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*****I**
REPORT

on the proposal for a directive of the European Parliament and of the Council
on procedural safeguards for children suspected or accused in criminal
proceedings
(COM(2013)0822 – C7-0428/2013 – 2013/0408(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Caterina Chinnici

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▬ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council on procedural safeguards for children suspected or accused in criminal proceedings (COM(2013)0822 – C7-0428/2013 – 2013/0408(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0822),
 - having regard to Article 294(2) and Article 82(2)(b) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0428/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A8-0020/2015),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) Although the Member States are parties to the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights and the United Nations Convention on the Rights of the Child, experience has shown that ***this in itself does*** not always provide a sufficient degree of trust in the criminal justice systems of other Member States.

Amendment

(3) Although ***the Charter of Fundamental Rights of the European Union (the Charter) applies, under certain conditions, to Member States and*** the Member States are parties to the European Convention for the Protection of Human Rights and Fundamental Freedoms (the ECHR), the International Covenant on Civil and Political Rights and the United Nations Convention on the Rights of the Child, experience has shown that ***those facts alone do*** not always provide a sufficient degree of trust in the criminal justice systems of other Member States.

Amendment 2

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) ***The Stockholm Programme²¹ put a strong focus on the strengthening of the rights of individuals*** in criminal proceedings. ***In its point 2.4, the European Council invited the Commission to put forward proposals setting out a step by step approach²² to strengthening the rights of suspects*** or accused persons.

Amendment

(4) ***On 30 November 2009, the Council adopted the Roadmap for strengthening the procedural rights of suspected or accused persons*** in criminal proceedings (***‘the Roadmap’***)²². ***Taking a step-by-step approach, the Roadmap calls for the adoption of measures regarding the right to translation and interpretation (measure A), the right to information on rights and information about the charges (measure B), the right to legal advice and legal aid (measure C), the right to communicate with relatives, employers and consular authorities (measure D), and special safeguards for suspected or accused persons who are vulnerable***

(measure E). The Roadmap emphasises that the order of the rights is indicative, implying that it may be changed according to priorities. It is designed to operate as a whole; only when all its components are implemented will its benefits be felt in full.

²¹ OJ C 115, 4.5.2010, p.1.

²² OJ C 291, 4.12.2009, p.1.

²² OJ C 295, 4.12.2009, p. 1.

Justification

Consistency with the previous adopted measures of the Roadmap should be maintained.

Amendment 3

**Proposal for a directive
Recital 4 a (new)**

Text proposed by the Commission

Amendment

(4a) On 10 December 2009, the European Council welcomed the Roadmap and made it part of the Stockholm programme - An open and secure Europe serving and protecting citizens (point 2.4). The European Council underlined the non-exhaustive character of the Roadmap, inviting the Commission to examine further elements of minimum procedural rights for suspected and accused persons, and to assess whether other issues, for instance the presumption of innocence, need to be addressed, in order to promote better cooperation in that area.

Justification

Consistency with the previous adopted measures of the Roadmap should be maintained.

Amendment 4

Proposal for a directive Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Given the case-law of the Court of Justice of the European Union and the European Court of Human Rights, the criminal nature of proceedings cannot always be determined purely on the strength of their classification, and of the penalties which may be imposed in national law. In order to achieve the aims of the Treaties and of this Directive and to ensure full respect for fundamental rights, including those set out in the Charter and the ECHR, it is therefore appropriate, for the purposes of this Directive, to take into account not only the formal classification of proceedings in national law, but also their effects on the lives and development of the children concerned. This Directive should be applied, in any event, where there is a possibility that proceedings will result in a criminal record.

Justification

The recital is based on the precedent set by the Engel case, consistently followed by both the Strasbourg and the Luxembourg Court, and emphasises the need to ensure that Member States fully respect fundamental rights and to prevent violations giving rise to European court rulings.

Amendment 5

Proposal for a directive Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) Member States should ensure that in all proceedings, children are treated with care, sensitivity and respect for their age, special needs, maturity and level of

understanding and take into consideration any communication difficulties they may have. Criminal proceedings involving children should be carried out in a non-intimidating and child-sensitive way.

Amendment 6

Proposal for a directive

Recital 6 c (new)

Text proposed by the Commission

Amendment

(6c) The safeguards provided for in this Directive should therefore be applied, with such adjustments as might be necessary, to all proceedings which might entail restrictive measures or, at any rate, significant consequences for children's lives and hence influence the development processes that shape their personalities, and in cases where, although no punishment is ordered, proceedings could lead to a decision giving to understand – if only implicitly – that the child concerned was responsible for the offence with which he or she had been charged. In all such cases, the application of this Directive should not be ruled out by the fact that the proceedings did not result from actions classified as criminal offences in national law, do not take place in a criminal court, or entail penalties formally classified as criminal in national law.

Justification

The recital is based on the precedent set by the Engel case, consistently followed by both the Strasbourg and the Luxembourg Court, and emphasises the need to ensure that Member States fully respect fundamental rights and to prevent violations giving rise to European court rulings. The reference to 'such adjustments as might be necessary' reflects the flexible approach that needs to be brought to bear when applying the directive to the cases concerned.

Amendment 7

Proposal for a directive Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Member States are encouraged to provide children involved in criminal proceedings with appropriate support and assistance in their efforts to reintegrate into society, in particular by taking measures to prevent suspected or accused children from discrimination in terms of access to education and the labour market and to protect them from marginalisation.

Amendment 8

Proposal for a directive Recital 9

Text proposed by the Commission

Amendment

(9) This Directive should also apply in respect of offences which have been committed after the age of 18 years ***by the same suspect or accused person and which*** are jointly investigated and prosecuted as they are inextricably linked to offences ***where criminal proceedings started against that person before the age of 18.***

(9) This Directive should also apply in respect of offences which have been ***allegedly*** committed after the ***suspect or accused person has reached*** the age of 18, ***where such offences*** are jointly investigated and prosecuted, as they are inextricably linked to offences ***to which this Directive applies.***

Amendment 9

Proposal for a directive Recital 10

Text proposed by the Commission

Amendment

(10) When, at the time a person becomes a suspect or accused person in criminal

(10) When, at the time a person becomes a suspect or accused person in criminal

proceedings, that person is above the age of 18, Member States *are encouraged to* apply the procedural safeguards *foreseen* by this Directive until this person reaches the age of 21.

proceedings, that person is above the age of 18, Member States *should, especially if the offence was committed before the person in question had reached the age of 18,* apply the procedural safeguards *provided for in* this Directive *at least* until that person reaches the age of 21.

