Data on Children’s Access to Justice

Summary of Reports Submitted by National Statistical Systems in the Europe and Central Asia Region

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Access to justice is a basic right of every person. Indeed, it is more than a right, it is one of the basic principles that underlies the international human rights law, closely linked to the principle that all persons are equal. The Universal Declaration of Human Rights declares that ‘Everyone has the right to an effective remedy by the competent national tribunals for acts violating [his or her] fundamental rights…’.\(^1\) All States in the Europe and Central Asia Region are Parties to the International Covenant on Civil and Political Rights, which recognizes the right of all persons ‘to a fair and public hearing by a competent, independent and impartial tribunal’ in ‘the determination of his rights and obligations …’.\(^2\)

The Convention on the Rights of the Child (CRC) expressly recognizes some dimensions of this right. Article 12 recognises the right of children ‘to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.’\(^3\) This right includes an obligation to give ‘due weight’ to the views of the child, in accordance with his or her age and maturity.\(^4\) The Committee on the Rights of the Child – the international body of experts that monitors implementation of the CRC - has observed:

For rights to have meaning, effective remedies must be available to redress violations. This requirement is implicit in the Convention.\(^5\)

The right to a remedy is not only a right and principle; the provision of effective remedies is an important part of any comprehensive strategy for promoting and protecting the rights of the child. While the establishment and strengthening of programmes and services, raising awareness and training are fundamental, they also are linked to procedures for obtaining a remedy when rights are not respected. Access to justice helps to ensure that programmes and services that benefit children and their families are implemented properly, without discrimination or arbitrariness. Litigation can even lead to the creation of new programmes or services. Decisions providing remedies to children whose rights have been denied helps to raise public awareness, and helps to ensure that professionals trained on the rights of children take their training seriously. The CRC also recognizes the

\(^{1}\) Art.8
\(^{2}\) Art.14.1
\(^{3}\) Art.12.2
\(^{4}\) Art.12.1
right of children who have been victims of violence to measures designed to help them recover, which is one kind of remedy. The Committee recognizes the importance of non-judicial mechanisms for obtaining effective remedies, in particular ombudsmen or other national human rights or child rights institutions, which are sometimes more child-friendly and available than judicial procedures.

Despite the importance of the right to a remedy, international and European databases on the administration of justice focus almost exclusively on criminal justice. The TransMonEE database added an indicator on ‘Crimes against Children’ in 2011.

For many years UNICEF’s support for justice reform focused mainly on juvenile justice. In 2012 the UNICEF Regional Office for CEE-CIS and corresponding country offices adopted a Regional Knowledge and Leadership Agenda. The Agenda identifies ten ‘result areas’, one of which is ‘a child’s right to access justice’. The same year the Regional Office began an exploratory study on children’s access to justice in nine countries, which led to another study and Using this new evidence as a basis, a Regional Agenda on Children’s Equitable Access to Justice, including indicators of progress, was developed. Access to Justice was also included in UNICEF’s new Strategic Plan for 2018-21.

In 2016 UNICEF TransMonEE invited national statistical Offices (NSOs) in 26 participating countries to prepare Country Analytical Reports (CARs) on Children’s Access to Justice. This information is shared through what are called “country analytical reports” or CARs. The objectives of CARs are to:

- have better and more detailed understanding of the existing data systems for indicators of the domain,
- be aware of data quality issues and inconsistencies, if any,
- test the availability and/or disaggregation of new indicators that have become important for children,
- help identify best practices and share them widely within the network for horizontal learning and synergies.

The guidelines sent to the NSOs asked for reports containing a description of the relevant data systems, and data on 15 quantitative indicators. The indicators were based in large part on 12 impact indicators on access to justice adopted by the Regional Office as part of the Regional Agenda. They include four on child victims of crime and criminal justice, two on family law proceedings, two on judicial remedies for violations of the rights of children, three on ombudsmen and the rights of children, one on free legal aid, one on

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6 Art.39
mediation, one on cases of violence against children (VAC) registered by health, social services or educational systems, and one on assistance provided to victims of VAC.

Table 1 2016 CAR Access to Justice Indicators

<table>
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<tr>
<th>CIVIL CASES</th>
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<tr>
<td>• 1. Number of cases filed with any court during the year, in which a child or a representative of a child or children sought a remedy for violation(s) of the rights of a child.</td>
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<tr>
<td>• 2. Number of court cases decided during the year in which a child obtained a remedy for a violation of his or her rights.</td>
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<th>FAMILY LAW CASES</th>
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<td>• 3. Number of court cases affecting children decided during the year.</td>
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<td>• 4. Number of court cases affecting children decided during the year in which the child or children concerned were heard, either directly or through a representative.</td>
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<tr>
<th>CRIMES AGAINST CHILDREN</th>
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<tr>
<td>• 5. Number of cases of physical, sexual or other violence against children reported to or registered by the child welfare authorities, health or other authorities during the year.</td>
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<td>• 6. Number of cases of crimes against children registered by the police during the year.</td>
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<td>• 7. Number of registered crimes against children brought to trial during the year.</td>
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<td>• 8. Number of criminal convictions during the year in which the victim was a child.</td>
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<td>• 9. Number of child victims of violence provided with medical, psychological, social or other assistance in recovery during the year.</td>
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<th>LEGAL AID AND LEGAL REPRESENTATION</th>
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<td>• 10. Number of children suspected or accused of a crime and child victims of crime who benefited from legal aid or legal representation during the year</td>
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<th>COMPLAINTS TO THE OMBUDSMAN</th>
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<td>• 11. Number of complaints brought to the Ombudsman’s Office by children during the year.</td>
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<td>• 12. Number of complaints brought to the Ombudsman’s Office on behalf of a child or children during the year.</td>
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<td>• 13. Numbers of complaints made by children or their representative to the Ombudsman’s Office, during the last year, that were investigated and resolved within 6 months</td>
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<tr>
<td>• 14. Numbers of complaints resolved by the adoption of a recommendation that the child be given a remedy, and in which the child or children concerned actually obtained a remedy or reparation.</td>
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<th>MEDIATION</th>
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<td>• 15. Number of cases involving children submitted for mediation during the year.</td>
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Twenty CARs were received from Albania, Armenia, Azerbaijan, Belarus, Bulgaria, Croatia, Czech Republic, Georgia, Hungary, Kazakhstan, Kosovo (UNSCR 1244), Kyrgyzstan, Latvia, Moldova, Montenegro, Romania, Serbia, Slovakia, Tajikistan and Ukraine. This report summarizes the information and data contained in them. Part 1 summarizes information on national data collection and management systems, and Part 2 summarizes the data reported. Part 3 describes the effort made to validate the data contained in CARs as well as difficulties reported by NSOs, and Part 4 addresses the question of whether promising practices can be identified. Part 5 contains some reflections on what the data reveals about children’s access to justice and underlying issues, such as the prevalence of VAC and crimes against children. Part 6 contains conclusions and recommendations. Definitions and guidelines concerning the quantitative indicators are found in an Annex.

