

# P R O M I S E 2



CO-FUNDED BY THE EUROPEAN UNION



# INTRODUCTION ROUND

**THE PROMISE VISION**

**A Europe where the human rights of children to protection from violence are supported and where their rights to be heard are fulfilled.**



**PÁLOS KÁROLY**  
Szociális Szolgáltató Központ és  
Gyermekjóléti Szolgálat



**NATIONAL INSTITUTE  
FOR HEALTH AND WELFARE**  
FINLAND



**REPUBLIC OF ESTONIA  
SOCIAL INSURANCE BOARD**



**Terre des hommes**  
Helping children worldwide. tdh.ch



**HFC**  
"Hope  
For  
Children"



- In 2015 - only 6 or so countries with a Barnahus or similar setup.
- By the end of 2019 we anticipate more than **20 countries around Europe** will be operational, with another 6 countries actively working towards launching services.
- Most have inspired, contributed to, and are now basing their work on the **Barnahus Quality Standards** and on other valuable learnings from PROMISE.  
[www.childrenatrisk.eu/promise/standards](http://www.childrenatrisk.eu/promise/standards) (available in several languages)

# At the Crossroads: designing & implementing child-centred criminal proceedings for child victims of violence

June 13, 2019

Rebecca O Donnell & Olivia Lind, Promise 2 Project



CO-FUNDED BY THE EUROPEAN UNION

# PROMISE2



# WHAT WE WILL LOOK AT:

- At the crossroads: intersection of child protection & justice proceedings
- Common problems that may arise for proceedings
- Law, guidance & practice for a more child-centred approach
- Focus on the interview with the child
- Sightseeing: some practices & resources around Europe

# Poll

What type of work concerning child victims of violence are you involved in?

# AT THE CROSSROADS: INTERSECTION OF JUSTICE & CHILD PROTECTION PROCESSES

- Criminal justice & child protection processes are typically:
  - governed by distinct legal and policy frameworks,
  - led by different actors
  - involve different timeframes
- But clearly they also overlap;
  - The best interests of the child is a primary consideration in both;
  - certain professionals may be involved in both criminal & child protection proceedings,
  - although each proceeding may begin & end at different moments, for some time they will often run in parallel.

# AT THE CROSSROADS



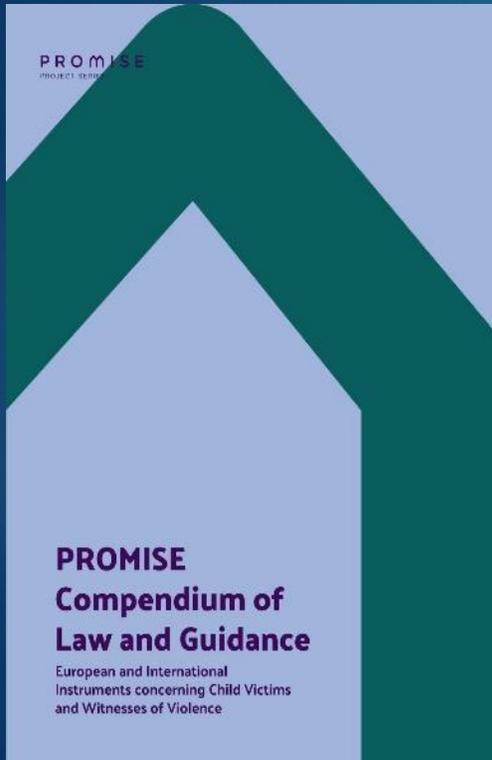
# SOME OF THE PROBLEMS THAT MIGHT ARISE

- Where the two proceedings are operated independently of each other, they may undermine each other, e.g.
  - Delays in interviews, repeated Interviews, in different locations, with different people, court room testimony sometimes years after the incident
  - Stress to child & delay: evidence can become less accurate, less reliable
  - Delays to therapy, re-traumatisation of child

# Poll:

What challenges do you see in your jurisdictions?