Justification

The reference to the cut-off age of 21, designed to allow for the fact that the transition to adulthood is generally a longer process in wealthy countries, appeared in point 11 of the earlier recommendation issued by the Council of Europe Committee of Ministers on 24 September 2003 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

Amendment 10

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) Member States should determine the age of children on the basis of the children's own statements, checks of their civil status, documentary research, other evidence and, if such evidence is unavailable or inconclusive, on the basis of a medical examination.

Amendment

(11) Member States should determine the age of children on the basis of the children's own statements, checks of their civil status, documentary research, other evidence and, if such evidence is unavailable or inconclusive, on the basis of a medical examination. *A medical examination should be carried out as a last resort and in strict compliance with the child's rights, physical integrity and human dignity. Where a person's age is still in doubt, that person should, for all purposes, be presumed to be a child.*

Amendment 11

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) This Directive should be implemented

Amendment

(12) This Directive should be implemented

taking into account the provisions of Directive 2012/13/EU and Directive 2013/48/EU. **Information with regard to minor offences should be provided under the same conditions as provided for by Article 2(2) of Directive 2012/13/EU.** However, **this Directive provides further complementary safeguards with regard to information to be provided to the holder of parental responsibility and mandatory access to a lawyer in order to take into account the specific needs of children.**

taking into account the provisions of Directive 2012/13/EU and Directive 2013/48/EU. However, **information should also be provided with regard to minor offences, taking into account the specific vulnerabilities of children.**

Amendment 12

Proposal for a directive Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) Children should be informed promptly and directly about their rights with regard to the proceedings, the charges brought against them, the possible consequences and the available remedies. The information should be provided in writing and orally in a manner adapted to their age and maturity and in a language that they understand.

Amendment 13

Proposal for a directive Recital 15

Text proposed by the Commission

Amendment

(15) Children should have the right to have the holder of parental responsibility informed about applicable procedural rights, **either** orally **or** in writing. This information should be provided promptly

(15) Children should **also** have the right to have the holder of parental responsibility informed about applicable procedural rights, orally **and** in writing. This information should be provided promptly

and in such detail as is necessary to safeguard the fairness of the proceedings and the effective exercise of the rights of defence of the child. Where it would be contrary to the best interests of the child to inform the holder of parental responsibility of those rights, another appropriate adult should be informed.

and in such detail as is necessary to safeguard the fairness of the proceedings and the effective exercise of the rights of defence of the child. Where it would be contrary to the best interests of the child to inform the holder of parental responsibility of those rights, another appropriate adult should be informed.

Amendment 14

Proposal for a directive Recital 16

Text proposed by the Commission

(16) Children should not be able to waive their right of access to a lawyer because they are not able to fully understand and follow criminal proceedings. Therefore, the presence *or* assistance of a lawyer should be mandatory for children.

Amendment

(16) Children should not be able to waive their right of access to a lawyer because they are not able to fully understand and follow criminal proceedings. Therefore, the presence **and** assistance of a lawyer should be mandatory for children.

Amendment 15

Proposal for a directive Recital 17

Text proposed by the Commission

(17) In some Member States an authority other than a public prosecutor and a court having jurisdiction in criminal matters has competence for imposing penalties other than deprivation of liberty in relation to relatively minor offences. That may be the case, for example, in relation to traffic offences which are committed on a large scale and which might be established following a traffic control. In such situations, it would be unreasonable to require the competent authorities to ensure mandatory access to a lawyer. Where the law of a Member State provides for the imposition of a penalty regarding

Amendment

deleted

minor offences by such an authority and there is either a right of appeal or the possibility for the case to be otherwise referred to a court having jurisdiction in criminal matters, mandatory access to a lawyer should therefore apply only to the proceedings before that court following such an appeal or referral. In some Member States proceedings involving children may be dealt with by public prosecutors who may impose penalties. In such proceedings children should have mandatory access to a lawyer.

Justification

Not automatically ensuring mandatory access to a lawyer in the case of minor offences would be wrong. There are no offences without consequences for children that would justify not upholding their rights.

Amendment 16

Proposal for a directive

Recital 18

Text proposed by the Commission

Amendment

(18) In some Member States certain minor offences, in particular minor traffic offences, minor offences in relation to general municipal regulations and minor public order offences, are considered to be criminal offences. It would be disproportionate to require the competent authorities to ensure mandatory access to a lawyer in respect of such minor offences. Where the law of a Member State provides that deprivation of liberty cannot be imposed as a penalty in respect of minor offences, the right to mandatory access to a lawyer should therefore apply only to proceedings before a court having jurisdiction in criminal matters.

deleted

Justification

Not automatically ensuring mandatory access to a lawyer in the case of minor offences would be wrong. There are no offences without consequences for children that would justify not upholding their rights.

Amendment 17

Proposal for a directive Recital 19

Text proposed by the Commission

(19) Children who are suspected or accused in criminal proceedings should have the right to an individual assessment to identify their specific needs in terms of protection, education, formation and social integration, to ***determine if and to what extent they would need special measures*** during the *criminal* proceedings ***and to determine the extent of their criminal responsibility and the adequacy of a penalty or educative measure for them.***

Amendment

(19) Children who are suspected or accused in criminal proceedings should have the right to an individual assessment to identify their specific needs in terms of protection, education, formation and social integration, to ***ensure that every decision taken*** during, ***or resulting from***, the proceedings ***is tailored to the greatest extent possible to their particular circumstances.***

Justification

The amendment proceeds from the premiss a child's guilt is established by the court after it has concluded the proceedings. Individual assessment, on the other hand, should serve to provide useful information to help determine the most appropriate measures to take at each stage. To avoid misunderstandings, and to spell out the general purpose of individual assessment more clearly, the recital should be amended as shown above. The enacting terms of the directive would, however, be a suitable place to enlarge upon some of the points mentioned in the original text of the recital.

