



Advancing the Defence Rights of Children Manual for Trainers



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About Fair Trials

Fair Trials is a global criminal justice watchdog with offices in London, Brussels, and Washington D.C., focused on improving the right to a fair trial in accordance with international standards.

Fair Trials' work is premised on the belief that fair trials are one of the cornerstones of a just society: they prevent lives from being ruined by miscarriages of justice, and make societies safer by contributing to transparent and reliable justice systems that maintain public trust. Although universally recognised in principle, in practice the basic human right to a fair trial is being routinely abused.

Its work combines: (a) helping suspects to understand and exercise their rights; (b) building an engaged and informed network of fair trial defenders (including NGOs, lawyers and academics); and (c) fighting the underlying causes of unfair trials through research, litigation, political advocacy and campaigns.

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Advancing the Defence Rights of Children **Manual for Trainers**

Contents

	Page
Introduction	3
Advancing the Defence Rights of Children	3
About this Training Programme	4
Using this Manual	5
Designing the Local Training Programme	6
Organising the Training	6
Logistics	7
Structure of the Training Programme	8
Online Training	8
Structure of the In-Person Training Programme	9
Number of Participants	10
Presentation 1: ‘Objectives of the Training and an Introduction to the EU Directive’	12
Icebreaker	13
Presentation 2: ‘Overview of E-Learning Topics’	14
Presentation 3: ‘Domestic Criminal Procedure and the EU Directive’	15
Presentation 4: ‘Needs Assessments and Communicating with Children’	16
Roleplay 1: ‘Communicating with Children’	18
Roleplay 2: ‘Assisting Children at the Police Station’	21
Group Exercises	23
A Ninth Session? – Diversions	24

Annexes

- 1. Online Training Units**
- 2. Example Powerpoint Presentation for Presentation 1**
- 3. Example Powerpoint Presentation for Presentation 2**
- 4. Instructions for Roleplay 1 (Option B)**
- 5. Instructions for Roleplay 2**
- 6. Group Exercises Scenarios**
- 7. Group Exercises - Notes for trainers**

Introduction

Criminal proceedings are a daunting prospect for all suspects and accused persons, regardless of age. Child suspects and accused persons, however, are especially likely to be overwhelmed and damaged by the experience of criminal proceedings. Failure to take into consideration their different needs and abilities can have devastating implications for their fair trial rights and their welfare.

Standards set by various international and regional instruments and bodies, including the UN Convention on the Rights of the Child, and the jurisprudence of the European Court of Human Rights, recognise the importance of treating child suspects and accused and defendants differently from their adult counterparts. Despite the existence of such standards, concerns have been raised about the extent to which the rights and welfare of children across the EU are protected effectively in practice.

In 2016, the EU adopted Directive 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings (the 'Children Directive'). The Directive's aim is to establish minimum standards that are binding across EU Member States, thereby reinforcing and strengthening children's rights.

Advancing the Defence Rights of Children

Advancing the Defence Rights of Children is a project led by Fair Trials, in collaboration with the International Juvenile Justice Observatory ('IJJO'), the Hungarian Helsinki Committee, and APADOR-CH. We have developed a multi-disciplinary regional training programme to help criminal defence lawyers across the EU develop both the practical skills and the knowledge necessary to provide effective assistance to child suspects and accused persons.

Most criminal lawyers are fully aware that child suspects and accused persons need to be treated differently from adults in criminal proceedings, but few have had training on what sort of procedural adaptations are needed to give effect to their rights, and on the best ways to assist their child clients in practice. The Children Directive recognises the importance of training lawyers, and under Article 20, Member States are required to promote specific training for lawyers who work with children in criminal proceedings.

Criminal justice systems vary significantly from country to country, and there are vast differences in juvenile justice procedures and systems in place between Member States. The aim of this project is to create a regional training programme centred on the Children Directive that can be adapted and reproduced at local levels to suit the training needs in each country.

Fair Trials has worked with its partners to ensure that this training programme responds as far as possible to the needs of legal practitioners across the EU. In order to do this, we hosted a meeting which brought together various juvenile justice experts, including lawyers, NGO representatives, child psychologists, social workers, and prosecutors to advise on the content and the format of the training programme. The feedback provided by the experts at this meeting clearly showed the need of legal training on the ways in which additional procedural safeguards should apply to child suspects and defendants. Furthermore, it confirmed our strongly held belief that lawyers need to be trained in developing skills for better understanding and communicating with their child clients. The finalised training programme has been developed after delivering pilot versions of the training to a group of

lawyers and experts from across the EU in 2018, and locally adopted versions of the training in Romania and Hungary.