For the next 12 years the work of the UN system as a whole will be oriented towards fulfilment of the Sustainable Development Goals adopted in 2015.\(^8\) There are 17 goals (SDGs), most of them devoted to economic and social issues, and the environment.\(^9\)

UNICEF is presently in the first year of a Strategic Plan that covers 2018-2021.\(^10\) The Plan has five components or ‘Goal Areas’: one on health; one on education; one on living conditions, one on protection from violence and exploitation, and one on equity. These components describe how UNICEF’s actions during these four years are linked to the SDGs.\(^11\) Access to justice is, as indicated above, inextricably related to all human rights, including the right to health, education, adequate living conditions and equality. However, the Strategic Plan identifies access to justice as a ‘key element’ of only one ‘Goal Area’, protection from violence and exploitation. The Strategic Plan also links the five components to articles of the Convention on the Rights of the Child. The component on protection from violence and exploitation is linked (by the Plan) to the articles on violence against children; on sexual exploitation and abuse; on trafficking, sale and abduction; on torture, arbitrary deprivation of liberty and the right to contest the legality of deprivation of liberty; and on protection of children affected by armed conflicts.\(^12\) The component on equity is linked to the CRC articles on discrimination; the right to be heard; the rights of children with disabilities, the right to social security; and the rights of children belonging to ethnic, religious or linguistic minorities.\(^13\)

Each SDG has targets, and each target has one or more indicators. Some of the targets and indicators also recognize links between the SDGs and access to justice for children. One of the targets for SDG 16 is to end violence, torture, abuse and exploitation of children, and another is to ‘promote the rule of law… and ensure equal access to justice for all.’\(^14\) The targets for

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\(^8\) see www.undp.org/content/undp/en/home/sustainable-development-goals.html

\(^9\) SDGs 1-4, 6-8, and 11-15

\(^10\) see www.unicef.org/about/execboard/files/SP_presentation_for_new_EB_members.pdf

\(^11\) They are not linked to all of the 17 SDGs, but to SDGs 1-6, 10-11, 13 and 16.

\(^12\) Articles 19, 34, 35, 37, 38, respectively, and Art. 36, on ‘other exploitation’

\(^13\) Articles 2, 12, 23, 26 and 30

\(^14\) SDGs 16.2 and 16.3
SDG 5 include ending all forms of discrimination and all forms of violence against women and girls, and the elimination of child marriage.\textsuperscript{15} The indicator for SDG target 5.1, the elimination of discrimination against women and girls, is the existence of a legal framework to ‘promote, enforce, and monitor equality and non-discrimination on the basis of sex.’

The CAR indicators are largely in line with the SDG targets and indicators. One-third of the 15 CAR indicators (5-9) concerned crimes against children and VAC, which are relevant to SDGs 5.2 and 16.2. The two indicators on judicial cases concerning violations of the rights of children (1-2), indicator 10 on legal assistance and indicators 11-14 on cases concerning the rights of children handled by ombuds institutions are closely related to SDG 16.3 on access to justice. There were no CAR indicators specifically on girls’ access to justice, but the guidelines expressly requested all data to be disaggregated by sex.

\textsuperscript{15} SDG.5.1, 5.2 and 5.3 (which also calls for the elimination of FGM)
Part IV of the CAR Guidelines on Access to Justice for Children contains nine questions. A few preliminary observations on the replies received may be appropriate. First, although most of the questions indicate that the information requested concerns the involvement in justice processes of children who are victims of crimes or human rights violations, or affected in other ways by non-criminal judicial proceedings, some respondents failed to understand this and provided extensive information on juvenile offenders. Such information is important, but largely peripheral to this CAR. Similarly, some reports do not indicate whether, or to what extent, the information provided on certain questions (e.g. on mediation and legal assistance) refers to juvenile justice or other justice processes concerning the rights of children. Finally, some replies to these questions contain much information on the roles and procedures of institutions concerning children, but no information on the data generated.

The first question asks respondents to list the institutions that produce data on justice processes involving children. Most of the institutions mentioned in replies are referred to in more detail by responses to questions two to nine.