Amendment 18

Proposal for a directive Recital 20

Text proposed by the Commission

(20) In order to ensure the personal integrity of a child who is ***arrested or detained***, the child should have access to a medical examination. The medical

Amendment

(20) In order to ensure the personal integrity, ***well-being and health of a suspected or accused child who is deprived of liberty, to assess his or her***

examination should be carried out by a physician.

general physical and mental state, and any medical needs and to provide guidance on whether he or she should be subjected to questioning, investigative or evidence-taking measures, or any special measures taken or envisaged concerning him or her, the child should have access to a medical examination. Suspected or accused children who are not deprived of liberty should have access to a medical examination where proceedings or the best interests of the child so require. The medical examination should be as non-invasive as possible and carried out by a qualified professional.

Amendment 19

Proposal for a directive Recital 21

Text proposed by the Commission

(21) *In order* to ensure sufficient protection of children who are not always able to understand the content of interviews to which they are subject, to avoid any challenge of the content of an interview and thereby undue repetition of questioning, questioning of children should be audio-visually recorded. *This does not include questioning necessary to identify the child.*

Amendment

(21) *Bearing in mind that children are particularly vulnerable, questioning may be perceived to be traumatic, it is therefore essential that questioning be carried out by trained professionals taking into consideration the children's age, maturity, level of understanding and any communication difficulties they may have. Questioning should take place in the presence of a lawyer and, where so requested by the child and/or where that is in the best interests of the child, the holder of parental responsibility and, where necessary, specialist professionals. Thorough documentation and audio-visual recording of interviews are a vital safeguard serving both to ensure that interviews are conducted properly and to ensure sufficient protection of children who are not always able to understand the content of interviews to which they are*

subject. ***In order*** to avoid any challenge to the content of an interview and thereby undue repetition of questioning, questioning of children should ***therefore*** be audio-visually recorded.

Amendment 20

Proposal for a directive Recital 22

Text proposed by the Commission

(22) However, it would be ***disproportionate*** to require the competent authorities to ensure audio-visual recording ***in all circumstances. Due account should be taken of the complexity of the case, the seriousness of the alleged offence and the potential penalty that can be incurred.*** If a child is deprived of liberty before conviction, any questioning of the child should be audio-visually recorded.

Amendment

(22) However, it would be ***unreasonable*** to require the competent authorities to ensure audio-visual recording ***even when it is not in the best interests of the child.*** If a child is deprived of liberty before conviction, any questioning of the child should be audio-visually recorded.

Justification

Given that modern technology is making it ever easier and ever cheaper to make video recordings, and given the importance of the guarantees such recordings provide, an exception should be made only if this is in the best interests of the child.

Amendment 21

Proposal for a directive Recital 23

Text proposed by the Commission

(23) Such audio-visual ***records*** should be accessible only to the judicial authorities and the parties to the proceedings. ***Moreover, the questioning of children should be carried out in a manner that takes into account their age and level of maturity.***

Amendment

(23) Such audio-visual ***recordings*** should be accessible only to the judicial authorities and the parties to the proceedings.

Justification

This amendment should be read in conjunction with the proposed amendment to Article 9 of the Directive, which should contain the second sentence of this Recital 23.

Amendment 22

Proposal for a directive Recital 25

Text proposed by the Commission

(25) Children are in a particularly vulnerable position in relation to detention. Special efforts should be undertaken to avoid deprivation of liberty of children given the inherent risks for their physical, mental and social development. The competent authorities should consider alternative measures and impose such measures whenever this is in the best interests of the child. This may include the obligation to report to a competent authority, a restriction on contact with specific persons, a requirement to undergo therapeutic treatment or treatment for addiction and participation in educational measures.

Amendment

(25) Children are in a particularly vulnerable position in relation to detention. Special efforts should be undertaken to avoid deprivation of liberty of children given the inherent risks for their physical, mental and social development ***and given that it seriously hampers their reintegration in society. Deprivation of liberty should therefore be used only as a last resort and for the shortest appropriate period of time.*** The competent authorities should consider alternative measures and impose such measures whenever this is in the best interests of the child. This may include the obligation to report to a competent authority, a restriction on contact with specific persons, a requirement to undergo therapeutic treatment or treatment for addiction and participation in educational measures.

Amendment 23

Proposal for a directive Recital 26

Text proposed by the Commission

(26) When deprivation of liberty is imposed on children, they should benefit

Amendment

(26) When deprivation of liberty is imposed on children, they should benefit

from special protection measures. In particular they should be held separately from adults unless it is considered in the child's best interest not to do so, in accordance with Article 37(c) of the United Nations Convention of the Rights of the Child. When a detained child reaches the age of 18 years, there should be the possibility to continue the separate detention where warranted, taking into account the individual circumstances of the case. Particular attention should be paid to the way detained children are treated given their inherent vulnerability. Children should have access to educational facilities according to their needs.

from special protection measures. In particular they should ***always*** be held separately from adults unless ***in exceptional circumstances*** it is considered in the child's best interest not to do so, in accordance with Article 37(c) of the United Nations Convention of the Rights of the Child. When a detained child reaches the age of 18 years, there should be there should be the possibility to continue the separate detention where warranted, taking into account the individual circumstances of the case. Particular attention should be paid to the way detained children are treated given their inherent vulnerability. Children should have access to educational facilities according to their needs.

Amendment 24

Proposal for a directive Recital 26 a (new)

Text proposed by the Commission

Amendment

(26a) Children deprived of liberty should in particular have the right to maintain regular and meaningful contact with parents, family and friends through visits and correspondence, unless exceptional restrictions are required in the best interests of the child and in the interests of justice.

