedings, the presence of the defendant and the defence attorney is prohibited in all cases, and if the proceedings are conducted by telecommunication, the person concerned may only see the judge, the prosecutor, and the member of the investigating authority, and those present may only ask questions by way of a motion. The Barnahus house is used for interviewing children. The interview does not take place in an official room, but in a place that meets the needs of children, where a psychologist or counselor talks to the children. The conversation is recorded on video or audio, which allows members of the authorities to follow the interview from an observation room and ask questions. Such interviews may only be conducted in the case of victims and exclusively in cases of crimes against sexual freedom or sexual morality.<sup>56</sup>

In contrast to the Hungarian system, the Slovenian Criminal Code regulates different interrogation procedures for different categories of victims and minor witnesses. When questioning minor witnesses, special care must be taken to avoid any harmful effects on their mental state. This is facilitated, for example, by the fact that, if necessary, the questioning of minors must be carried out with the assistance of a teacher or other expert. The Slovenian Criminal Code also contains stricter provisions for cases where, for example, a crime against sexual integrity has been committed, as in such cases the minor victim must have a defence attorney throughout the criminal proceedings. Minors who do not have a lawyer will be assigned one by the court *ex officio*. It is important to note that Slovenian legislation focuses primarily on the protection of minors as victims and does not pay particular attention to child witnesses, even though they too find themselves in a particularly difficult situation, especially if their role in the proceedings may affect their family relationships outside the proceedings.<sup>57</sup>

The Slovak Criminal Code does not explicitly address the age limit for the legal capacity of witnesses and does not restrict the circle of witnesses, so even minors can be questioned during criminal proceedings. Similar to Hungarian rules, witness questioning must be conducted in such a way that it does not need to be repeated later,

<sup>56</sup> Nagy, 2025, pp. 96–100.

<sup>57</sup> Burkelc Juras, 2025, pp. 194–196.

so for this purpose, the questioning may be recorded and played back. The presence of a psychologist is mandatory during the questioning of a minor witness, and it is also possible for the judge to conduct the questioning of the witness himself.<sup>58</sup>

As in the previous cases, Czech legislation also emphasizes that the questioning of minor witnesses or victims must be conducted with particular care by a person experienced in dealing with minors. This is to ensure that the interview does not have to be repeated at a later date.<sup>59</sup> Similar to the Slovak system, if criminal proceedings concern a child who is a victim or witness of another person's crime, there is no age limit for interviewing minors.<sup>60</sup> Furthermore, the authorities are obliged to collaborate with entities that provide social and legal protection for children, organizations representing the interests of citizens, and persons implementing advocacy programs. As a further guarantee, the protection of the personal data and privacy of persons under the age of 18 is expressly regulated in the Criminal Code. Accordingly, no one may disclose information that could identify a victim under the age of 18. This rule also applies to the publication of images, visual and audio recordings, and other information related to the proceedings.<sup>61</sup>

Croatian legislation is also in accordance with the aforementioned principle, which stipulates that children must be treated with special care in order to avoid any harmful consequences affecting their upbringing and development. In addition to the rights generally enjoyed by victims in criminal proceedings, child victims also have special rights. These rights may include, among others, the right to legal representation at public expense, the confidentiality of personal data, and the exclusion of the public from the proceedings, as mentioned above. Similar to Hungarian and Slovenian regulations, Croatian regulations are even stricter in cases involving crimes against sexual freedom or crimes related to human trafficking. In these cases, the child is entitled to additional rights, such as the right to a counselor before the examination, the right to be interviewed by a person of the same sex, the right to refuse to answer questions that strictly relate to the victim's private life, and the right to be examined using audio-video equipment, similar to Hungarian regulations. The questioning of witnesses differs slightly depending on whether the child is under or over the age of 14. If not, the witness is interviewed by the investigating judge without the parties being present, using audio-video equipment. As in the Hungarian, Slovenian, and Slovak systems described above, a psychologist, teacher, or other expert assists in the examination. A common principle in the countries examined is that children should be interviewed only once during criminal proceedings, thus avoiding the risk of secondary victimization resulting from multiple interviews. The legislation of the Republic of Croatia permits the re-interviewing of children only in exceptional cases. In the case of children over the age of 14, the witness is also interviewed by the