**Data collected by the police**

The second question asked to what extent the data collected by the police identifies cases or situations involving children as victims of an alleged crime, witnesses to an alleged crime, or for other reasons. This was the only question to which all respondents provided information, although not all have data on child victims. Armenia indicated that data on victims of crime collected by the police are not disaggregated by age, and Ukraine indicated that data on child victims formerly were recorded by the police, but are now recorded by prosecutors. Kyrgyzstan and Romania indicated that only data on child victims of domestic violence are recorded. Georgia indicated that data on crimes against children can be identified only if childhood is an element of the crime or an aggravating factor, and Serbia indicated that data on child victims of crimes are recorded, but not data on child victims of misdemeanours. Most replies do not indicate whether existing data on crimes against children are published. Moldova, an exception, indicated that they are published on the websites of Ministry of Internal Affairs and Ministry of Justice.

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16 The rights of children involved in criminal proceedings as suspects, detainees, defendants or convicted persons may be violated, of course, but the respect, violation and defense of their rights within proceedings against them is beyond the scope of the 2016 CAR.
The third question asked for information on the extent to which data collected by prosecutors allow cases involving children to be identified. Only two-thirds of the reports contain clear responses to this question, and fewer than half of them indicate that data on child victims of crimes are recorded by prosecutors. In Azerbaijan, data on cases involving child victims are registered, but are confidential. In Georgia, data are recorded on all crimes in which the victim is a child. Hungary indicated that the Ministry of Interior and Office of the Prosecutor General record cases in a joint database, once the investigation is completed. Latvia indicates that data are recorded in a database of the Ministry of Internal Affairs. Romania indicates that data on crimes against children are recorded if the case is taken to court, and Croatia indicates that data on crimes against children are recorded if the perpetrator is an adult.

Only a few CARs indicate that data compiled by prosecutors are published or reported to other institutions. Croatia indicates that the data described above is reported to the
Parliament and Bureau of Statistics, and published on the website of the State Attorney, annually. Bulgaria indicates that data on violent crimes against children are compiled and published. In Kazakhstan, the Committee on Legal Statistics and Special Records, under the Office of the General Prosecutor, maintains one of the two main databases containing statistics on the administration of justice, and forwards data to the national Committee on Statistics on a monthly basis. It also publishes analytical reports on violence against children.

Court records

The fourth question asked for information on the extent to which court records allow cases involving children to be identified. Most CARs contain some information on this question, although in some cases the information is unclear. Fifteen reports indicated that courts compiled some data on cases involving children, but the kind of data collected varies considerably. The reports of three countries (Belarus, Hungary and Moldova) indicate that some data on family law cases concerning children are recorded; the reports of four others (Croatia, Montenegro, Tajikistan and Ukraine) indicate that data on child victims of crime are recorded, and the reports of two (Romania and Serbia) indicate that data on both kinds of cases are collected. The Latvian CAR indicates that only data on eviction cases affecting children are collected, and the Slovak CAR states, without further explanation, that data are collected on cases ‘on the rights of children’. Armenia replied that no data on cases involving children are recorded, and the reports of Tajikistan and Bulgaria indicate that the data collected are not reliable. The Bulgarian CAR states that ‘Courts do not apply a consistent methodology in collecting data on the cases they handle, and most courts did not have data corresponding to the indicators’ in the CAR Guidelines. The Azerbaijani CAR indicates that data on all cases involving children in any capacity are collected, but not publicly available.

In Moldova new forms for collecting data on cases involving children were adopted in 2015, but it is unclear whether they ask for data on child victims of crime. In 2016 the Supreme Court of Georgia amended or replaced the forms used by trial courts to collect data on cases involving children. The new forms collect data on child victims of crimes, child plaintiffs in civil proceedings, child witnesses and children affected by proceedings in which they are not parties. In Kazakhstan, a national network of specialized courts having broad jurisdiction over criminal, civil and administrative cases involving children, including adults accused of crimes against children, has recently been expanded. Although in some parts of the country cases involving children are still tried by ordinary courts, the creation of these specialized courts is expected to facilitate the collection of more data.

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17 The report indicates that the Agency for Court Administration is authorized to collect data on the number of cases involving children examined by courts, but indicates that data on this indicator is to be disaggregated by certain types of family law cases. It also indicates that there is an indicator on child witnesses of crime, without specifying whether this includes child victims who give evidence, but states that data on remedies for child victims are not gathered.
comprehensive data on children involved in the justice process.

**Administrative procedures**

The fifth question asked what administrative procedures to resolve grievances concerning children exist, and what data exist on cases involving children handled by such procedures. Few CARs contain relevant information on this question. The Latvian report indicates that the State Inspectorate for the Protection of Children’s Rights compiles data on complaints it receives concerning violations of the rights of children, including acts of violence by public employees. The Slovak CAR indicates that an annual report is published on administrative complaints concerning the school system. The CARs of Belarus and Kyrgyzstan indicate that the Commission on Minor’s Affairs and Commission on Children’s Affairs, respectively, investigate complaints of violations of the rights of children, but do not produce any data on the complaints received or cases handled. The Commissions on Issues of Minors and Protection of their Rights in Kazakhstan also compile data on ‘infractions’ amongst children, but here, too, the data are not considered ‘official’ and are not in the public domain. The Azerbaijani CAR indicates that the Law on Administrative Proceedings establishes a complain mechanism, but no data are available on complaints relative to the rights of children.