About This Training Programme

Fair Trials believes that the defence of child suspects and accused persons should be a recognised and respected area of specialism within criminal defence practice. Just as medical professionals need to specialise in paediatrics and teachers need special training to teach children, criminal defence lawyers need to have special skills and knowledge to assist children in conflict with the law.

We recognise that children's rights and the provision of legal assistance to children are complex issues, and that the training needs of lawyers cannot be satisfied by a 'one-off' training. Crucial skills, such as communicating with children, identifying their needs, and working collaboratively with other professionals, are not something that lawyers can learn simply by attending a lecture or studying various materials. They can only be developed effectively through more extensive training and through experience.

Having consulted various criminal justice experts from across Europe, Fair Trials came across some good examples of training on children's rights. The Flemish Bar Association, for example, requires lawyers representing children to complete special training on children's rights as well as practical skills training. This training programme, as we understand, takes place over 80 hours, spread over two years. However, the reality in most EU Member States is that lawyers do not get the training they need to assist children.

This training programme is not intended to be a substitute for a comprehensive training programme that 'makes' lawyers experts or specialists in defending child suspects and accused persons. It is instead a brief training course designed to help busy criminal defence lawyers to be better aware of the relevant laws and to be more mindful in the ways they interact with their child clients. This is done by equipping lawyers with basic legal knowledge of children's rights in criminal proceedings, and by introducing them to the practical skills and knowledge we believe are crucial for protecting the rights of children in conflict with the law. We also hope that this training course to appreciate (if they did not do so already) that assisting children requires very specific skills that lawyers need to develop through further training and experience.

This training has been designed with the following objectives in mind:

- Encouraging lawyers to use the Children Directive

The Children Directive is a new tool that lawyers can use to enhance the human rights of children in conflict with the law. It is intended to both give effect to existing international and regional standards on children's rights, as well as to build on them. The provisions of the Children Directive are binding, and it allows children to exercise their rights with the backing of EU law. Lawyers should also be mindful that there are ambiguities and omissions in the Children Directives, which require careful interpretation in order to deliver the best outcomes for their child clients.

- Interdisciplinary training

Although designed to assist criminal defence lawyers, this training is not exclusively 'legal' in nature. We believe that lawyers can only become better at assisting child clients by learning from other professionals, who specialise in understanding the characteristics and needs of

children, especially children in conflict with the law. We believe that it is especially important to involve child psychologists, especially those with an expertise on communicating with children. The expertise they share with lawyers can help lawyers to provide more effective assistance to child suspects and accused persons.

- Interactive training with a focus on practical skills

Skills, such as communicating with children, and managing relationships with different actors in juvenile justice proceedings, cannot be developed effectively by studying reading materials or listening to lectures. They require practice. It is crucial that as many lawyers as possible get to try out their skills during this training, and to reflect on how best to improve them.

- Training that responds to local needs

This is not a training programme that can simply be translated and transposed in local jurisdictions. Local training providers are much better placed to understand what local training needs are and to design and deliver training that responds to those needs.

Using this Manual

In the subsequent sections of this manual, those interested in adapting this training programme for local jurisdictions are given a broad overview of how the training programme should be delivered, followed by a 'module-by-module' description of each element of the programmes, such as presentations and workshops. Annexed to this manual are various materials that training providers can adapt, including examples of Powerpoint presentations, scenarios, and exercises for their own training courses.

This training manual should be used alongside the 'Manual for Practitioners'. This provides the 'syllabus' for most aspects of the training course, and it is the primary basis of the substantive content of this training programme.

Training providers interested in adapting this programme for local jurisdictions are encouraged to get in touch with Fair Trials (using the contact details at the beginning of this manual), for further tips and guidance on how this training should be delivered.

Designing the Local Training Programme

Fair Trials and partners have designed the 'regional' version of a training programme for criminal defence lawyers. This means that what we have designed provides a framework consisting of training modules on *inter alia* international and regional laws and human rights standards, and skills, but there are many gaps that need to be filled in by local training providers. They will need to make this training programme relevant and responsive to the needs of local lawyers by, for example, incorporating training on local laws, as well as by targeting issues that are specific to the jurisdiction.

It is crucial that the training programme has the input and the active involvement of suitable local experts from various fields, who will be able to help identify local training needs, inform how best to adapt the training, and to help with the delivery of the training itself.

Fair Trial recommends that before deciding on the best way to adapt this training programme, training organisers hold consultative discussions with recognised local experts in juvenile justice. These might include, for example, child psychologists, social workers, experienced youth justice legal practitioners, academics, and representatives from NGOs that work on children's rights. If possible, training organisers may also wish to consult individuals with recent experience of the juvenile justice system, in order to get a better understanding of training needs from those who are most directly affected. The local version of the training programme should take these discussions into consideration.