# TAKING A MORE CHILD –CENTRED APPROACH: RECENT INTERNATIONAL LAW & POLICY



- Council of Europe Convention on child sexual abuse
  - EU Child Sexual Abuse Directive
    - EU Victim's Rights Directive
  - UN Convention on the Rights of the Child
- Guidance such as General Comments of the UN CRC Judgements, including cases from the European Court of Human Rights (rights of the defence)

# KEY PRINCIPLES

- **Comprehensive Approach – Preventing Crime, Prosecute Crime & Provide Assistance To Victims & Promoting their Recovery**
- Avoiding Secondary Victimisation & Traumatisation
- Respect for Rights Of The Defence
- Training of Professionals – Specialised Skills
- Multidisciplinary & Interagency Approach

# CHILD CENTRED PROCEDURAL OBLIGATIONS

Some of the key safeguards:

- Individual assessments of child's needs
- No unjustified delay between reporting and interviews
- Adapted premises
- Limited number of interviews
- Special training to interview children
- Recording of interviews, possibility to use recorded testimony in trial
- Avoiding contact between victim and offender
- Support for child in proceeding.

# Poll



What type of child centred safeguards exist in your country?

# PRACTICAL QUESTIONS FOR IMPLEMENTATION OF SAFEGUARDS FOR CHILD VICTIMS

- How will implementing these safeguards impact the proceedings?
  - Will they delay the proceedings? (Are adapted premises available? Are trained professionals available?)
  - Will a less formal setting impact the proceedings: will the child tell the truth?
  - What special skills are needed? How do they help?
  - Inter-agency approach: are all the actors impartial?
  - Will the focus on recording interviews for use as evidence make it more difficult to get information for investigation purposes?

# ENSURING THE BEST INTERESTS OF THE CHILD

- Planning - coordination of justice actors with social and health professionals re interviews:
  - Individual assessment: ensures information & assistance to the child & helps child engage in process,
  - avoid repeated interviews by multiple actors;
  - allows coordination of certain steps (e.g. timing of therapy to avoid defence arguments that evidence is corrupted);
- Child sensitive setting
  - Reduces stress & can lead to less inaccuracies in child's testimony
  - Allows to build trust of child & can enhance child's ability to disclose abuse

# ACHIEVING BEST EVIDENCE IN AN INTERVIEW

- Truth seeking process: Involve specialist skills & structured approach to get information
  - Based on expert knowledge of child's cognitive skills, memory development, communication skills
  - can get more complete, reliable and accurate information from the child for the court
  - may allow investigation better follow up on particular forensic details.
  - May uncover absence of abuse, e.g. coaching (e.g. by a parent)

# RESPECT FOR RIGHTS OF DEFENCE

- S.N v, Sweden: European Court of Human Rights
  - Opportunity for defence to put questions or to seek cross examination
- New practices to develop, e.g defence lawyer may propose bookmarking of the recording so that evidentiary rules are fulfilled

# RECORDING THE INTERVIEW: WHAT ARE THE BENEFITS? 1/2

- Gives an accurate record of the interview
- Allows interviewer to concentrate on questions and not on taking notes
- The recorded evidence provides the court with evidence gathered sooner to the incident when the child has better recall
- The recording will show the judge and/or jury the child as they were around the time of the offence, and not an older or changed child at the time of trial
- Review of recording can get better pre-trial prosecution advice as to reliability and sufficiency of evidence or whether more evidence needed

# RECORDING THE INTERVIEW: WHAT ARE THE BENEFITS? 2/2

- The recorded interview and recording can also be used for child protection assessment
- Avoids need for repeated interviews, with different interviewers and the potential risks of:
  - witnesses giving inconsistent accounts of the events in issue in the trial;
  - fabrication, whether deliberate or inadvertent.
- Avoids delay in beginning therapy for the child pending giving evidence at trial
- Representation of child and room in recording, if done properly, captures demeanour of the child and shows the whole of room (important for juries)
- Should be authenticated as digital evidence and properly stored

# SIGHTSEEING: SOME EXPERIENCE FROM OTHER JURISDICTIONS 1/2

- Reviews of current practice which led to change:
  - Scottish Law & Practice Reform
    - New bill for Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill which enables greater use of pre-recorded evidence
    - Also focus on digital vaults in Scottish courts
  - Review of achieving best evidence guidelines in England
    - Reveals the need for better suited interview premises, planning, training, better handling of digital evidence
    - new Lighthouse Initiative
  - Police inspectorate report in Ireland recommendations include:
    - Establishment, on a pilot basis, of two multi-agency child advocacy centres in Dublin involving the participation by the Garda Síochána, the HSE, and St Louise's and St Clare's assessment units.

# SIGHTSEEING: SOME EXPERIENCE FROM OTHER JURISDICTIONS 2/2

- Training practices, some examples:
  - Specialised training: Norwegian police training
  - Developing use of child avatars in training to improve skills for interviewing children
- English prosecution guidance on therapy before trial
  - Justice proceeding should not prevent therapy starting for child
  - Identifies what kind of therapy might affect evidence
  - Discusses in what way might evidence be sought from therapists
- Dutch forensic medical examinations of children
  - Importance of specialisation to identify nature & cause of injuries

# Poll



What potential for progress do you see in your country?