**Ombudspersons**

The sixth question asked whether an ombudsman or other national human rights institution handles cases concerning children and, if so, how often data on such cases is compiled and whether it is published. All but two of the CARs contain information on this question. Almost all of them indicate that an ombuds office or similar institution compiles data on cases concerning children, and most (Albania, Croatia, Georgia, Latvia, Moldova, Montenegro, Romania, Serbia, and Slovakia) indicate that data concerning such cases is published annually. The data published by the Moldovan ombudsman are disaggregated by the nature of the issues examined. The Slovak Public Defender of Rights has published several reports on child rights issues, in addition to data on the caseload. The Hungarian CAR indicates that its records do not identify cases concerning children. In Kosovo and Moldova, data on the caseload of the ombuds offices are published annually, but disaggregation of cases concerning children is ‘limited’ or not entirely reliable. In Armenia the annual reports of the Human Rights Defender contain sections on child rights, which sometimes contain data on children from other public agencies, but do not contain data on the number of complaints concerning child rights received or handled by the Office itself. In Kyrgyzstan the child rights unit of the ombuds office only handles complaints about children deprived of liberty, and in Ukraine, the Parliamentary ombudsman keeps records on cases concerning children, but usually does not publish data on them. The Kazakh

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18 The CAR Guidelines defined grievance as ‘a perceived injustice evoking an individual’s or a group’s sense of entitlement, which may be based on law, contract, explicit or implicit promises, customary practice or general notions of fairness of aggrieved communities’.

19 Azerbaijan and Czech Republic
National Commissioner for Child Rights was established in 2016, and its policy regarding compilation and publication of data is not yet clear.

Three reports indicate that complaints concerning discrimination affecting children also are handled by other institutions - the Commissioner for Protection against Discrimination in Albania, and the Equal Treatment Authority in Hungary and the Commissioner for the Protection of Equality in Serbia – but do not indicate whether data on cases involving children are published.

Data on free legal assistance

The seventh question asked whether there is a national service that provides free legal assistance to persons who need it and, if so, whether its records identify the number of children who receive legal aid and legal representation. Almost all CARs contain some information on this question. Most contain information about the availability of free legal assistance, but indicate that data on children who received free legal assistance do not exist, or are fragmentary. The Romanian CAR states that data on child victims who receive free legal aid are compiled by the National Authority for the Protection of Child Rights and Adoption, and the Montenegrin CAR indicates that data are available on certain kinds of family law cases.

Four reports (Bulgaria, Kosovo, Latvia and Ukraine) indicate that data on beneficiaries is not disaggregated by age or status (child/adult). The Hungarian CAR indicates that data on beneficiaries began to be disaggregated by child/adult in 2014, but does not indicate whether data are published; the Moldovan CAR indicates that a comprehensive database on legal aid was established in 2012, but implies that data are not published. The Albanian CAR states that the legal aid service had not published any data despite a 2008 law that obliges it to do so, the Armenian CAR indicates that data are recorded but not published ‘regularly’, and the Belarusian CAR states that data are not published ‘officially’. In Kazakhstan, the only data on children provided with free legal assistance concerns children without parental care. Other CARs (Croatia, Georgia, and Kyrgyzstan) simply indicate that data on child beneficiaries do not exist or are unavailable.

Data on mediation

The eighth question asked whether any agency or service provides mediation and, if so, whether its records identify the number of cases submitted for mediation in which children are involved. All but three CARs contain some relevant information. Four (Belarus, Bulgaria, Kyrgyzstan and Tajikistan) state that mediation does not exist, or mediators cannot or have not handled cases concerning children. Three (Albania, Armenia and Ukraine) state that mediation exists, but data on mediation do not, and two others (Kosovo and Moldova) state that data exist but are not disaggregated so as to identify cases involving children. The Kazakh CAR also indicates that some data on mediation exists, but is not disaggregated so as to identify cases involving children. Four (Croatia, Georgia, Hungary
and Latvia) state that data on children and mediation exist, but are limited to juvenile offenders. Only one (Montenegro) indicates that a Council for Mediation compiles data on other mediation involving children, and one (Romania) states that its Council for Mediation plans to begin recording data on cases involving children.

**Data on social service/child protection agencies and justice processes**

The ninth question asked whether there a social service or child protection agency whose responsibilities include participation in justice processes concerning children and, if so, the kind of cases it participates in, and its role. Almost all CARs contain some information on this question, but most do not contain information about data relevant to children’s access to justice compiled by such institutions. The Belarus CAR indicates that no institution of this kind exists. Eight CARs (Georgia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Slovakia, Tajikistan and Ukraine) describe the role of the pertinent agencies and institutions, but contain no information about the kind of data compiled. The Romanian CAR indicates that the National Authority for the Protection of Child Rights and Adoption publishes data quarterly, but does not describe the data published. Similarly, in Albania the State Agency for the Protection of Children’s Rights publishes an annual report incorporating data from different institutions, but the CAR does not clearly describe the nature of such data.

Four CARs describe the data compiled and published. In Bulgaria the State Agency for Child Protection compiles data on children in need of protection and children who are provided with assistance, but the CAR does not indicate whether such data are published; in Croatia, the Ministry of Demography, Family, Youth and Social Policy publishes an annual report that includes data on the legal protection of children; in the Czech Republic the Ministry of Labour and Social Affairs publishes an annual report containing data on VAC, and in Moldova the Ministry of Labour, Social Protection and Family annually publishes data on children who benefit from assistance in legal proceedings, and forwards data on children without parental care to the National Bureau of Statistics, where it is published. Some countries also have databanks on special issues, for purposes of case management, which contain detailed data that usually is confidential. In Albania, for example, the State Social Services administers databases on trafficking in persons and on domestic violence.

**Other ministries and institutions that collect relevant data**

Some CARs indicate that other institutions produce and/or publish data relevant to children’s access to justice. One (Armenia) mentions the State Migration Service, which publishes data on child refugees and asylum seekers. In Romania, data on child victims of domestic violence are compiled, but not published, by the National Agency for Equal Opportunities for Women and Men. In Azerbaijan CAR, the State Committee on Women, Family and Children’s Affairs has a database containing data on VAC. Some indicate that agencies under the Ministry of Justice generate relevant data. In most cases, they are
agencies such as probation and prison departments that generate data relevant to juvenile justice, but there are exceptions. In Hungary, for example, the Ministry of Justice has a Victim Support Service.