If possible, training organisers should share as much information about this training programme with the group of local experts, including the materials that are used, to ensure that they are able to provide well-informed feedback and suggestions.

Discussions may include the following topics:

- The current challenges regarding the rights of child suspects and defendants in the country;
- The main challenges faced by lawyers assisting child suspects and defendants in the country;
- The ways in which the training programme should be adapted for local training needs;
- The local experts who might be able to help deliver the training; and
- How best to market the training to local lawyers.

Organising the Training

One of Fair Trials' main concerns about the training of lawyers on children's rights is that there is that in some countries, there appears to be only limited interest from lawyers in getting the training that they need in order to improve how they assist child suspects and defendants. Training organisers may find it difficult to persuade busy criminal lawyers to give up their time to complete an online training course and two days of in-person training. There are a number of ways in which training organisers may be able to address this challenge, including the following:

- a) Making the training available for free, or at a low cost: Training organisers may wish to look for sources of funding in order to subsidise the costs of adapting and delivering this training. Sources of funding could, for example, include the European Commission, which has funded this training programme.
- b) Delivering the training through a prestigious local institution: Training organisers may wish to look into collaborating with well-established local training providers, such as universities and bar associations to raise the profile and visibility of the training programme.
- c) Continuing Professional Development: In certain countries, lawyers need to demonstrate that they have continued to develop their professional knowledge and skills in order to continue practicing. Training organisers may wish to explore whether or not this training programme

could, for example, be recognised by the local bar association as one that can give credits to lawyers for their continuing professional development.

Logistics

This training programme requires the following:

1. Personnel:
 - a. At least one legal trainer (ideally more) with expertise and experience in the following areas:
 - i. Children’s Rights in criminal proceedings;
 - ii. EU law, and in particular, EU laws on procedural safeguards in criminal proceedings;
 - iii. Criminal procedure laws of the local jurisdiction;
 - iv. Experience of working with child suspects and accused persons; and
 - v. Experience of training lawyers on how to assist children during police interviews
 - b. One child psychologist, with expertise and experience in the following areas:
 - i. Child development;
 - ii. Communicating with children; and
 - iii. Experience of working with children involved in legal proceedings
 - c. At least one ‘child trainer’: this is a child or a young adult, who has recent experience of being a child suspect or accused person in criminal proceedings. Training organisers should be aware that in certain countries, there might be laws and regulations that prevent training organisers from having ‘child trainers’ unless certain requirements can be met.
 - d. One ‘dialogue facilitator’, who has experience of working closely with children, ideally with experience of facilitating trainings that involve children.
2. Timing: As explained below, this is a training programme that incorporates online training and in-person training. We recommend training organisers to allow 1 month for training participants to complete the online training before they attend the in-person training. The in-person training should ideally last two days.
3. Online Training: As explained in more detail below, training organisers will need to figure out ways of making online training materials available to participants.
4. Venue for the in-person training programme: This training has been designed so that it can be delivered for:
 - a. A small group of 10-15 participants;
 - b. A group of up to 30 participants (if the in-person training takes place over 1 day only)
 - c. A larger group, consisting of up to 45 participants (if the in-person training takes place over two days)

For the second and third options, training organisers will need to ensure that in addition to the plenary area, they will need to have break-out areas for smaller workshops to take place.

Structure of the Training Programme

This training programme has two elements:

- 1) An online (or remote learning) training programme; and
- 2) An in-person training programme.

These two elements of the training have been designed to complement one another, and they cover different parts of the training syllabus. The online training focuses on substantive legal knowledge, including introduction to legal principles that are central to juvenile justice and an introduction to the Children Directive. The in-person training programme focuses on developing practical skills that we believe would be helpful for lawyers to assist their child clients more effectively. This part of the training is mostly interactive and interdisciplinary, incorporating expertise from other fields, such as social work and child psychology.

The online training has been designed to precede the in-person training. The in-person training assumes a good understanding of the Children Directive as well as regional and international standards on the rights of child suspects and accused persons, so it is important that participants complete the online training before attending the in-person course. We would recommend that training providers give participants one month (or at least two weeks) to complete the online training.

Online Training

The online training is based on three chapters of the Manual:

- Chapter 1;
- Chapter 2; and
- Chapter 3

It is up to training providers to choose the best online platform to use, but it is crucial that the online platform has the following features:

- It allows the training materials to be presented in manageable chunks (or 'chapters');
- It includes a function for multiple choice questions; and
- It makes it possible for participants to provide feedback or ask additional questions.

The text for the online training is available in Annexe 1.

Examples of Fair Trials' online trainings can be accessed on Fair Trials' website.