Amendment 25

Proposal for a directive Recital 28

Text proposed by the Commission

Amendment

(28) Children should be judged in the

(28) Children should be judged in the

absence of the public in order to protect their privacy and to facilitate their re-integration into society. In exceptional cases the court *may decide that a hearing should be held publicly after it has taken due account of* the best interests of the child.

absence of the public in order to protect their privacy and to facilitate their re-integration into society. The court *should be allowed to hold a hearing in public only* in exceptional cases *where it is in the best interests of the child. Such a decision should be open to appeal by the child. Member States should take appropriate measures to ensure that the competent authorities do not infringe the privacy of children in connection with criminal proceedings and their outcome. They should also seek to prevent breaches of privacy that might be committed via the media, including the Internet. Furthermore, Member States should facilitate the reintegration into society of children involved in criminal proceedings, and should actively take steps in order to prevent discrimination and marginalisation of such children.*

Justification

This amendment follows on from Amendment 17 proposed by the rapporteur. The word 'exceptional' in the Commission's original proposal should be kept.

Amendment 26

Proposal for a directive Recital 28 a (new)

Text proposed by the Commission

Amendment

(28a) Member States should ensure that no information or personal data is made available or published, particularly in the media, which could reveal or indirectly enable the disclosure of the child's identity, including the image or the name of the child or the child's family.

Amendment 27

Proposal for a directive Recital 28 b (new)

Text proposed by the Commission

Amendment

(28b) Member States should ensure that when records or documents containing personal and sensitive data of children are transferred, that transfer complies with relevant data protection legislation.

Amendment 28

Proposal for a directive Recital 28 c (new)

Text proposed by the Commission

Amendment

(28c) Member States should consider ensuring that the protection of privacy as set out in this Directive extends after the child reaches the age of 18 and throughout his or her lifetime, avoiding stigmatization, prejudgments and/or enhancing future sentencing.

Amendment 29

Proposal for a directive Recital 30 a (new)

Text proposed by the Commission

Amendment

(30a) Member States should ensure that children have the right to appear in person and to participate actively in the trial, including by giving them the opportunity to be heard and to express their views when they are deemed to have a sufficient understanding of the procedure.

Amendment 30

Proposal for a directive Recital 36

Text proposed by the Commission

(36) Since the objectives of this Directive, namely setting common minimum standards on procedural safeguards for children suspected or accused in criminal proceedings, cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale of the measure, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve these objectives.

Amendment

(36) Since the objectives of this Directive, namely setting common minimum standards ***across the Union*** on procedural safeguards for children suspected or accused in criminal proceedings, cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale of the measure, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve these objectives.

Amendment 31

Proposal for a directive Article 2 – paragraph 3

Text proposed by the Commission

3. This Directive applies to suspects or accused persons subject to criminal proceedings referred to in paragraph 1, and to persons subject to European arrest warrant proceedings referred to in paragraph 2, who are no longer children ***in the course*** of those proceedings, which ***started when they were children***.

Amendment

3. This Directive applies to suspects or accused persons subject to criminal proceedings referred to in paragraph 1, and to persons subject to European arrest warrant proceedings referred to in paragraph 2, who are no longer children ***but are still under the age of 21 at the beginning*** of those proceedings, which ***relate to offences allegedly committed before those persons had reached the age of 18***.

Amendment 32

Proposal for a directive Article 3 – paragraph 1

Text proposed by the Commission

For the purposes of this Directive the *term* “child” means a person below the age of 18 years.

Amendment

For the purposes of this Directive the *following definitions apply*:

- “child” means a person below the age of 18. *Where, even after checks, doubts remain about a person’s age, that person shall, for all purposes, be presumed to be a child;*

Amendment 33

Proposal for a directive Article 3 – paragraph 1 – indent 1 a (new)

Text proposed by the Commission

Amendment

- “*holder of parental responsibility*” means any person having parental responsibility over a child as defined in Article 2(7) of Regulation (EC) No 2201/2003.

Amendment 34

Proposal for a directive Article 4 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that children are informed promptly *about their rights in accordance with Directive 2012/13/EU. They shall also be informed about the following rights within the same scope as Directive 2012/13/EU:*

Amendment

1. Member States shall ensure that children are informed promptly – *in writing and orally, by procedures appropriate to their age, understanding, and intellectual ability, in a simple language which they understand* – about *the charges against them, the conduct of the proceedings and* their rights in accordance with Directive 2012/13/EU, *including* the following

rights:

Amendment 35

Proposal for a directive

Article 4 – paragraph 1 – point 2

Text proposed by the Commission

(2) their right to a lawyer, as provided for in Article 6;

Amendment

(2) their right to ***be assisted by*** a lawyer, as provided for in Article 6;

Justification

In line with the changes made to Article 6.

Amendment 36

Proposal for a directive

Article 4 – paragraph 1 – point 5

Text proposed by the Commission

(5) their right to liberty and the right to specific treatment in detention, as provided for in Articles 10 and 12;

Amendment

(5) their right to liberty and the right to specific treatment ***when arrested or*** in detention, as provided for in Articles 10 and 12;

Justification

The addition is in line with the new paragraph to be inserted in Article 12 on the safeguards applying when children are arrested.

Amendment 37

Proposal for a directive

Article 4 – paragraph 1 – point 9 a (new)

Text proposed by the Commission

Amendment

(9a) their right to effective remedies, as provided for in Article 18a.

Justification

The addition is linked to the insertion of a new article on effective remedies, worded in similar terms to other directives in the ‘road map’ package.

Amendment 38

Proposal for a directive

Article 4 – paragraph 1 – point 9 b (new)

Text proposed by the Commission

Amendment

(9b) their right of access to justice which is adapted to their needs.

Amendment 39

Proposal for a directive

Article 5 – paragraph 1

Text proposed by the Commission

Amendment

Member States shall ensure that the holder of parental responsibility ***of the child*** or, where that would be contrary to the best interests of the child, another appropriate adult, is provided with the information that the child receives in accordance with Article 4.

Member States shall ensure that the holder of parental responsibility or, where that ***is impossible or*** would be contrary to the best interests of the child, another appropriate adult, ***to be designated by the child and approved by the competent authority or – if the child has not designated any such person – a person designated by the competent authority and accepted by the child,*** is provided ***as quickly as possible*** with the information that the child receives in accordance with Article 4.

