



**IA CHILD**



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# The right to individual assessment: what does it mean in light of children's procedural rights and safeguards

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## *The right to individual assessment*

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### ***International children's rights framework***

- Beijing Rules, 1985
- UN Convention on the Rights of the Child, 1989
- General Comment No. 24, UN Committee on the Rights of the Child, 2019
- Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, 2010

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## **Guidelines on child-friendly justice**

- ... an assessment of his or her legal, psychological, social, emotional, physical and cognitive situation (para. 16).
- A common assessment framework should be established for professionals working with or for children ... to provide any necessary support to those taking decisions, enabling them to best serve children's interests in a given case (para. 17).
- The assessment of the situation needs to be done accurately. These guidelines promote the development of multidisciplinary methods for assessing the best interests of the child acknowledging that this is a complex exercise (para. 36).
- A multidisciplinary approach to children in conflict with the law is particularly necessary. The existing and growing understanding of children's psychology, needs, behaviour and development is not always sufficiently shared with professionals in the law enforcement fields (para. 72).

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## **EU law**

Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings – Article 7

**A multi-disciplinary and robust individual assessment** initiated at the **earliest stage** possible is essential to guarantee the full exercise of a number of other rights for the child involved in a criminal proceeding, either as **suspect or accused**. It is an **obligation for the EU states** to make sure these individual assessments are **available and carried out in a child-friendly way**.





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## **Child suspect or accused**

- The specific needs of children concerning protection, education, training and social integration
- Shall take into account the child's personality and maturity, the child's economic, social and family background and any specific vulnerabilities
- Specific (precautionary) measures
- The extent and detail of the assessment may vary depending on the circumstances of the case, the measures that can be taken if the child is found guilty of the alleged criminal offence, and whether the child has in the recent past been the subject of an individual assessment

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## **How should it be undertaken?**

- Carried out at the earliest appropriate stage of the proceedings
- Close involvement of the child
- Carried out by qualified personnel, following, as far as possible, a multidisciplinary approach
- Involve, where appropriate, the holder of parental responsibility, or another appropriate adult

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## **When should it be undertaken?**

- At the earliest appropriate stage of the proceedings
- Before indictment, for child suspects/accused
- If the elements that form the basis of the individual assessment change significantly, the assessment should be updated throughout the proceedings
- It should be possible to present an indictment in the absence of an individual assessment provided that this is in the child's best interests.

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## **Purpose and goals of individual assessments**

- Informing the child of the procedures and access to justice
- Understanding the situation of the child: family, social, emotional, etc.
- Risk assessment: recidivism and most appropriate disposition
- Procedural adaptations based on individual assessments
- Attention for vulnerable groups of children



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## Identifying good practices

- A structured assessment tool: '*Landelijk Instrumentarium Jeugdstrafrechtketen*' (LIJ) (NL)
- A child letter, in which the report is briefly introduced to the child and the parents in clear language (NL)
- Qualified social service of the juvenile courts prepares reports to inform the judge of the personality and the social circumstances of the young person, for both provisional measures and the final judgment (BE)
- Cooperation between several stakeholders to assess cases



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**ANY QUESTIONS? 😊**

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# THANK YOU FOR YOUR ATTENTION

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*Dr. Stephanie Rap*