The results of the multiple-choice tests and the comments and feedback from participants should help training organisers to identify any areas in which further explanations need to be given during the in-person training (during 'Presentation 2', see below for further information). Participants should be asked to complete the online training at the latest a few days in advance of the in-person training to enable training providers adequate time to prepare for the in-person training (Presentation 2, in particular).

We recommend that training programmes are given at least one month to complete the online training.

We recognise that for some training providers, providing online training might not be a feasible option, especially if they find it difficult to find the relevant technical expertise and/or the resources. As an alternative to online training, these training providers may wish to use e-mail pdf versions of the

materials, ask them to test themselves using the same multiple-choice questions, and to e-mail any questions to the training organiser about anything that was unclear to them.

Structure of the In-Person Training Programme

The In-person training programme has been designed as a 2-day programme, and it consists of 8 distinct components – a combination of plenary presentations and interactive exercises. Training organisers have the option of adding a 9th session, if they believe this would be appropriate.

Having spoken to various lawyers and legal experts from across the EU, we are aware that there might be difficulties in persuading lawyers to attend a two-day training course. We have therefore devised an alternative 1-day version of the training programme. This version of the training is more intensive, it relies more heavily on participants to have completed the online training programme, and it does not cover all aspects of training that this project intends to provide. Where possible, training organisers should aim to deliver the full, 2-day training programme.

The components of the full 2-day training programme is as follows:

- Presentation 1: ‘Objectives of the Training and an Introduction to the EU Directive’
- Icebreaker
- Presentation 2: ‘Overview of E-Learning Topics’
- Presentation 3: ‘Domestic Criminal Procedure and the EU Directive’
- Presentation 4: ‘Needs Assessments and Communicating with Children’
- Roleplay 1: ‘Communicating with Children’
- Roleplay 2: ‘Assisting Children at the Police Station’
- Group Exercises

Here are some suggestions about the ways in which training organisers may wish to structure the in-person training event

Option 1: 2 day-course

Day 1

09:00-09:30	Registration
09:30-10:30	Objectives of the Training and Introduction to the EU Directive
10:30-11:00	Icebreaker
11:00-11:30	Break
11:30-13:00	Overview of E-Learning Topics / Domestic Criminal Procedure and the Children Directive
13:00-14:00	Lunch
14:00-15:30	Needs Assessment and Communicating with Children
15:30-16:00	Break
16:00-17:30	Roleplay 1: ‘Communicating with Children’

Day 2

09:00-10:30	Group Exercises
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10:30-11:00	Break
11:00-12:30	Roleplay 2: 'Assisting Children at the Police Station'
12:30-13:00	Conclusions

Option 2: 1 day-course

Day 1

08:30-09:00	Registration
09:00-11:00	Objectives of the Training / Domestic Criminal Procedure and the Children Directive
11:00-11:30	Break
11:30-13:00	Needs Assessment and Communicating with Children
13:00-14:00	Lunch
14:00-15:30	Roleplay 1: 'Communicating with Children'
15:30-16:00	Break
16:00-17:30	Roleplay 2: 'Assisting Children at the Police Station'
17:30-18:00	Conclusions

Number of Participants

Fair Trials believes that in order for interactive skills training to be effective, training needs to be delivered to a small number of participants. We would recommend that interactive training sessions, such as the roleplay sessions, are restricted to 10-15 participants. Having larger numbers of participants could prevent all participants from participating actively during these sessions. It is important that as many participants as possible learn through experience, and even those who do not get assigned roles during the roleplay sessions engage fully with the training, for instance, by providing feedback and comments.

We are aware, however, that this training requires input from a large number of experts, and it could be difficult for training providers to justify pulling together significant resources to deliver training only to a small number of lawyers.

This challenge could be addressed by delivering the training to a larger number of participants (around 40-50), with the presentations being delivered to the plenary, and the interactive sessions being delivered to smaller groups (around 15 participants in each group). The three groups can then participate in each of the interactive sessions on a rota. This enables all participants to take part in all the sessions, in different order. Here is an example of how this could be done, using the agenda of 'Option 1 – 2 day-course' as an example.

Group A (consisting of 15 participants)

- Day 1: 14:00-15:30 – Roleplay 1: 'Communicating with Children'
- Day 2: 09:00-10:30 – Roleplay 2: 'Assisting Children at the Police Station'

- Day 2: 11:00-12:30 – Group Exercises

Group B (consisting of 15 participants)

- Day 1: 14:00-15:30 – Roleplay 2: ‘Assisting Children at the Police Station’
- Day 2: 09:00-10:30 – Group Exercises
- Day 2: 11:00-12:30 – Roleplay 1: ‘Communicating with Children’

Group C (consisting of 15 participants)

- Day 1: 14:00-15:30 – Group Exercises
- Day 2: 09:00-10:30 – Roleplay 1: ‘Communicating with Children’
- Day 2: 11:00-12:30 – Roleplay 2: ‘Assisting Children at the Police Station’

A one-day version of training could be delivered in a similar way by splitting the participants into two groups of 15. The overall number of participants in such trainings will need to be lower – around 30.