58 Koromhász, 2025, pp. 173–174.

59 Kissová, 2025, pp. 48–49.

60 Ibid., p. 54.

61 Ibid., p. 56.



investigating judge. If deemed necessary, the rules applicable to children under the age of 14 may also be applied to them, but if this is not deemed necessary, the interview is conducted in accordance with the general rules, i.e., children over the age of 14 are interviewed as adult witnesses. The child is also protected during identification, as the persons to be identified cannot see or hear him or her. The same applies to any evidence where the child's identity is visible or identifiable. In such cases, the recording will be reproduced with the child's face and voice distorted. However, if the interests of the proceedings as a whole require that the child's identity be visible, the original recording may be presented.<sup>62</sup> This solution is similar to Czech regulations, according to which the personal data of minors may only be disclosed if this is necessary to locate other persons, to conduct criminal proceedings, or if it is in the public interest.<sup>63</sup>

Within the jurisdiction of Serbia, criminal proceedings involving minors and the special protection of children who are victims of various crimes are regulated by the Law on Juveniles. Under this law, minor victims must have a lawyer from the first hearing of the accused. If the minor does not have a lawyer, the court will appoint one *ex officio*. Serbian literature emphasizes that the presence of such a lawyer is essential for the minor victim to understand the criminal proceedings, the individual procedural steps, and their rights and obligations. Serbian law also reflects the generally accepted principle that minors should be treated according to their maturity, personality, and living conditions during questioning. In addition, questioning methods should be designed to create a child-friendly atmosphere. All persons involved in the proceedings must take care of the minor during the interrogation, which includes taking into account the minor's maturity and individual characteristics and protecting their privacy in order to avoid any negative impact on their development. If necessary, psychologists or educators may also participate in the interview, as is the case under Slovak, Hungarian, and Slovenian rules. In addition to them, the presence of the prosecutor and defence attorney is mandatory, and the parent or guardian is usually also present. Compared to the countries examined in the book, Serbian law is 'less' strict, as according to the regulations, a minor victim may be questioned no more than twice. The court may also conduct the questioning via video call, or it may even take place at the minor's home or in a social care center. In cases where a child has been summoned as a witness, there are generally no specific provisions. The court must assess whether the child is capable of giving testimony.<sup>64</sup>

In Romania, the main procedural rights and safeguards relating to the hearing of victims are set out in the Romanian Code of Criminal Procedure, which stipulates that the hearing of victims under the age of 14 must take place in the presence of one of their parents, guardian or a representative of the person or institution responsible for the minor's upbringing and education, as well as a psychologist appointed by the

62 Kunda and Smojver, 2025, pp. 33–35.

63 Kissová, 2025, p. 56.

64 Knežević, 2025, pp. 151–153.

court. At the time of the hearing, minors under the age of 14 may not be told that they must tell the truth, nor may they be made aware that false testimony is punishable, but they are warned that they must tell the truth, although they are not required to take an oath. While Hungarian criminal procedure law expressly prohibits confrontation in the case of minors under the age of 14, Romanian rules contain a restriction that the prosecutor's office must summon the parents or guardian, as well as the Directorate General for Social Assistance and Child Protection, to the confrontation of the minor. In addition to the Code of Criminal Procedure, two guidelines also provide for the methodology of interviewing minors. One is the 'Methodological Guide for Interviewing Minor Victims', which encourages the use of open-ended questions that can elicit specific, detailed answers in the form of verbal accounts. The other is the 'Guidelines for the Hearing of Children in Court Proceedings', which includes complex interdisciplinary psychological concepts and practices, as well as the practical application of national and international legal rules, all of which aim to strengthen and respect the rights of children. Two special rooms were set up in two large Romanian cities, Cluj-Napoca and Craiova, for the hearing of minors, and in 2016, a room for the hearing of minors was opened at the Bucharest Public Prosecutor's Office.<sup>65</sup>

It will subsequently be demonstrated that French criminal law applies stricter measures to juvenile offenders than the Central European countries examined in this book, but at the same time it applies largely similar procedural guarantees for the protection of juvenile witnesses and victims. Minors can be heard as witnesses from the age of 16, at which point they must take an oath to tell the truth. However, below this age – as in Romanian law – minors may also be heard by the court, but they do not take an oath and are therefore not regarded as witnesses in the strict legal sense. Similar to the Slovak model, in addition to criminal sanctions, judges also have educational measures at their disposal, which they often prefer in cases of less serious crimes. It is worth noting that judicial personnel and the competent courts are also specialized, which means that criminal proceedings are conducted by specialized prosecutors and only specialized judges can pass judgment on minors. French law also stipulates that minors must be represented by a lawyer in all courts, which is a generally accepted guarantee in most of the countries examined.<sup>66</sup> In accordance with Romanian legislation, French law also stipulates that the hearing or confrontation of a minor may take place in the presence of a psychologist or doctor specializing in children, a family member of the minor, a guardian ad litem, or any other person. The interview must always be recorded on audio-visual media. Audio recordings may only be made if this is in the minor's interest. The aim of this is to avoid secondary victimization by ensuring that the minor does not have to repeat their statement at different stages of the proceedings.<sup>67</sup> It is important to note that special procedures have been introduced for investigators interviewing child victims. Many police stations have a