Justification

Given that the ‘other’ appropriate adult might be called upon to play a key role when the holder of parental responsibility cannot be approached, the rapporteur has thought fit to specify how a person considered another appropriate adult should be selected for the purposes of the above article and the entire directive, which uses the same expression in several other places. In those cases too the general rule set out above will accordingly have to be applied.

Amendment 40

Proposal for a directive Article 6 – title

Text proposed by the Commission

Amendment

Right to **a** mandatory **access to** a lawyer

Right to mandatory **assistance by** a lawyer

Justification

The wording proposed is intended to make it clearer that the lawyer must be able to buoy up and help the child in the proceedings, instead of merely being a source of ‘outside’ support.

Amendment 41

Proposal for a directive Article 6 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that children are assisted by a lawyer **throughout** the **criminal** proceedings **in accordance with Directive 2013/48/EU**. The right to **access to** a lawyer cannot be waived.

1. Member States shall ensure that children are assisted by a lawyer **at every stage in** the proceedings. The right to **be assisted by** a lawyer cannot be waived.

Justification

The wording proposed is intended to make it clearer that the lawyer must be able to buoy up and help the child over the entire course of the proceedings, instead of merely being a source of ‘outside’ support.

Amendment 42

Proposal for a directive Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The derogations provided for in Directive 2013/48/EU shall not apply to children.

Amendment 43

Proposal for a directive Article 7 – paragraph 2

Text proposed by the Commission

2. For that purpose children shall be individually assessed. The assessment shall take particular account of the personality and maturity of the child **and their** economic and social background.

Amendment

2. For that purpose children shall be individually assessed. The assessment shall take particular account of the personality and maturity of the child, **its family, economic and social background, its living environment and any specific vulnerabilities.**

Amendment 44

Proposal for a directive Article 7 – paragraph 3

Text proposed by the Commission

3. The individual assessment shall take place at **an** appropriate stage **of** the proceedings and in any event before indictment.

Amendment

3. The individual assessment shall take place at **the earliest** appropriate stage **in** the proceedings and in any event before indictment **or the ordering of measures involving deprivation of liberty, except where this is impossible.**

Justification

Given its importance for the proceedings as a whole, it should be clearly stated that individual assessment must take place at an early stage. If the assessment cannot precede deprivation of liberty, it must be carried out immediately afterwards.

Amendment 45

Proposal for a directive Article 7 – paragraph 4

Text proposed by the Commission

4. The extent and detail of the individual

Amendment

4. The extent and detail of the individual

assessment may vary depending on the circumstances of the case, ***the seriousness of the alleged offence and the penalty which will be imposed if the child is found guilty of the alleged offence, whether or not the child has previously come to the attention of competent authorities in the context of criminal proceedings.***

assessment may vary depending on the circumstances of the case, ***taking into account the best interests of the child.***

The assessment shall serve to establish and record such information about the individual characteristics and circumstances of the child as might be of use to the competent authority in order to:

(a) determine whether special measures concerning the child should be taken during the proceedings;

(b) assess the appropriateness and effectiveness of any precautionary measures;

(c) take decisions within its remit arising from the proceedings.

Justification

The additions are intended to spell out more clearly what should be the aims and substance of individual assessment, which should serve to establish and record every item of useful information enabling the child's best interests to be properly reflected and taken into account in all decisions that the competent authority might be called upon to take in the course of the proceedings.

Amendment 46

Proposal for a directive Article 7 – paragraph 5

Text proposed by the Commission

5. Individual assessments shall be carried out with the close involvement of the child.

Amendment

5. Individual assessments shall be carried out with the close involvement of the child. ***They shall be carried out by qualified persons, following a multidisciplinary approach and, where deemed advisable, with the involvement of the holder of parental responsibility or another appropriate adult and/or specialist***

professional.

Justification

The purpose of the additional details is to clarify how, depending on the particular circumstances, individual assessment could be carried out in order to achieve the aims specified in the preceding paragraph.

Amendment 47

**Proposal for a directive
Article 7 – paragraph 7**

Text proposed by the Commission

7. Member States may derogate from the obligation *in paragraph 1 when it is not proportionate to carry out an individual assessment taking into account the circumstances of the case and whether or not the child has previously come to the attention of Member State authorities in the context of criminal proceedings.*

Amendment

7. Member States may derogate from the obligation to carry out an individual assessment, *if the derogation is warranted by the circumstances of the case and it is in the best interests of the child.*

Amendment 48

**Proposal for a directive
Article 8 – paragraph 1**

Text proposed by the Commission

1. *In case of deprivation of liberty of a child, Member States shall ensure* that the child has access to a medical examination with a view, in particular, to assessing the general mental and physical condition of the child with the aim *to determine* the capacity of the child to face questioning or other investigative or evidence gathering acts or any measures taken or envisaged against the child.

Amendment

1. *Where a child has been deprived of liberty, where the proceedings so require, or where it is in the best interests of the child,* Member States shall ensure that the child has access *without delay* to a medical examination *and medical care in order to evaluate, protect and, where necessary, improve the health and well-being of the child. The medical examination shall be as non-invasive as possible and carried out by a qualified professional.*

1a. The results of that medical examination shall be taken into account

when determining the capacity of the child to face questioning or other investigative or evidence gathering acts or any measures taken or envisaged against the child.

Amendment 49

Proposal for a directive Article 8 – paragraph 3

Text proposed by the Commission

3. The conclusion of the medical examination shall be recorded in writing.

Amendment

3. The conclusion of the medical examination shall be recorded in writing ***and all steps necessary to protect the physical and mental health of the child shall be taken without delay.***

Amendment 50

Proposal for a directive Article 9 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that any questioning of children by police or other law enforcement or judicial authority carried out ***prior to the indictment*** is audio-visually recorded, unless ***it*** is not ***proportionate taking into account the complexity of the case, the seriousness of the alleged offence and the potential penalty that can be incurred.***

Amendment

1. Member States shall ensure that any questioning of children by police or other law enforcement or judicial authority carried out is audio-visually recorded, unless ***it*** is not ***in the best interests of the child.***

Justification

Given that modern technology is making it ever easier and ever cheaper to make video recordings, and given the importance of the guarantees such recordings provide, an exception should be made only if this is in the best interests of the child.