Presentation 1: ‘Objectives of the Training and an Introduction to the EU Directive’

About this session

Training organisers should use this opportunity to welcome the participants, and to explain the main objectives of the training (which are to improve the legal knowledge and skills that would help lawyers to assist their child clients more effectively). This training course is centred on the Children Directive, so trainers should emphasise the Directive and EU law as a tool that lawyers can use to defend the rights of child suspects and accused persons.

The Objectives of this session are:

- To explain to participants the main objectives of this training;
- To emphasise to participants the importance of taking part actively in the interactive sessions of this training course; and
- To provide a brief overview of the Children Directive, and to explain how EU laws can be used in practice.

This session requires the following:

- A trainer with a good understanding of the overall training programme, the Children Directive, and the use of EU criminal procedure laws in practice.

The content for this session is based on the following chapters of the Manual for Practitioners:

- Introduction
- Chapter 1

Delivering the Training

The Powerpoint presentation used to deliver this session is annexed to this document (at Annexe 2).

We would encourage training providers to use this opportunity to not just talk about the Children Directive, but also about the other ‘Roadmap’ Directives. It is, of course, important that lawyers are aware of these important legal instruments that could be useful in their daily practice, irrespective of the type of defendants they assist. It should be noted that these Directives on procedural rights apply to children, in addition to the Children Directive, and the Children Directive itself contains references to some of the other Directives, especially the Access to a Lawyer Directive.

It is important to emphasise to training participants that they will be expected to participate actively during the training event. Failure to do so will not only affect how much they learn from the experience, but also what other participants get out of the training.

Optional Extras

Depending on the jurisdiction and the level of knowledge of EU law amongst participants, trainers may also use this presentation to provide an overview of how EU laws can be used in practice, and in particular, the implications of ‘direct effect’. Fair Trials has produced a toolkit on this subject,¹ which can be used as a basis of such training.

¹ <https://www.fairtrials.org/wp-content/uploads/Using-EU-law-A2L-FINAL.pdf>

Icebreaker

An 'icebreaker' is an important aspect of this training programme for the following reasons:

- 'Advancing the Defence Rights of Children' focuses on interactive exercises, which require active input from participants, and which can be light-hearted at times. However, we are aware that lawyers in many jurisdictions are not all used to this type of training, who may prefer to participate in more 'serious' training events, and/or be shy about taking part, for example, in role-play exercises. An icebreaker may help to overcome these challenges.
- For many lawyers, networking is an important aspect of training events. An 'icebreaker' may help to facilitate this, especially if training organisers have not arranged any networking activities to accompany the training event.
- A key objective of this training programme is to help understand their child clients. Icebreaking exercises that encourage lawyers to think like children or to reflect on their own childhoods may help to adopt the right mindset for this training programme.

Training organisers can be creative about the type of icebreaking exercise they wish to adopt, depending for example on the number of participants and the cultural context. As explained above, the icebreaking exercise should ideally encourage participants to think more carefully about how children think and behave, not just to give them the opportunity to introduce themselves and why they have chosen to attend the training.

At the Fair Trials' training event in Leiden, we asked all participants to introduce themselves to the rest of the group, and to share a memorable event when they did something embarrassing or 'naughty' when they were children.

Presentation 2: ‘Overview of E-Learning Topics’

As explained earlier, the effectiveness of this training depends heavily on the active participation of training participants. The in-person training course presumes that participants have attained at least base level knowledge of children’s rights, and in particular, the Children Directive. The in-person training should not, therefore, amount to a repetition of the online training. Nevertheless, trainers should set aside time during the training event for some discussion around the content of the online training.

The objectives of this session are:

- To provide clarifications on topics of the online training course with which training participants had difficulties.
- To give participants the opportunity to ask questions about the legal aspects of the online training course.

This session requires the following:

- A trainer with a good understanding of children’s rights, the Children Directive, and the contents of the online training course.

The content for this session is based on the following chapters of the Manual for Practitioners:

- Chapter 1; and
- Chapter 2

Preparation

In order to prepare for this session, trainers need to assess and analyse the feedback given by the training participants via the online training course, and the answers they gave to the multiple-choice questions. These will enable trainers to identify topics that require further clarification, and specific questions that they will need to answer.

Delivering the Training

Fair Trials does not propose any particular format in which this training needs to be delivered. Much will depend on the responsiveness of the training participants, and the number of issues raised via the online training course.