65 Fegyveresi, 2025, pp. 134–135.

66 Nord-Wagner, 2025, pp. 72–73.

67 Ibid., pp. 74–75.

Mélanie room, which is used for interviewing minors. This room is like a children's room or a playroom with lots of toys, which not only makes the child feel safe, but also gives them the opportunity to show what happened to them, for example with the help of dolls.<sup>68</sup> This approach draws parallels to the Barnahus model in Hungary and the blue room initiative in Poland.

In Poland, Article 28 of the Act of 9 June 2022 on the Support and Rehabilitation of Minors regulates the interrogation of minor victims. According to the provisions of this Act, in cases involving the most serious criminal acts committed by a juvenile offender, a victim under the age of 15 at the time of questioning may only be heard as a witness if their testimony is deemed to be of significant importance to the resolution of the case. This hearing may only take place once, unless new circumstances arise that necessitate further examination, or if a request for evidence from a minor who did not have legal representation during the initial interrogation is granted. The hearing is conducted by the family court and involves an expert psychologist. The expert psychologist taking part in the hearing should be of the same gender as the victim, unless this would make the proceedings more difficult. The prosecutor, defence counsel, and the victim's attorney have the right to attend the hearing. The victim's legal representative, the person with whom the victim resides permanently, or an adult nominated by the victim may also be present at the hearing, provided it does not restrict the person being questioned from expressing themselves freely. If the juvenile offender, who has been notified of this activity, does not have a defence lawyer of their choice, the family court will appoint a defence lawyer *ex officio*. The interrogation is recorded using a video and audio recording device. The written record may be limited to a summary of the most relevant statements made during the hearing. The image and sound recording is attached to the protocol.<sup>69</sup> Conversely, Article 185a of the Code of Criminal Procedure establishes a specific process for the interrogation of juvenile victims in cases involving violence, unlawful threats, sexual offences and crimes against family members or caregivers. Minors under the age of 15 are questioned only once, after a special court session involving a psychologist. The hearing is recorded and this recording is played at the hearing. This approach is intended to protect the child's well-being by reducing stress and the risk of re-traumatisation. The following regulations must be observed when questioning a minor victim (i.e. an individual under the age of 15). A child is usually questioned only once, unless new relevant facts come to light or the defendant requests it, provided they did not have a lawyer during the first hearing. The hearing takes place during a court session and involves a psychologist. The activity record and image and sound recordings are played back at the hearing. The significance of testimony: questioning is only admissible if the child's testimony could significantly impact the resolution of the case. Minors aged 15 to 17 may also be questioned in this manner if there is a well-founded fear that

68 Ibid., pp. 77–78.

69 Article 28 of the Act of 9 June 2022 on the Support and Rehabilitation of Minors.

interrogation under normal conditions could negatively impact their mental state.<sup>70</sup> Article 185c of the Criminal Code regulates the questioning of victims over the age of 15. A victim of a sexual offence who has reached the age of 15 at the time of questioning may only be questioned as a witness if their testimony is deemed significant for resolving the case. This questioning may only occur once, unless new circumstances arise that require further clarification or if the defendant, who did not have legal representation at the time of the victim's initial hearing, requests additional evidence. The court shall conduct the victim's hearing with the participation of an expert psychologist immediately, no later than 14 days from receipt of the application. The prosecutor, defence counsel and the victim's attorney have the right to attend the hearing.<sup>71</sup> A person listed in Article 51 § 2 (i.e. a legal representative or a person under whose permanent care the victim remains) or an adult indicated by the victim also has the right to be present at the hearing if it does not restrict the victim's freedom of expression.<sup>72</sup> At the main hearing, the video and audio recording of the hearing is played and the hearing report is read.