Amendment 51

Proposal for a directive

Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that the questioning of children is carried out in a manner that takes account of their age, level of maturity and any other needs determined during the individual assessment conducted in accordance with Article 7.

Amendment 52

Proposal for a directive Article 9 – paragraph 3

Text proposed by the Commission

Amendment

3. Paragraph 1 is without prejudice to the possibility to ask questions for the purpose of personal identification of the child without such audio-visual recording.

3. Paragraph 1 is without prejudice to the possibility to ask questions ***solely*** for the purpose of personal identification of the child without such audio-visual recording.

Amendment 53

Proposal for a directive Article 10 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that children are deprived of liberty before their conviction only as a measure of last resort and for the shortest appropriate period of time. Due account shall be taken of the age ***and*** individual situation of the child.

1. Member States shall ensure that children are deprived of liberty before their conviction only as a measure of last resort, ***after specific and detailed reasons have been given,*** and for the shortest appropriate period of time, ***ensuring in every case respect for the human dignity and the rights of the child in custody.*** Due account shall be taken of the age, individual situation ***and personality*** of the child ***and the particular circumstances under which the offence was committed.***

Justification

Given that children are deprived of their liberty only as a last resort, the courts should, as far as possible, endeavour to impose this penalty only where absolutely unavoidable, giving specific and detailed reasons for so doing. In each case, respect for the human dignity and the rights of the child in custody must be ensured, due account being taken of the child's personality and the particular circumstances under which the offence was committed.

Amendment 54

Proposal for a directive Article 10 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that any deprivation of liberty of children before their conviction is subject to a periodic review by a court.

Amendment

2. Member States shall ensure that any deprivation of liberty of children before their conviction is subject to a periodic review, *at reasonable intervals of time*, by a court. *Every child deprived of liberty shall have the right to challenge the legality of the deprivation of liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such challenge.*

Amendment 55

Proposal for a directive Article 10 a (new)

Text proposed by the Commission

Amendment

Article 10a

Provisional detention

Member States shall ensure that children placed in provisional detention are kept separately from adults and convicted children.

Amendment 56

Proposal for a directive Article 11 – paragraph 2 – point d

Text proposed by the Commission

(d) *undergoing of* therapeutic *treatment* or *treatment for* addiction,

Amendment

(d) *participation in* therapeutic or addiction *treatment programmes*,

Amendment 57

Proposal for a directive Article 11 – paragraph 2 – point e

Text proposed by the Commission

(e) participation in educational *measures*.

Amendment

(e) participation in educational *programmes*.

Amendment 58

Proposal for a directive Article 12 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. Member States shall ensure that arrests of children are carried out on the basis of procedures and with safeguards appropriate to the child's age and degree of maturity.

Amendment 59

Proposal for a directive Article 12 – paragraph -1 a (new)

Text proposed by the Commission

Amendment

-1a. Member States shall further ensure that once arrested the child has the right

to meet the holder of the parental responsibility or another appropriate adult as referred to in Article 5(1) promptly and in any event prior to questioning.

Amendment 60

Proposal for a directive Article 12 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that children are detained separately from adults, *unless it is considered in the child's best interest not to do so. When a detained child reaches* the age of 18 years, *Member States shall provide the possibility to continue the separate detention where warranted, taking into account the individual circumstances of the detained person.*

Amendment

1. Member States shall ensure that children are detained separately from adults *and may, when they reach* the age of 18 years, *continue to be detained separately from adults unless it is considered to be in their best interests or in the best interests of other detained children not to do so.*

Amendment 61

Proposal for a directive Article 12 – paragraph 2 – point a

Text proposed by the Commission

(a) ensure and preserve the health and physical development of the child,

Amendment

(a) ensure and preserve the health and physical *and mental* development of the child,

Amendment 62

Proposal for a directive Article 12 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) protect the dignity and identity of the

child,

Amendment 63

Proposal for a directive

Article 12 – paragraph 2 – point d

Text proposed by the Commission

(d) foster the development of the child and *its* future integration into society.

Amendment

(d) ***ensure access to programmes that*** foster the development of the child and ***his or her*** future integration into society,

Amendment 64

Proposal for a directive

Article 12 – paragraph 2 – point d a (new)

Text proposed by the Commission

(da) ensure that the special requirements of those children with physical, sensory, and learning disabilities are provided for,

Amendment 65

Proposal for a directive

Article 12 – paragraph 2 – point d b (new)

Text proposed by the Commission

(db) ensure that all the other rights of the child are protected,

Amendment 66

Proposal for a directive

Article 12 – paragraph 2 – point d c (new)

Text proposed by the Commission

Amendment

(dc) ensure the freedom of the child to express his or her religion or belief.

Amendment 67

Proposal for a directive

Article 12 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that effective means of complaint and remedies are available to detained children, their lawyers and holders of parental responsibility or other appropriate adults. Member States shall also ensure that independent inspections are carried out on a regular basis to check the state of the detention facilities and the treatment of detainees, and shall take appropriate action on the findings.

Justification

With a view to ensuring that the state of the facilities in which persons involved in criminal proceedings are held and the manner in which they are treated are appropriate and in keeping with their fundamental rights, Member States should ensure that they have effective means of complaint and redress and that independent bodies carry out periodic inspections of detention facilities.

Amendment 68

Proposal for a directive

Article 14 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that criminal proceedings involving children take place in the absence of the public, unless, ***after due consideration of the best interest of the child, exceptional circumstances***

1. Member States shall ensure that criminal proceedings involving children take place in the absence of the public, unless ***in exceptional circumstances*** the best ***interests*** of the child justify a derogation.

justify a derogation.

Amendment 69

Proposal for a directive Article 14 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that the competent authorities take appropriate measures in criminal proceedings to **protect** the privacy of the child and family members, including their names and images. Member States shall ensure that the competent authorities do not publicly disseminate information that could lead to the identification of the child.