In some countries (e.g. Armenia), criminal investigators are a separate institution, not part of the police nor the prosecutor’s office. In Armenia it does not produce data on cases involving child victims.

One of the indicators in the CAR Guidelines asks for data on VAC reported to or registered by health or educational systems. Many CARs indicate that these systems have a legal obligation to report violations of the rights of children, especially VAC. Most do not publish such data themselves, but their reports to other agencies – either law enforcement or child protection - play a role in children’s access to justice. In Kyrgyzstan, for example, the National Medical Information Centre compiles data on domestic violence, disaggregated by age, sex and type of violence. In Serbia, the Ministry of Health has a good database on VAC. Some do publish the data they collect. In Moldova, for example, the Ministry of Education publishes semi-annually data on cases of VAC identified and victims assisted by the Ministry’s Psycho-Pedagogical Assistance Service.

**The role of national statistical offices**

Most national statistical offices publish some data on children and justice, but the focus usually is on juvenile justice and the indicators are few. Key ministries or institutions, in particular the Ministry of Interior, the courts and ombudsmen, often publish more data in annual reports or on their websites. Most CARs suggest that the role of the national statistics agencies is a passive one, but there are exceptions. The Albanian CAR, for example, indicates that INSTAT performs verification checks on the data it receives for completeness, consistency and errors. The Kyrgyz CAR indicates that the National Statistical Committee gives ministries and departments guidance on indicators concerning children’s access to justice, e.g. the introduction of a form to collect data on VAC and assistance provided to victims.

Several NSOs commented on challenges that affect the effectiveness, efficiency or reliability of data-collection mechanisms or databases. (see Part 3, below)

**Recent developments and plans**

Most of the CARs contain information on plans to expand or improve the capacity to collect and manage data on children’s access to justice. Some also describe significant developments that took place recently, or are in progress. The Albanian CAR, for example, reports that the strategic plan of the National Institute of Statistics for 2017-2021 ‘aims to bring greater focus on children’s access to justice, with increased access to the data sources of the relevant agencies, better disaggregation of data, and a wider range of relevant indicators and reports.’ In 2016, UNICEF began to support the development of an integrated
web-based system to enable the Ministry of Justice and other Albanian authorities to collect data and track all cases concerning children in the criminal justice system, whether as accused or convicted offenders, victims or witnesses.

In Armenia the National Statistical Service sees the CAR as a step towards promoting the use of indicators that ‘allow the construction of a coherent, comprehensive overview of how justice processes affect the rights of children.’ A Juvenile Justice Council with a broad mandate on children and justice was established with UNICEF support in 2015. Members include the Ministry of Justice, Ministry of Labour and Social Issues, police, prosecutors, investigators and NGOs.

The Bulgarian CAR called for the establishment of a working group of lawyers and statistical experts to adapt and clarify the CAR indicators and the methodology for data collection, and suggests that, with financial support, this could be done by the Supreme Judicial Council.

The Romanian CAR concludes with a number of pertinent recommendations, including:

- an integrated national database using indicators and definitions in line with international standards should be established, with access by all institutions that have a role in monitoring the situation of children involved in judicial proceedings
- there should be regular meetings between the institutions involved in judicial proceedings involving minors, child welfare institutions, education system, Ombudsperson, public health institutions, Bars Associations, the National Institute of Statistics and any other institution that deals with child related issues to harmonize the databases of every concerned institution
- the National Institute of Statistics should play a key role in developing any new information system and/or upgrading any existing system for collection and management of data concerning children
Twenty countries prepared CARs, all of which include some data. The twenty countries provided data on a total of 121 indicators, which represents a reply rate of 40%. The average number of indicators that they replied to was six. Romania provided data on ten indicators; Moldova and Montenegro on nine; Albania, Croatia, Georgia, Kazakhstan and Serbia on eight; Kosovo on seven; Kyrgyzstan on six; Belarus and Bulgaria on five; Azerbaijan and Ukraine, four; Armenia, Czech Republic and Slovakia, three; and Tajikistan, two. Eighty percent of the replies to the quantitative indicators covered all six years for which data was requested.

Seven of the 15 quantitative indicators concern the police, prosecutors and courts. Four of these concern civil justice and family law, and three concern crimes against children.

More data was provided on the criminal justice indicators: 17 countries provided data on crimes against children registered by the police, 12 provided data on crimes against children prosecuted or taken to court, and ten provided data on convictions for crimes against children.

The large number of countries that provided data on the number of crimes against children registered by the police is positive because, notwithstanding the number of unreported crimes, data on registered crimes against children is an essential indicator of the prevalence of crime against children in a society. However, data from some countries is incomplete because the data collection system only counts crimes where the legislation in force identifies the age of the victim as an element or aggravating factor.

Registered crimes is useful not only as an indicator of prevalence of crimes, it is the starting point for calculating the rate of conviction i.e. the percentage of registered crimes where a perpetrator is convicted. Ten countries provided data on convictions for crimes against children, which permits attrition – the percentage of cases where no perpetrator is convicted – to be measured. More countries provided data on crimes against children taken to court but, although prosecution is a key step towards accountability, data on cases prosecuted cannot be used to calculate the attrition/conviction rate. Only seven countries provided data on both of these indicators, which gives a clearer picture of the effectiveness of the response of the criminal justice system to crimes against children.

20 countries x 15 indicators = a total of 300 requests for data. Data contained in CARs are not counted in the Tables on replies to indicators if they are expressly identified as estimates, if they are for a substitute indicator (e.g. cases submitted to prosecutors or commissions on minors for the indicator on cases submitted to ombudsman), or if the data appear unreliable.