An example of a presentation that summarises the e-learning topics can be found in Annexe 3. This presentation was delivered by Dr Stephanie Rap (Leiden University) during Fair Trials’ training event in January 2018.

Presentation 3: ‘Domestic Criminal Procedure and the Children Directive’

As outlined above, this training programme has been designed so that it can be adapted for various local jurisdictions across Europe. Legal training on the Children Directive would be of limited practical use to lawyers, unless the training enabled them to relate the Directive to local laws and helped them understand the best ways in which the Directive can be best used in the local context.

The objectives of this training are:

- To help lawyers identify any gaps between local laws and the Children Directive; and
- To help lawyers think about the ways in which they might make use of the Children Directive most effectively to defend the rights of children in conflict with the law.

This session requires the following:

- A trainer with a good understanding of children’s rights, the Children Directive, and the criminal procedure laws of the local jurisdiction.

The content for this session is based on the following chapters of the Manual for Practitioners:

- Chapter 1; and
- Chapter 2

We would also encourage trainers to consult

Delivering the Training

Fair Trials does not propose any particular format in which this training needs to be delivered. Much will depend on the specific issues that the Children Directive raises in the local jurisdiction.

Presentation 4 – Needs Assessment and Communicating with Children

This training programme has been designed to be ‘multidisciplinary’. Training organisers must ensure that lawyers are not just trained on the laws that are relevant to their practice, but also given knowledge that helps them understand their child clients better. We believe this knowledge will help lawyers, including by strengthening their understanding of why certain procedural safeguards are necessary for children (which in turn helps them to advocate more strongly and knowledgeably for those special human rights protections), and by improving their ability to communicate more effectively with their clients.

This session should be designed to provide lawyers with an introduction to child psychology and child development, and to provide some general guidance on how to communicate with children, and on how to recognise characteristics or behaviour that are not considered to be part of ‘normal’ child development.

The objectives of this training are:

- To help lawyers understand how child suspects and accused persons think and behave;
- To help lawyers understand why child suspects and accused persons think and behave in a certain way;
- To help lawyers understand what factors might cause children to come into conflict with the criminal justice system; and
- To help lawyers find ways to build rapport with their child clients and to communicate with them more effectively.

This session requires the following:

- A child psychologist with expertise in child development and communicating with children, ideally with experience of working with children in conflict with the law.

The content for this session is based on the following chapters of the Manual for Practitioners

- Chapter 4; and
- Chapter 5

Delivering the Training

Fair Trials does not propose any particular format in which this training needs to be delivered. We appreciate that child psychologists may have different aspects of their expertise that they wish to emphasise when delivering their training, and training organisers may find that it might be better to let the expert decide how best deliver training with the main objectives in mind. Training organisers may however, wish to share the contents of Chapters 4 and 5 of the manual to give the expert trainer an idea of the issues that they would like to cover.

In the 2018 Fair Trials training event, this session was delivered by Dr Annelies Hendriks, a Dutch developmental psychologist and mediator, who covered the following topics in her presentation:

- What to look out for when communicating with children (e.g. their level of development and their temperament)
- Introduction to the ‘attachment theory’
- How lawyers can use their understanding of the attachment theory to build a constructive working relationship with their child clients

- How unstable relationships that children have with authority figures affect their behaviour and the way they think
- Introduction to the various stages of child development
- General overview of how adolescents think and behave
- The concept of 'loyalty' (*Boszormenyi-Nagy*)
- How lawyers should communicate with children
- How lawyers should end their conversations with their child clients.

Roleplay 1: ‘Communicating with Children’

Fair Trials consulted lawyers, child psychologists, and others with expertise in juvenile justice to find out about the main training needs of lawyers. There was very clear consensus during these consultations that one of the main skills that lawyers needed to develop was on communicating with children and building rapport.

The main problems identified included the fact that many lawyers struggled to adapt their language adequately to ensure that their child clients understood what they were saying, and that they were not always sufficiently sensitive to their child’s needs or their feelings when communicating with them.

We have prepared two separate versions of Roleplay 1 (*Option A* and *Option B*), given that not all training providers will be able to pull enough resources to deliver the type of training session that was delivered at Fair Trials’ training event.

We would highly recommend training organisers to deliver *Option A*, where possible.

The objectives of this session are:

- 1) To help lawyers reflect on their previous experiences of assisting child suspects and accused persons, and identify ways in which they can improve;
- 2) To help lawyers understand how they can build rapport with their child clients; and
- 3) To help lawyers improve their communication skills.

Training providers should be aware that this training session is not to ‘teach’ lawyers how to communicate with children, but to help them understand the ways that they might be able to improve their own communication techniques.