#### 4.3.2. *The Child as Perpetrator of a Crime*

In the Czech legal system, the substantive and procedural characteristics of criminal proceedings against minors are governed by the Act on Criminal Proceedings against Minors. Under Czech criminal procedure law, a minor is a person who, at the time of committing the offense, was at least 15 years of age but not yet 18 years of age. Similar to Romanian legislation, children under the age of 15 cannot be punished, so the rules of civil law apply to the actions of younger minors. It should be noted that persons involved in proceedings concerning minors must undergo special training on the treatment of minors. Criminal cases involving juveniles are heard before juvenile courts, which are not separate judicial bodies, but rather specialized judges working in general courts who cooperate with authorities dealing with the social and legal protection of children and with specialized law enforcement agencies. Minors have the right to professional representation and to choose a defence attorney during the proceedings.<sup>73</sup> As in the countries described below, minors must have a lawyer, even if they expressly refuse representation. If the minor does not exercise their right to choose a defence attorney and neither their legal representative nor guardian chooses an attorney, then the closest relative or other interested person may choose a defence attorney.<sup>74</sup> An interesting feature of Czech law is that the legal representatives of minors have the right to represent the minor in the proceedings and to act on their behalf. It should be noted that, in the best interests of the child, they may exercise these rights on behalf of the minor even against the minor's will.<sup>75</sup>

70 Art. 185a of the Polish Criminal Code.

71 Ibid., Art. 185c.

72 Ibid., Art 51 § 2.

73 Kissová, 2025, pp. 43–44.

74 Ibid., pp. 58–59.

75 Ibid.

It is interesting to note that in Slovenia, children under the age of 14 cannot be held criminally responsible, as the Slovenian Criminal Code states that although they may commit unlawful acts, they cannot be perpetrators of crimes. At the age of 14, individuals become younger juveniles (aged 14-16) and then older juveniles (aged 16-18). However, the Slovenian Criminal Code treats them in a special way after they reach the age of 18 and until they reach the age of 21 (young adults). Such young adults may receive penalties applicable to juveniles due to their personal development.<sup>76</sup> In contrast, in Hungary, the minimum age of criminal responsibility for certain crimes (e.g., homicide) is 12 years.<sup>77</sup> The Slovenian Criminal Code stipulates that all parties involved in proceedings against minors must acquire additional knowledge in the field of juvenile crime, and to this end, the competent authorities organize basic and regular training for them. The commitment of Slovenian legislation to child protection is also illustrated by the fact that the initiation of criminal proceedings against minors is, in all cases, subject to the exclusive motion of the public prosecutor. In addition, special provisions apply to situations where a minor is deprived of his or her liberty, as in such cases, similar to Slovak rules, the minor must be kept separate from adults.<sup>78</sup>

The criminal policy of the Slovak Republic reflects the need for special protection of minors. Similar to the Hungarian Criminal Code, the Slovak Criminal Code contains special provisions on the criminal prosecution of juvenile offenders. All provisions of the Criminal Code apply to juvenile offenders, except for those regulated in the separate section of the law on criminal proceedings against juveniles. The provisions on proceedings against juveniles apply if the offense was committed by a juvenile before reaching the age of 18, provided that the indictment is brought before the juvenile reaches the age of 19. The law stipulates that, as in the Slovenian system, persons under the age of 14 cannot be held criminally responsible. In addition, similar to the Czech model, the law expressly regulates the criminal liability of persons under the age of 15, as if such a person did not have the mental and moral maturity necessary to recognize the illegality of the act at the time of its commission, they cannot be held criminally liable. and moral maturity necessary to recognize the illegality of the act at the time of its commission, they cannot be held criminally responsible. Similar to Hungarian criminal policy, the Slovak Criminal Code expressly regulates the imposition of sanctions and educational measures, giving preference to educational measures over imprisonment. This solution supports the idea that juvenile offenders should be given a real chance to reintegrate into society after serving their sentences. If a prison sentence must be imposed, it must be served in a penal institution specifically reserved for juveniles. The court may even decide that the prison sentence must be served in such a special institution even if the convicted person

76 Burkelc Juras, 2025, pp. 192–193.

77 Art. 16 of the Act C of 2012 on the Criminal Code.

78 Burkelc Juras, 2025, pp. 198–199.

has already reached the age of 18.<sup>79</sup> Although such convicts are no longer formally considered minors, the regulation is similar in this respect to the Slovenian practice, where the category of minors remains in force until the age of 21. A further guarantee is that the social and legal protection authorities and the guardianship authority must be involved in proceedings against minors. Similar to Slovenian regulations, minors must always have a defense attorney in criminal proceedings; if they do not choose one, the court must appoint one from among the lawyers. Similar to the Hungarian and Slovenian systems described above, the Slovak Criminal Procedure Code also stipulates that, in order to protect the interests of minors, the court may, if necessary, order the exclusion of the public from the proceedings.<sup>80</sup>