* (UNSCR 1244)

21 Georgia is one example.

22 The attrition rate is the inverse of the conviction rate.
Table 3 Data on indicators of crimes against children

<table>
<thead>
<tr>
<th>Indicator 6 (crimes against children reported to police)</th>
<th>Indicator 7 (crimes against children prosecuted)</th>
<th>Indicator 8 (convictions for crimes against children)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Armenia</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Belarus</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>2010-2015</td>
<td>2015</td>
</tr>
<tr>
<td>Croatia</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Czech R</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Georgia</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Hungary</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Kyrgyzstan</td>
<td></td>
<td>2010-2015</td>
</tr>
<tr>
<td>Latvia</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Montenegro</td>
<td>2010-2015</td>
<td></td>
</tr>
<tr>
<td>Romania</td>
<td>2010-2011</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Serbia</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Slovakia</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Total</td>
<td>17</td>
<td>12</td>
</tr>
</tbody>
</table>

Twelve countries provided data on family law cases decided by courts, but only one – Kyrgyzstan - provided any data on whether children were heard in such cases.

Table 4 Data on indicator 3

<table>
<thead>
<tr>
<th>Indicator 3. (family cases decided)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belarus</td>
</tr>
<tr>
<td>Croatia</td>
</tr>
<tr>
<td>Czech R</td>
</tr>
<tr>
<td>Hungary</td>
</tr>
<tr>
<td>Kazakhstan</td>
</tr>
<tr>
<td>Kyrgyzstan</td>
</tr>
<tr>
<td>Moldova</td>
</tr>
<tr>
<td>Montenegro</td>
</tr>
<tr>
<td>Romania</td>
</tr>
<tr>
<td>Serbia</td>
</tr>
<tr>
<td>Slovakia</td>
</tr>
<tr>
<td>Tajikistan</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

*(UNSCR 1244)*
Fewer data were provided on civil cases concerning violations of the rights of children: only four countries provided data on the number of such cases filed, and only three reported data on the number of cases in which remedies were obtained. A few others provided data based on a misunderstanding of the indicator, such as data on criminal cases or family law cases. This contrasts with the relatively large number of countries that provided data on cases where remedies for violations of the rights of children were sought from ombudsman. (see below) The right to a remedy is fundamental, and the low number of countries that provided data on this indicator seems to indicate a failure to appreciate the importance of access to justice for violations of the rights of children.

Table 5 Data on indicators 1 and 2

<table>
<thead>
<tr>
<th>Indicator 1. (civil cases filed)</th>
<th>Indicator 2. (remedies obtained in civil cases)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belarus 2010-2015</td>
<td></td>
</tr>
<tr>
<td>Kosovo 2010-2014</td>
<td></td>
</tr>
<tr>
<td>Kyrgyzstan 2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Montenegro 2012-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Total</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>3</td>
</tr>
</tbody>
</table>

There also is an indicator on children provided with legal aid, for criminal or civil cases. Nine countries reported data on this issue.

Table 6 Data on indicator 10

<table>
<thead>
<tr>
<th>Indicator 10 (children provided with legal assistance)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Armenia 2011-2015</td>
</tr>
<tr>
<td>Croatia 2010-2015</td>
</tr>
<tr>
<td>Georgia 2013-2015</td>
</tr>
<tr>
<td>Hungary 2014-2015</td>
</tr>
<tr>
<td>Moldova 2010-2015</td>
</tr>
<tr>
<td>Montenegro 2010-2015</td>
</tr>
<tr>
<td>Romania 2010-2015</td>
</tr>
<tr>
<td>Serbia 2010-2015</td>
</tr>
<tr>
<td>Tajikistan 2014-2015</td>
</tr>
<tr>
<td>Total 9</td>
</tr>
</tbody>
</table>

Five indicators concerned alternative justice processes – four on ombudsmen and one on mediation. Fourteen countries provided data on the number of cases concerning children received or investigated by ombudsmen. Only four provided data, on the number of cases submitted by children personally, on the time within which cases were resolved, and on the number of cases where children received a remedy. The number of countries that reported data on the number of cases concerning children brought to the competent national
ombudsman is a positive, but it is disappointing that less than one-third of them provided data on the number of cases in which the child received a remedy.

Table 7 Data on indicators of ombuds institutions

<table>
<thead>
<tr>
<th>Country</th>
<th>Indicator 11 (children who brought cases to ombudsmen)</th>
<th>Indicator 12 (cases about child rights brought to ombudsmen)</th>
<th>Indicator 13 (cases resolved in favor of the child within 6 months)</th>
<th>Indicator 14 (children who in fact received a remedy)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Azerbaijan</td>
<td>2010-2015</td>
<td>2010-2015</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bulgaria</td>
<td>2010-2015</td>
<td>2010-2015</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Croatia</td>
<td>2010-2015</td>
<td>2010-2015</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td>2011-2015</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hungary</td>
<td>2015</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Latvia</td>
<td>2015</td>
<td>2011-2015</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Romania</td>
<td>(no cases)</td>
<td>2010-2015</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Serbia</td>
<td>2010-2015</td>
<td>2010-2015</td>
<td></td>
<td>2010-2013</td>
</tr>
<tr>
<td>Ukraine</td>
<td>2010-2015</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>5</td>
<td>13</td>
<td>3</td>
<td>4</td>
</tr>
</tbody>
</table>

Eight countries provided data on the number of cases involving children referred to mediation. The number of countries that provided data on mediation involving children can be seen as promising, but it is unfortunate that most data concerns juvenile offenders. Although such data are important in the context of juvenile justice, they are not directly relevant to the focus of this CAR on children’s access to justice.