Amendment

2. Member States shall ensure that the competent authorities take appropriate measures in criminal proceedings to protect the privacy **and well-being** of the child and family members, including their names and images. Member States shall ensure that the competent authorities **and non-state actors, such as the media**, do not publicly disseminate information that could lead to the identification of the child.

Amendment 70

Proposal for a directive Article 15 – paragraph 1

Text proposed by the Commission

Member States shall ensure that the holder of parental responsibility or another appropriate adult as referred to in Article 5 have access to the court hearings involving the child.

Amendment

Except in cases where it would not be in the best interests of the child, Member States shall ensure that the holder of parental responsibility or another appropriate adult as referred to in Article 5(1) have access to the court hearings involving the child **and may, where appropriate, be present during other stages in the proceedings at which the child is present**.

Justification

In view of how important it is for a child to have the holder of parental responsibility or another appropriate adult close by during the proceedings, States should, in the best interests of the child, allow them to be present, except where there are good reasons for them not to be. The presence of the holder of parental responsibility is viewed as not merely a right, but a duty, under point 10 of the Council of Europe Committee of Ministers recommendation of 24

September 2003.

Amendment 71

Proposal for a directive Article 16 – title

Text proposed by the Commission

Amendment

Right of children to appear in person at the trial aiming at assessing the question of their guilt

Right of children to appear in person at, ***and take part in***, the trial aiming at assessing the question of their guilt

Justification

This complements Amendment 44 proposed by the rapporteur.

Amendment 72

Proposal for a directive Article 16 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that children ***are*** present ***at*** the trial.

1. Member States shall ensure that children ***are entitled to be*** present ***and to participate in*** the trial ***and shall take all necessary steps to enable them to participate fully, including by giving them the opportunity to be heard and to express their views.***

Amendment 73

Proposal for a directive Article 16 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall ensure that where children were not present at the trial

2. Member States shall ensure that where children were not present at the trial

resulting in a decision on their guilt, they shall have the right to a ***procedure*** in which they have the right to participate and which allows a fresh determination of the merits of the case, including examination of new evidence, and which may lead to the original decision to be reversed.

resulting in a decision on their guilt, they shall have the right to a ***retrial*** in which they have the right to participate and which allows a fresh determination of the merits of the case, including examination of new evidence, and which may lead to the original decision to be reversed.

Amendment 74

Proposal for a directive Article 18 – paragraph 1

Text proposed by the Commission

Member States shall ensure that national law in relation to legal aid guarantees the effective exercise of the right to ***access to*** a lawyer as referred to in Article 6.

Amendment

Member States shall ensure that national law in relation to legal aid guarantees the effective exercise of the right to ***be assisted by*** a lawyer as referred to in Article 6.

Justification

In line with the change made to Article 6.

Amendment 75

Proposal for a directive Article 18 a (new)

Text proposed by the Commission

Amendment

Article 18a

Remedies

Member States shall ensure that suspected or accused children in criminal proceedings, as well as children subject to European arrest warrant proceedings, have an effective remedy under national law in the event of a breach of their rights under this Directive.

Justification

For the sake of consistency and effectiveness, this provision, which appears in Article 12 of Directive 2013/48/EU of 22 October 2013 on the right of access to a lawyer in criminal

proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty, should be included in this directive as well.

Amendment 76

Proposal for a directive Article 19 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that judicial and law enforcement authorities and prison staff who deal with cases involving children are professionals specialising in the field of criminal proceedings involving children. They shall receive particular training with regard to children's legal rights, appropriate interviewing techniques, child psychology, communication in a language adapted to the child and pedagogical skills.

Amendment

1. Member States shall ensure that judicial and law enforcement authorities and prison staff who deal with cases involving children are professionals specialising in the field of criminal proceedings involving children. They shall receive particular training with regard to children's legal rights, appropriate interviewing techniques, child psychology, communication in a language adapted to the child and pedagogical skills, ***as well as on rules of confidentiality.***

Amendment 77

Proposal for a directive Article 19 a (new)

Text proposed by the Commission

Amendment

Article 19a

Non-discrimination

1. Member States shall respect and guarantee the rights set out in this Directive as regards any child within their jurisdiction without discrimination of any kind, and irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, sexual orientation, language, religion, political or other opinion, nationality, ethnic or social origin,

property, disability, birth or other status.

2. Member States shall promote training of all the professionals involved in the administration of juvenile justice, specifically in the light of particularly vulnerable groups, such as street children, children belonging to racial, ethnic, religious or linguistic minorities, migrant children, indigenous children, girls, children with disabilities and children who are repeatedly in conflict with the law, who may be victims of a lack of consistent policy and de facto discrimination. Their effective access to justice shall be ensured.

EXPLANATORY STATEMENT

The proposal for a directive on procedural safeguards for children suspected or accused in criminal proceedings comes under the Roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings adopted by the Council on 30 November 2009¹, together with a number of other measures that have already been adopted² or are currently under discussion³.

The Stockholm Programme put a strong focus on strengthening of the rights of individuals in criminal proceedings. Laying down common minimum standards guaranteeing sufficiently uniform enjoyment of the right to a fair trial at all stages in proceedings by persons under the age of 18 is in keeping with the objective of facilitating mutual recognition of sentences and judicial decisions in criminal matters and ensuring the smooth operation of the European area of justice.

The proposal for a directive also forms part of the EU Agenda for the Rights of the Child⁴ and seeks to promote children's rights with reference to other instruments as well, including the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice⁵, given that those instruments do not have the binding force of EU legislation, as a result of which the safeguards they provide are not fully and uniformly applied in the Member States.

According to the Commission's estimates, more than 1 million children are involved in criminal proceedings in the EU each year (12% of the overall number). Furthermore, there are major disparities in the way in which children involved in criminal proceedings are treated in the various Member States. EU research shows that, at present, children's rights are not being sufficiently protected at the various stages in criminal proceedings in the EU; countless judgments against Member States have been handed down by the European Court of Human Rights.

Despite the large number of international legal instruments in this area, there is no definition of what constitutes a 'fair trial' for children, and courts are therefore obliged to hand down judgments on the basis of an incomplete and fragmentary body of law.