Option A

Fair Trials has delivered this training in collaboration with ‘Young in Prison’, an international NGO that works to help children in conflict with the law to reintegrate into society through a number of different programmes. Young in Prison organises workshops to help criminal justice professionals to understand children’s experiences of the criminal justice system, and to train them on how best to communicate with child suspects and defendants.

This session requires the following:

- 1) One dialogue facilitator, with experience of working with children in conflict with the law;
- 2) One child psychologist, or another expert on communicating with children;
- 3) One actor, playing the role of a child in conflict with the law; and
- 4) At least one ‘child trainer’ (a child or young adult with recent experience of the criminal justice system as a child suspect or accused person).

Preparation

Training participants should be informed in advance of the training that they should be prepared to talk in detail about two experiences they had of communicating with a child client - one that went well, and another that went badly.

Delivering the Training

This session is divided into three sections:

- 1) Hearing from a child (or a young adult with recent experience of the criminal justice system) about their experiences of the criminal justice system, in particular, how they found the experience of having a lawyer assisting them;
- 2) Roleplay exercise
- 3) Feedback

Part 1. Hearing from the Child (about 15 minutes)

During this part of the training session, a child or a young adult with recent experience of the criminal justice system as a child should be given the opportunity to speak to training participants about their experiences. This is a chance for lawyers to learn from a child defendant about what, in their perspective, makes a good lawyer.

The child trainer should be encouraged to speak about a memorable experience they had with their lawyer. This could be a positive one, or a negative one. If the training organiser can arrange for more than one child to be present at this session, one might give an account of a positive experience, and the other might give an account of a negative experience. They should also be encouraged to explain how they felt, and what in their view, made their experience of having a lawyer good or bad.

The training participants should be encouraged to ask further questions to the child about their experiences.

Part 2. Roleplay

Training participants should then be given 10-15 minutes to write down their account of an experience they had with a child client (that they had been asked to think about prior to the training event). They should be asked to recall the events vividly, including the following details:

- Details about their client (including their age, background, the alleged offence etc.);
- What the participant was trying to do as their lawyer; and
- A description of how that interaction went.

In the 2018 training event that Fair Trials hosted, participants were asked to fill out a form (available on request).

These stories are then re-enacted, before the rest of the group, with the lawyer who provided the story playing themselves, and the actor playing the role of the child. Before the roleplay itself begins, the lawyer who provided the story should explain to the rest of the group who their client is in their story and what they were trying to do. The roleplay does not need to be an exact replication of what happened in reality, it could be a reimagination or a reinterpretation of events. The actor needs to improvise to fill in the details.

The number of roleplays during this session will depend on how much time is available.

Part 3. Feedback

The main focus of this exercise is communication and the building of rapport between the lawyer and their child client. Feedback should be focused on these aspects, noting in particular, what type of language was used by the training participant, and how they overcame various challenges they faced during the roleplay.

Feedback should come primarily from the child psychologist and the child trainer. The child psychologist giving more technical feedback, and the child trainer providing more practical feedback (including, for example, explaining how they would have felt in the same situation, and pointing out any words or phrases that they should not have been expected to understand).

Option B

This session requires the following

- 1) One child psychologist, or another expert on communicating with children;
- 2) One actor, playing the role of a child in conflict with the law; and
- 3) (Ideally) at least one child or young adult with recent experience of the criminal justice system as a child suspect or accused person

Materials for this session, including instructions for participants are available in Annexe 4.

Preparation

This is a role-play in which various training participants will be given different roles to play. In this session there are four different roles.

- Lawyer 1;
- Lawyer 2;
- The child client ('Marina' or 'Mo') to be played by an actor;
- The mother

Training organisers should assign these roles to various participants in advance of the training, and to ensure that they have had the chance to familiarise themselves with the various scenarios.

Delivering the Training

This session is divided into 4 sections:

- 1) Preliminary Discussions (10 minutes);
- 2) Roleplay (30-40 minutes) during which participants act out a scenario in which a lawyer is having a consultation with a child suspect in the presence of his/her mother - this session is divided in two, to enable two participants to take on the role of the lawyer;
- 3) Feedback (30-40 minutes) during which all participants discuss the main participant's performance and discuss the best ways of communicating with children and assessing their needs and capabilities; and
- 4) Using Child-Friendly Language (15 minutes) which is a brainstorming session in which participants identify words and concepts that are difficult for children to understand.

Instructions for trainers on how to deliver this training as well as the materials they should use are included in Annexe 4.