In light of the particularly sensitive nature of criminal law, Croatia, in a manner similar to Slovenia and the Czech Republic, has legislation that specifically regulates criminal proceedings involving minors. The general rules for proceedings against juveniles are contained in the Criminal Procedure Act as *lex generalis*, while the Act on Juvenile Courts must be applied as *lex specialis*. As has been highlighted in several countries, in Croatia it is also mandatory to provide a defence lawyer for juvenile defendants and to notify the social services, which promotes the comprehensive protection of the child's interests. As has already become apparent, the age of criminal responsibility varies slightly between countries. In Croatia, it has been set at 14 years of age, so children who have not yet reached the age of 14 cannot be held responsible for criminal offenses. This age limit is strictly regulated by Croatian law, as the law does not allow for the prosecution of children under the age of 14, even if it is established that they were capable of assessing and understanding the consequences of their actions. In contrast, Hungarian law is different, as it holds children as young as 12 years of age criminally responsible for certain crimes. The law on juvenile courts distinguishes between minors and juveniles (in this respect, it is similar to Hungarian law). Young adults are children who have reached the age of 14 but are not yet 18. Similar to Slovenian, Slovak, and Romanian regulations, Croatian law also includes a third category, young adults, who are persons between the ages of 18 and 21.<sup>81</sup> Compared to the countries examined in this book, a unique solution is that criminal cases against children and young adults are tried by juvenile courts. The beginnings of this have already appeared in the Czech Republic, but separate judicial bodies have not yet been established there; instead, specialized judges working in general courts hear cases involving minors. Croatian juvenile courts, on the other hand, are established as separate divisions of county courts and municipal courts at the seat of the county courts. Juvenile judges must be appointed on the basis of their expressed affinity for the education, needs, and development of young people. They

79 Koromház, 2025, pp. 173–175.

80 Ibid., pp. 175–176.

81 Kunda and Smojver, 2025, p. 37.

must have a basic knowledge of criminology, social pedagogy, youth psychology, and youth social work.<sup>82</sup>

In line with Slovak, Slovenian, and Croatian regulations, Serbian law on juveniles stipulates that a child can only be charged with a criminal offense if the defendant was at least 14 years old at the time of the offense, as the age of criminal responsibility in Serbian law is 14. As in the countries described above, defence is mandatory in Serbia from the first hearing onwards. Whether a juvenile has a defence attorney is not up to them. Juveniles have the right to appoint their own defence attorney, but, as in Czech regulations, their legal guardian or relative may also do so. If no defence counsel is appointed, the court will appoint one *ex officio*, similar to the Slovenian model. The minor's defence counsel must be a lawyer with expertise in children's rights and juvenile crime.<sup>83</sup> Although there are no specific juvenile courts in Serbia, the law requires judges to specialize in certain areas of law. For example, in criminal cases involving juvenile offenders, judges must have expertise in children's rights and the criminal law protection of minors. Judges must complete training organized by the Judicial Academy, which has evolved from basic training into a more comprehensive curriculum aimed at effective continuous professional development.<sup>84</sup>

In Romania, with regard to the criminal responsibility of minors, the Criminal Code stipulates that minors under the age of 14 cannot be punished, minors between the ages of 14 and 16 may only be punished if it can be proven that they committed the act at an age when they were capable of acting, and minors over the age of 16 may be punished. Accordingly, Romanian criminal law establishes an absolute presumption of lack of discernment in the case of minors under the age of 14, while in the case of minors between the ages of 14 and 16, it establishes a relative presumption of discernment. In order to establish criminal responsibility, a forensic psychiatric opinion confirming the existence of the ability to discern is required. The Romanian Code of Criminal Procedure regulates proceedings involving minors in a separate chapter. Similar to Slovenian, Slovak, and Croatian regulations, the procedural rules relating to minors apply to persons who have reached the age of 18 but have not yet reached the age of 21, if they were minors when they became suspects and if the judicial authority deems it necessary. Under Romanian rules, a minor defendant may only be questioned once, and further questioning may only be authorized by the judge in duly justified cases. Cases involving juvenile defendants must be heard urgently and in closed session. The law on the organization of courts stipulates that divisions or specialized bodies dealing with juvenile and family law matters must be established to hear both crimes committed by minors and crimes committed against minors. The law in question does not make it mandatory to establish special courts in every county