Table 8 Data on indicator 15

<table>
<thead>
<tr>
<th>Country</th>
<th>Indicator 15 (children’s cases referred for mediation)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Croatia</td>
<td>2010-2012, 2015</td>
</tr>
<tr>
<td>Georgia</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Hungary</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Kosovo*</td>
<td>2015</td>
</tr>
<tr>
<td>Kyrgyzstan</td>
<td>2012-2015</td>
</tr>
<tr>
<td>Latvia</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Montenegro</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Serbia</td>
<td>2013-2015</td>
</tr>
<tr>
<td>Ukraine</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>8</td>
</tr>
</tbody>
</table>

Indicator 5 concerns violence against children (VAC) reported to or registered by institutions other than the police, such as health care facilities, child welfare authorities, and schools. It was included in the hope of obtaining data that would put into context the number.
of reported crimes against children reported to law enforcement authorities, the usual entry point into the justice system. More countries provided data on this indicator than any other, except the indicator on crimes registered by the police.

Albania, Georgia and Moldova reported data from the health, educational and the child protection systems. Romania reported data from the health and educational systems, and an agency on equal opportunities for women and men mandated to monitor domestic violence. Serbia reported data from the social welfare and medical systems. Kazakhstan reported date provided by the police, which includes data reported to the police by the educational and health services, although the data are not disaggregated by source. Croatia and Kosovo reported only data registered by the child welfare authorities. Hungary reported the number of ‘warnings’ reported by different sources to what is called an ‘early warning system’, in addition to data on reported cases of violence. The number of ‘warnings’ is roughly 10 times greater than the number of cases of violence. Albania and Georgia also reported data on domestic violence prevention orders concerning children. Latvia provided data on cases reported through a phone helpline.

Indicator 9 asks for data on child victims of violence who received medical, psychological or other assistance, regardless of whether the assistance resulted from justice proceedings. Receiving assistance in recovery from violence is a remedy and a consequently can be considered a form of justice, even if it is not obtained through the justice system.

Table 9 Data on indicators of VAC

<table>
<thead>
<tr>
<th></th>
<th>Indicator 5 (reported cases of VAC)</th>
<th>Indicator 9 (VAC victims given assistance)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bulgaria</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Croatia</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Czech R</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Georgia</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Hungary</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Kosovo</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Kyrgyzstan</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Latvia</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Montenegro</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Romania</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Ukraine</td>
<td>2010-2015</td>
<td>2010-2015</td>
</tr>
<tr>
<td>Total</td>
<td>13</td>
<td>10</td>
</tr>
</tbody>
</table>

21 Georgia also reported data from other sources.
22 Data for 2015
23 (UNSCR 1244)
24 see Art.38 of the CRC
25 (UNSCR1244)
The Figure 2 demonstrates countries that provided data on VAC indicators from 2010-2015. Only 8 provided data on both VAC indicators.

**Figure 1  Countries that provided data on VAC indicators**

*Note: Countries provided data for different time periods. Data from Bulgaria, Croatia Czech Republic, Georgia, Hungary, Kazakhstan, Kosovo, Kyrgyzstan, Latvia, Montenegro, Romania and Ukraine is for 2010-2015, while data from Albania, Moldova and Serbia is for 2014-2015.*
3. Validation of data reported and reported difficulties affecting the reliability of data

An effort was made to validate the data provided by NSOs. The rules used for this purpose were:

1. The sum of the subtotals should be equal to the total.  
2. The variation from year to year should not be unusually high.  
3. Data provided to NSOs by different institutions on related indicators should be consistent.

No effort was made to compare the data provided in the CARs with data provided to other regional databases, due to time constraints and because some of the CAR indicators are not used by other database.  

Requests for the correction or explanation of data were sent to 17 NSOs, and 14 replied. Given the nature and aims of the 2016 CAR, rules on verification were not applied strictly in the preparation of this report. Nevertheless, some reported data were not taken into account. One report contains figures identified as estimates, that were not taken into account. Data in one CAR on the number of court cases affecting children decided during the year was excluded because it referred to children in placement, regardless of the date of the placement decision.  

Data in another CAR on complaints brought to the ombuds office by children was not included because no data was provided on the next indicator, complaints made on behalf of children, and because data from other countries indicate that the number of cases brought to ombudsmen by children themselves is only a small portion of all cases concerning children. Data from one country on civil cases involving children filed with the courts was disregarded because it included all civil cases, not only those concerning human rights issues. Data from the same country on children who received legal assistance was disregarded because it concerned only family law cases.

The provision of incomplete data on certain indicators was a common problem. In some CAR, for example, data on crimes against children was limited to crimes where the childhood of the victim was an element of the crime or an aggravating factor. In others,

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27 Armenia, Indicators 12-14  
28 Montenegro, Indicator 4  
29 Slovakia, Indicator 10  
30 Kazakhstan, Indicators 1-2  
31 Kazakhstan, Indicator 9
data on civil court cases involving children was limited to cases where the legal aid service or child protection authorities were involved. Data that CARs indicated was incomplete often were included in the present report. Ensuring that data on indicators are more complete is a serious challenge that must be addressed in establishing a regional process for collecting data on access to justice indicators.

Many CARs contained comments by NSOs on the reliability or quality of the data contained in them. The Kyrgyz CAR, for example, states that the Ministry of Interior has no less than 6 separate databases (e.g. reported crimes, criminals, administrative offences, wanted persons...). Data from different databases must be matched manually, which increases the risk of errors. The software is some 25 years old, which makes these systems difficult to modify. The court system also lacks a single national electronic database, and much data are collected manually, which is inefficient and affects the quality of the data produced.