# GROWING UNDERSTANDING OF HOW TO FULFIL THESE LEGAL OBLIGATIONS

Growing international recognition & guidance on the need for a multidisciplinary and inter-agency approach

Elements referred to in guidance include:

- integrated services in the same location
- Standard operational procedures among professionals to foster cooperation
- Coordinating mechanisms
- Case management systems

# MODEL OF WORKING TOGETHER: BARNAHUS

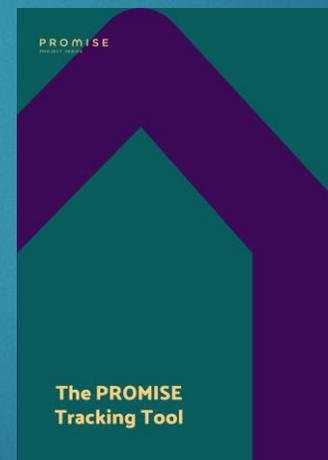
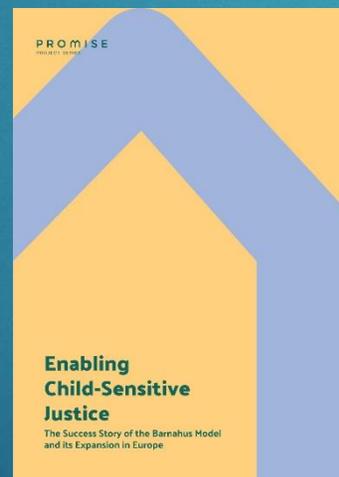
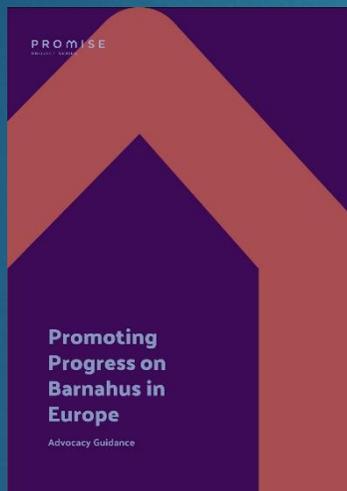
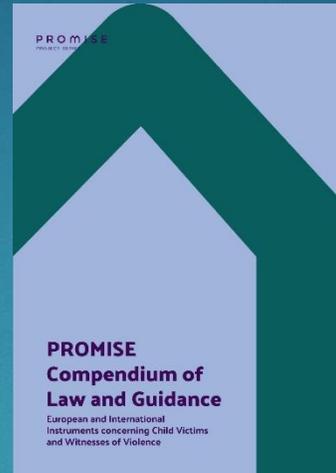
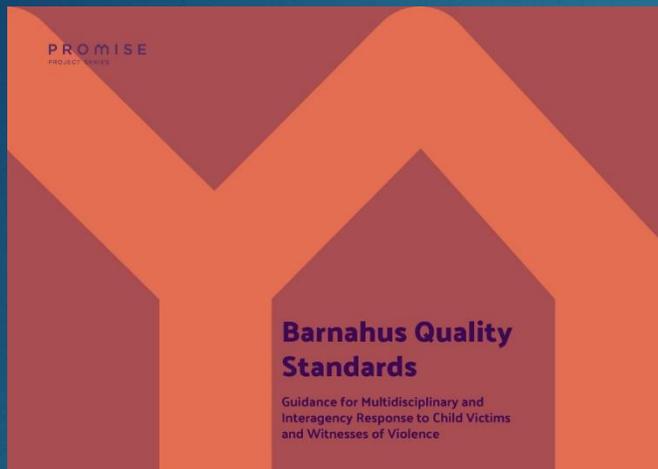
Different ways in which it is organised but core common features

- Specialised services and competent personnel
- Inter-agency case management
- Child encounters all services under one roof in an organised way
  - avoiding re-traumatisation of the child
  - achieve evidentiary benefits
- Involvement of judges, prosecutors, defence lawyers: integrity of the proceedings for the justice sector, respect for rights of defence
- Referral to necessary services for the child: aim to ensure best interests of the child

Requires inter-agency commitment, resources, operational standards; evaluation and monitoring

# Working Together .... Child at the Centre





<http://www.childrenatrisk.eu/promise/publications/>