82 Ibid.

83 Knežević, 2025, pp. 149–151.

84 Ibid., pp. 152–153.

to hear cases involving minors, so there is only one special court and prosecutor's office in Romania dealing with crimes against minors and families.<sup>85</sup>

Of the countries examined, French law shows the most striking difference in terms of the minimum age for criminal responsibility. In France, minors can be held criminally responsible from the age of 13. However, this is a rebuttable presumption, as if the minor can prove a lack of discernment, criminal responsibility cannot be established. French law also takes a stricter approach, as minors over the age of 13 may be subject to imprisonment and fines, which represents a significant increase in criminal liability. Under French criminal laws, minors between the ages of 13 and 18 normally benefit from a reduction by half of the maximum statutory penalty applicable to adults for the offence in question. However, from the age of 16, judges may, through a reasoned decision, set this reduction aside. In such cases, minors can be sentenced to the same penalties as adults.<sup>86</sup> Minors suspected of an offence may, depending on their age and the seriousness of the allegations, either be interviewed freely (in which case they may leave at any time) or be subjected to coercive measures such as police custody (from the age of 13) or a special retention procedure (for those under 13).

Based on an examination of the involvement of children in criminal proceedings, it can be concluded that legislative and law enforcement solutions have a dual purpose: on the one hand, to protect the fundamental rights and interests of children, and on the other hand, to maintain the effective functioning of the criminal justice system. However, the implementation of this dual objective may vary in terms of the regulatory techniques used by individual states and the procedural guarantees they provide. Among the Central European countries examined, Slovenia stands out with a unique solution, as it has adopted a separate law on the protection of children in criminal proceedings and comprehensive treatment in children's homes.<sup>87</sup> The procedural solutions proposed in this law aim to ensure the uniform and comprehensive treatment of children in court, whether as witnesses or victims.<sup>88</sup> In addition to Slovenia, the Czech Republic also applies such a solution, where the law on criminal proceedings against juveniles provides a separate framework for the enforcement of the specific features of proceedings against juvenile offenders. The purpose of separate regulations on proceedings involving minors is to apply measures that effectively contribute to preventing minors from committing unlawful acts, finding appropriate social acceptance, and contributing to the restoration of the damage caused by their unlawful acts.<sup>89</sup> Croatia also has a similar independent regulatory solution, where the Juvenile Court Act establishes special procedural guarantees in criminal proceedings against minors.<sup>90</sup> The central objective of the Act, similar to the Slovak legislation,

85 Fegyveresi, 2025, pp. 131–134.

86 Nord-Wagner, 2025, pp. 68–69.

87 Burkelc Juras, 2025, p. 193.

88 Ibid., pp. 195–196.

89 Kissová, 2025, p. 47.

90 Kunda and Smojver, 2025, pp. 33–34.



is the rehabilitation and reintegration of juvenile offenders into society.<sup>91</sup> In Serbia, criminal proceedings involving minors and the special protection of children who are victims of various crimes are regulated by the Juvenile Act.<sup>92</sup> In Romania, in addition to the Code of Criminal Procedure, two guidelines also provide for the methodology of hearing minors. Although these are not legal provisions, they are important in that they serve as practical guidelines that effectively reinforce respect for children's rights and a child-friendly approach in proceedings.<sup>93</sup> However, in other countries in the region, guarantees relating to children are typically scattered throughout the Criminal Code or the Code of Criminal Procedure, while Slovenia has developed a comprehensive, separate regulatory framework. This solution indicates that Slovenian legislation attaches particular importance to the interests of children and strives to consistently apply a child-friendly approach in their participation in criminal justice, which is most clearly reflected in sanctions tailored to minors.

Based on the comparison, it is clear that the Slovenian and Croatian models stand out among the countries examined, as both regulate criminal proceedings involving juveniles in separate legal frameworks and ensure the protection of children's interests through complex institutional solutions, such as child-friendly interrogation rooms, special courts, and specialized judges—to protect the interests of children. The Czech solution is partly similar, but instead of separate court institutions, it relies on judges assigned to deal with juveniles within the framework of general courts. There are differences between the countries examined in terms of the age of criminal responsibility, which is typically set at 14 or 15 years. French law shows the most striking difference in terms of the lower age limit for criminal responsibility. In France, minors can be held criminally responsible from the age of 13, which differs significantly from the regulatory practice in Central European countries, where the age of criminal responsibility is typically set higher. At the same time, the common features of the regulations in the countries examined cannot be ignored. It can be concluded that the requirement to avoid secondary victimization plays a central role in the legal systems of almost all countries, which is guaranteed by special hearing methods, the involvement of psychologists and educators, the use of audiovisual tools, and the possibility of excluding the public. Overall, it can be concluded that the principle of child-friendly justice is more or less consistently applied in the regulations of the countries examined.