1 Council Resolution of 30 November 2009 on a roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings.

2 The measures already adopted include: Directive 2010/64/EU of 20 October 2010 on the right to interpretation and translation in criminal proceedings; Directive 2012/13/EU of 22 May 2012 on the right to information in criminal proceedings; Directive 2013/48/EU of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty; the Commission Recommendation of 27 November 2013 on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings; and the Commission Recommendation of 27 November 2013 on the right to legal aid for suspects or accused persons in criminal proceedings.

3 These include the proposal for a directive on the strengthening of certain aspects of the presumption of innocence and the right to be present at trial in criminal proceedings, submitted on 27 November 2013 and the proposal for a directive on provisional legal aid for suspects or accused persons deprived of liberty and legal aid in European arrest warrant proceedings, also submitted on 27 November 2013.

4 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 15 February 2011.

5 Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, adopted by the Council of Europe Committee of Ministers on 17 November 2010.

Currently, only six Member States (Belgium, Czech Republic, Greece, Italy, Luxembourg and Slovakia) have dedicated juvenile prosecution services, and nine Member States do not even have juvenile courts. Special training for judges and lawyers who come into contact with children in their work is compulsory in only 12 Member States. In some Member States, there is no legal obligation for children to be assisted by a lawyer; in others, it is available only in the courts, but not in police stations; in others still, the decision is up to the relevant court. As a result, a substantial number of children in the EU do not enjoy the basic right to be assisted by a lawyer.

It is against this background that the Commission has submitted the proposal before us, which seeks to lay down a limited but properly structured catalogue of rights for children suspected or accused in criminal proceedings (or subject to European arrest warrant proceedings) based on a set of minimum, interconnected standards geared to meeting the specific needs of children at all stages in proceedings.

The rapporteur endorses the aims of the proposal and the general approach taken, as well as all the main provisions, the most important of which are: the mandatory right to be assisted by a lawyer, in close connection with the right to free legal aid; the right to an individual assessment; the rules on questioning; the provision for the child to take part in the proceedings; compulsory special training for judges, law enforcement authorities and prison staff, lawyers and others who come into contact with children in their work; the provisions on detention, under which children should be held on remand only where there is no alternative, and in such cases, it must be ensured that the children are held separately from adults, except where it is in their best interests not to do so.

The rapporteur is tabling a number of amendments, which seek almost exclusively to enhance, extend, strengthen or clarify the various rights set out in the Commission proposal.

The only additions to this catalogue of rights are a new article on remedies for infringement of the rights set out in the proposal and a new paragraph at the start of Article 12 (on the right to specific treatment in case of deprivation of liberty), the purpose of which is to establish a number of basic safeguards, including the right of a child to be visited by the holder of parental responsibility or another appropriate adult, in connection with the arrest of children, which is not covered by the Commission proposal.

The proposed extensions to rights include the general extension of the scope of the directive to cover young people between the ages of 18 and 21, where the offence in question was committed before the age of 18.

There are several other proposals to extend or strengthen specific rights. The rapporteur also takes the general view that derogations should be allowed only on the basis of case-by-case assessments of the best interests of the child, and not on that of criteria that would be still vaguer (or, conversely, excessively rigid) and, above all, would bear little relation to the problems that the safeguards are intended to address, and has amended the proposal accordingly.

The amendments seeking to clarify the provisions proposed by the Commission include those to Article 5, which sets out how the 'other appropriate adult' who is to act in place of the holder of parental rights is to be designated, and Article 7, where the main aims of the individual assessment are set out in greater detail.

At all times, particular care has been taken to ensure that the establishment of special

safeguards taking account the age and vulnerability of children suspected or accused in criminal proceedings will not give rise to distortions that will prevent criminal proceedings from playing their proper role, which is to determine, objectively and impartially, whether a given person can be held criminally responsible for a given offence.

PROCEDURE

Title	Procedural safeguards for children suspected or accused in criminal proceedings	
References	COM(2013)0822 – C7-0428/2013 – 2013/0408(COD)	
Date submitted to Parliament	27.11.2013	
Committee responsible Date announced in plenary	LIBE 13.1.2014	
Committees asked for opinions Date announced in plenary	JURI 13.1.2014	
Not delivering opinions Date of decision	JURI 3.9.2014	
Rapporteurs Date appointed	Caterina Chinnici 22.7.2014	
Discussed in committee	16.10.2014	3.12.2014
Date adopted	5.2.2015	
Result of final vote	+: 50 -: 1 0: 3	
Members present for the final vote	Martina Anderson, Heinz K. Becker, Bodil Ceballos, Caterina Chinnici, Ignazio Corrao, Rachida Dati, Agustín Díaz de Mera García Consuegra, Frank Engel, Cornelia Ernst, Laura Ferrara, Monika Flašíková Beňová, Lorenzo Fontana, Mariya Gabriel, Nathalie Griesbeck, Sylvie Guillaume, Monika Hohlmeier, Filiz Hyusmenova, Sophia in 't Veld, Eva Joly, Sylvia-Yvonne Kaufmann, Timothy Kirkhope, Barbara Kudrycka, Kshetu Kyenge, Marju Lauristin, Juan Fernando López Aguilar, Monica Macovei, Vicky Maeijer, Claude Moraes, József Nagy, Soraya Post, Judith Sargentini, Birgit Sippel, Csaba Sógor, Traian Ungureanu, Marie-Christine Vergiat, Harald Vilimsky, Cecilia Wikström, Kristina Winberg, Tomáš Zdechovský	
Substitutes present for the final vote	Hugues Bayet, Andrea Bocskor, Pál Csáky, Daniel Dalton, Dennis de Jong, Petra Kammerevert, Ska Keller, Andrejs Mamikins, Maite Pagazaurtundúa Ruiz, Christine Revault D'Allonnes Bonnefoy, Jaromír Štětina, Axel Voss	
Substitutes under Rule 200(2) present for the final vote	Eugen Freund, Elisabetta Gardini, Charles Tannock	
Date tabled	12.2.2015	