Roleplay 2: ‘Assisting Children at the Police Station’

About this Session

Being arrested and being questioned by the police is a daunting experience for most criminal suspects and defendants, but for children, this is likely to be a particularly frightening experience. This is also the moment when, arguably, child suspects and accused persons are at their most vulnerable. This is the start of the criminal proceedings

This part of the training is heavily influenced by the ‘SUPRALAT’ training programme developed by Maastricht University, Antwerp University, Dublin City University, the Hungarian Helsinki Committee, and PLOT. The SUPRALAT training was developed in order to train lawyers to assist their clients more effectively, in light of EU laws that improved access to lawyers for suspects and accused persons at the police station.

The objectives of this training session are:

- 1) To help lawyers understand the challenges that children face during police interviews;
- 2) To help lawyers think about how to promote the best interests of the child in a practical setting;
- 3) To help lawyers understand how to ensure that their child clients are able to participate effectively in their own criminal proceedings;
- 4) To help lawyers work out the best ways of ensuring that the rights of their child clients are protected during police interviews; and
- 5) To help lawyers figure out the best ways of managing the involvement of parents (and figures of parental responsibility) in the criminal proceedings of child suspects and accused persons.

This session requires the following:

- 1) One trainer with experience of training lawyers on police station interviews and on assisting children in conflict with the law. This could, for example, be an experienced lawyer, academic, or an NGO representative.

The materials needed for this session, including instructions for the trainer and the participants are included in Annexe 5.

Preparation

This is a role-play in which various training participants will be given different roles to play. In this session there are four different roles. These are:

- a) The police officer;
- b) The child;
- c) The parent; and
- d) The lawyer

Training organisers should assign these roles to various participants in advance of the training, and to ensure that they have had the opportunity to familiarise themselves with the various scenarios.

Delivering the training

The vast differences between how police interviews are conducted in different countries means that both the scenario and instructions to each of the participants during this roleplay will need to be changed significantly in order to make the session more realistic and relevant to the local lawyers.

Training organisers should however, note that a main objective of this training course is about the implementation of the Children Directive. They should assume for the purpose of this exercise, that the Directive is in force, including those provisions which are, at present, in conflict with domestic laws.

This training session is divided into three sections:

- 1) Discussions about the challenges faced by child suspects and defendants during police interviews;
- 2) The Roleplay; and
- 3) Feedback

Instructions for trainers as well as the materials they should use is included in Annexe 5.

Group Exercises

This session requires the following:

- A trainer with a good understanding of children's rights, the Children Directive, and the criminal procedure laws of the local jurisdiction.

The content for this session is based on all the chapters of the Manual for Practitioners.

The objectives of this training session are:

- 1) To help lawyers understand how various provisions of the Children Directive can be applied in practice;
- 2) To help lawyers figure out how best to work with others to promote the best interests of the child; and
- 3) To help lawyers think practically about how best to child suspects and accused persons with additional vulnerabilities; and
- 4) To help lawyers think about the best ways of approaching various ethical challenges when assisting certain types of child suspects and accused persons.

Preparation

Training participants should be asked to familiarise themselves with the 3 scenarios in advance of the training event. We would recommend that these scenarios are circulated to training participants at least a week in advance of the training event.

Training organisers are encouraged to amend these scenarios to make them more relevant to the challenges faced by local lawyers, and for example, include aspects that raise questions about how the Children Directive is implemented under local laws.

The scenarios for the group exercises are included at Annexe 6

Delivering the Training

Participants should be divided into three groups (consisting of about 5 people each) – each to focus on one problem scenario. The questions to be considered are included with the scenarios. The session should be structured as follows:

- The trainer should explain the format of the session, divide the group into three, and ask each to appoint one person in the group to present their answers to the questions.
- The groups should be given around 30 minutes to discuss their problem scenarios amongst themselves.
- One person from each group should present the findings regarding the questions included with the scenarios (each presentation should last around 10 minutes).
- Participants from other groups should be asked to give additional comments, followed by the trainer, who should point out any issues left out in the presentations, and be prepared to answer any questions regarding the law, and in particular, the Children Directive.

We have produced notes for trainers for this session (at Annexe 7).

The Ninth Session – Diversions?

The full version of this training session lasts approximately one day and a half. This leaves training organisers to add, if appropriate an extra session to this programme.

As explained earlier, training organisers need to adapt this programme to suit local needs, and they may feel that there are important aspects regarding children's rights that are not covered in this training programme. Fair Trials recognises, for example, that there is nothing in this training programme regarding 'diversions' despite the fact that in many countries, a crucial responsibility of lawyers could be to ensure, as much as possible, to keep children away from criminal justice procedures altogether.

This is because the system for diversions varies significantly from country to country, and Fair Trials and the partners in this project decided that it would be inappropriate for a regional training to address this very important aspect of children's rights. Training organisers may wish to slot in an extra session on diversions, perhaps by bringing in experienced legal practitioner, and/or a social worker, who may have a better understanding of how the system works, and how lawyers should make best