91 Ibid., p. 37.

92 Knežević, 2025, pp. 149–150.

93 Fegyveresi, 2025, pp. p. 134.

## 5. Concluding Remarks

It has been emphasized several times in this chapter that children do not have the right to self-determination, but they do have the right to participate in the decision-making process, especially in matters that affect them. This is a consequence of the dignity inherent in all human beings, which gives rise to the requirement that they must be treated subjectively, regardless of all factors, including age. The subjectivity of children means that they are not objects in the hands of their parents or state authorities, but independent subjects within their families and other social groups.<sup>94</sup>

The enforcement of children's rights is much more a process than a completed stage of legal development. Although international standards, above all the UN Convention on the Rights of the Child, provide a solid foundation, actual enforcement depends on the constitutional system, legislation, and institutional practices of the state in question. The examples of the countries examined also show that the creation of a child-friendly justice system cannot be achieved solely through the creation of legal norms, but that institutional sensitivity, appropriate training of professionals, and the provision of tools to facilitate communication and information sharing with children are also essential.

The central message of the book is that children's participatory rights are not just legal categories, but also a measure of how well a society respects the human dignity of its youngest generation. If children are truly heard and their opinions are meaningfully incorporated into decision-making, not only are their own rights upheld, but the rule of law, social justice, and democratic values as a whole are also strengthened.

The goal, therefore, is to use international standards as a starting point to develop national legislation and deepen child-centered institutional practices in order to create justice systems that are truly child-friendly and ensure the participation and protection of children not only in a legal sense but also in a social sense.

94 Lis, 2025, p. 103.

## Bibliography

- Benyusz, M. (2025) 'Article 12 of the UN Convention on the Rights of the Child and the Understanding of the Committee on the Rights of the Child' in Benyusz, M., Zombory, K. (eds.) *Child-Friendly Justice. The Participation and the Rights of the Child in Court Proceedings From a Central European Comparative Perspective*. Miskolc–Budapest: Central European Academic Publishing, pp. 205–229.; [https://doi.org/10.71009/2025.mbkz.cfj\\_10](https://doi.org/10.71009/2025.mbkz.cfj_10).
- Burkelc Juras, L. (2025) 'Child-Friendly Justice – Slovenian Perspective' in Benyusz, M., Zombory, K. (eds.) *Child-Friendly Justice. The Participation and the Rights of the Child in Court Proceedings From a Central European Comparative Perspective*. Miskolc–Budapest: Central European Academic Publishing, pp. 179–202.; [https://doi.org/10.71009/2025.mbkz.cfj\\_9](https://doi.org/10.71009/2025.mbkz.cfj_9).
- Fegyveresi, Zs. (2025) 'Child-Friendly Justice – Romanian Perspective' in Benyusz, M., Zombory, K. (eds.) *Child-Friendly Justice. The Participation and the Rights of the Child in Court Proceedings From a Central European Comparative Perspective*. Miskolc–Budapest: Central European Academic Publishing, pp. 125–139.; [https://doi.org/10.71009/2025.mbkz.cfj\\_6](https://doi.org/10.71009/2025.mbkz.cfj_6).
- Kissová, V. (2025) 'Child-Friendly Justice – Czech Perspective' in Benyusz, M., Zombory, K. (eds.) *Child-Friendly Justice. The Participation and the Rights of the Child in Court Proceedings From a Central European Comparative Perspective*. Miskolc–Budapest: Central European Academic Publishing, pp. 43–63.; [https://doi.org/10.71009/2025.mbkz.cfj\\_2](https://doi.org/10.71009/2025.mbkz.cfj_2).
- Knežević, M.S. (2025) 'Child-Friendly Justice – Serbian Perspective' in Benyusz, M., Zombory, K. (eds.) *Child-Friendly Justice. The Participation and the Rights of the Child in Court Proceedings From a Central European Comparative Perspective*. Miskolc–Budapest: Central European Academic Publishing, pp. 141–156.; [https://doi.org/10.71009/2025.mbkz.cfj\\_7](https://doi.org/10.71009/2025.mbkz.cfj_7).
- Koromház, P. (2025) 'Child-Friendly Justice – Slovakian Perspective' in Benyusz, M., Zombory, K. (eds.) *Child-Friendly Justice. The Participation and the Rights of the Child in Court Proceedings From a Central European Comparative Perspective*. Miskolc–Budapest: Central European Academic Publishing, pp. 157–178.; [https://doi.org/10.71009/2025.mbkz.cfj\\_8](https://doi.org/10.71009/2025.mbkz.cfj_8).
- Kunda, I., Smojver, M. (2025) 'Child-Friendly Justice – Croatian Perspective' in Benyusz, M., Zombory, K. (eds.) *Child-Friendly Justice. The Participation and the Rights of the Child in Court Proceedings From a Central European Comparative Perspective*. Miskolc–Budapest: Central European Academic Publishing, pp. 23–42.; [https://doi.org/10.71009/2025.mbkz.cfj\\_1](https://doi.org/10.71009/2025.mbkz.cfj_1).

- Lis, W. (2025) 'Child-Friendly Justice – Polish Perspective' in Benyusz, M., Zombory, K. (eds.) *Child-Friendly Justice. The Participation and the Rights of the Child in Court Proceedings From a Central European Comparative Perspective*. Miskolc–Budapest: Central European Academic Publishing, pp. 103–124.; [https://doi.org/10.71009/2025.mbkz.cfj\\_5](https://doi.org/10.71009/2025.mbkz.cfj_5).
- Nagy, A. (2025) 'Child-Friendly Justice – Hungarian Perspective' in Benyusz, M., Zombory, K. (eds.) *Child-Friendly Justice. The Participation and the Rights of the Child in Court Proceedings From a Central European Comparative Perspective*. Miskolc–Budapest: Central European Academic Publishing, pp. 83–102.; [https://doi.org/10.71009/2025.mbkz.cfj\\_4](https://doi.org/10.71009/2025.mbkz.cfj_4).
- Nord-Wagner, M. (2025) 'Child-Friendly Justice – French Perspective' in Benyusz, M., Zombory, K. (eds.) *Child-Friendly Justice. The Participation and the Rights of the Child in Court Proceedings From a Central European Comparative Perspective*. Miskolc–Budapest: Central European Academic Publishing, pp. 65–81.; [https://doi.org/10.71009/2025.mbkz.cfj\\_3](https://doi.org/10.71009/2025.mbkz.cfj_3).
- Tomczewska, A. (2025) 'Protection of the Rights of the Child Under the Auspices of the Hague Conference on Private Law' in Benyusz, M., Zombory, K. (eds.) *Child-Friendly Justice. The Participation and the Rights of the Child in Court Proceedings From a Central European Comparative Perspective*. Miskolc–Budapest: Central European Academic Publishing, pp. 269–301; [https://doi.org/10.71009/2025.mbkz.cfj\\_12](https://doi.org/10.71009/2025.mbkz.cfj_12).
- Tóth, B. (2025) 'Legal Standards Provided by the Council of Europe and the Case-Law of the European Court of Human Rights' in Benyusz, M., Zombory, K. (eds.) *Child-Friendly Justice. The Participation and the Rights of the Child in Court Proceedings From a Central European Comparative Perspective*. Miskolc–Budapest: Central European Academic Publishing, pp. 231–267; [https://doi.org/10.71009/2025.mbkz.cfj\\_11](https://doi.org/10.71009/2025.mbkz.cfj_11).
- Wopera, Zs. (2025) 'Child's Rights to Participate in Particular EU Legal Sources' in Benyusz, M., Zombory, K. (eds.) *Child-Friendly Justice. The Participation and the Rights of the Child in Court Proceedings From a Central European Comparative Perspective*. Miskolc–Budapest: Central European Academic Publishing, pp. 303–325; [https://doi.org/10.71009/2025.mbkz.cfj\\_13](https://doi.org/10.71009/2025.mbkz.cfj_13).
- Zombory, K., Benyusz, M. (2025) 'Introducing Child-Friendly Justice: Concepts, Rights, and Participation' in Benyusz, M., Zombory, K. (eds.) *Child-Friendly Justice. The Participation and the Rights of the Child in Court Proceedings From a Central European Comparative Perspective*. Miskolc–Budapest: Central European Academic Publishing, pp. 15–19; [https://doi.org/10.71009/2025.mbkz.cfj\\_0](https://doi.org/10.71009/2025.mbkz.cfj_0).