The Moldovan CAR states that the introduction of an indicator on victims posed significant technical problems that remain to be solved. It also states that ‘dissonance’ of data produced by the police and prosecutors has been a recurring problem. One reason is that forms are not filled out correctly or are completed with delays. Another contributing factor is the use of data to evaluate performance, which can lead professionals to not report certain cases or, to the contrary, report some cases more than once. The comparison of data from the police and prosecutors with a view to eliminating contradictions reportedly is ‘a mere formality’, which led to a decision to not publish data from different sources on the same indicators. This CAR also states that the Case Management Programme introduced in the court system in 2009 with the support of a foreign donor is still not fully functional and generates insufficient and unreliable data on children. An inter-sectoral mechanism for the identification, assessment, referral, assistance and monitoring of children who are victims or potential victims of violence, neglect, exploitation and trafficking established in 2014 is not yet fully functional.

The Romanian CAR reports that ‘different institutions that monitor the situation of children involved in judicial proceedings collect data in different databases, making their compilation and access difficult [they also] collect data on the same issues using different methodologies or definitions.’ ‘The absence of an electronic integrated data collection and consolidation system’ at the National Agency for Protection of Child Rights and Adoption ‘generates errors triggering the slowing down of the data collection process, increasing the processing time and does not allow to draw conclusions and make informed decisions.’

It would be desirable to develop and implement a regional strategy and plan for strengthening the capacity of countries to collect reliable, comprehensive data on children’s access to justice. The difficulties identified by NSOs, as well as positive experiences, should be taken into account in the development of such a strategy.
4. Promising Practices

The 15 indicators cover different kinds of data collected by different kinds of institutions: data on reported crimes and reported VAC, on civil and criminal judicial proceedings and on non-judicial justice processes, provided by the police, prosecutors, courts, ombudsmen, legal aid agencies, and by health, education and child protection authorities. It is not possible to identify any country where the practice is promising in all these areas.

Several CARs contain data on crimes against children reported to the police that seem to be complete and are disaggregated by the age and sex of the alleged victim and nature of the crime. The data from Serbia are unique in that they are disaggregated by whether the crime involved abuse or neglect by a parent or guardian, but disaggregation by nature of the offence is limited. Data provided by Kosovo are disaggregated by the ethnicity of the victim, which may make this the best practice amongst the countries that submitted CARs.

In 2015 Kazakhstan took several steps to improve the collection and management of data on children and justice. A Law on Access to Information recognizes the right to access to data on crime, reported crime is now registered as from the time of the report rather than after investigation, and data on crimes against children (and women) are disaggregated by the type of offence and age of the victim and published regularly.

In Georgia, recent changes in the data collected by courts are quite promising. In 2015 the Supreme Court approved a new form to be used by courts of first instance to record data on juvenile defendants, witnesses and victims in criminal proceedings. The information to be recorded for each case includes:

- the crime (i.e. article of the Criminal Code)
- the status of the child (defendant, witness or victim)
- the age, sex and citizenship of the child
- whether the child had a lawyer or legal representative
- whether a psychologist participated in the trial
- the outcome of the proceeding (‘terminated’, returned to the prosecutor for diversion, \(^{32}\) guilty, not guilty, other)
- main sentence
- additional sentence (if any)
- whether an individual assessment report was received
- whether the decision of the court was appealed

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\(^{32}\) Prosecutors may divert cases before trial, but when a court considers that a case brought for trial should have been diverted it can be sent back to the prosecutor for reconsideration of diversion.
The form also has a column for additional comments. It was being tested in 2017.\textsuperscript{33} This promising practice is limited to criminal judicial proceedings. Georgia was unable to provide data on children affected by civil proceedings (indicators 1-4). Indeed, no CAR contains sufficient data on the indicators concerning civil judicial proceedings to suggest a possible promising practice.

Prior to this initiative, Moldova was the only country to report data disaggregated by the age and sex of the victim, and nature of the crime. Although these data are available only as from 2014, this also seems to be a promising practice.

In so far as non-judicial justice processes are concerned, only four CARs contained data on the number of cases where children whose rights were violated received remedies. The data in the Montenegrin CAR contains information on the nature of the right violated, which makes this the best practice amongst the reporting countries.

The number of cases of VAC registered by health, child protection and education authorities is not, strictly speaking, an indicator on access to justice. The information contained in CARs nevertheless demonstrates that it is relevant. On one hand, data reported to health, education and social systems often is forwarded to the police; and, on the other hand, the police often forward information on reported cases of VAC to the health and child protection authorities to order with a view to assisting and protecting victims. The number of children who receive assistance in recovering from violence is an indicator on access to justice, in the broadest sense of the term, even if the assistance is not obtained through the justice system. Several CARs contain data on child victims of VAC who received assistance. The data contained in the Romanian CAR are very detailed in terms of kinds of VAC suffered and the kind of assistance provided, and can be considered a promising practice.

\textsuperscript{33} Information on the outcome of testing is not available.
What can the data contained in the CAR tell us about children and justice - and about some of the underlying issues that make access to justice relevant for children?

**Reported crimes against children**

Reported crime against children is not a reliable indicator of the actual prevalence of crime against children. Only a percentage of crimes that occur are reported to or registered by the competent authorities. Surveys are the most reliable source of information about the prevalence of crime against children and violence against children. However, few countries that participate in TransMonEE conducted victimization surveys during the period covered by the CAR. Bulgaria and Georgia carry out annual surveys on victimization, according to the European Sourcebook on Crime and Criminal Justice Statistics, and Armenia carried one out in 2010.

Data on reported crime against children nevertheless is relevant for at least two purposes. First, it can be used to measure the conviction/attrition rate, that is, the percentage of reported cases that do or do not result in a conviction. This rate varies greatly from country to country. Second, where surveys provide data on real prevalence, data on reported cases allow the number and percentage of unreported cases to be calculated. This is relevant to issues such as trust in the criminal justice system, and social/cultural attitudes regarding the status, needs and rights of child victims.

Although data on reported crimes must be interpreted with caution, few would argue that it has no relevance to the prevalence of crime against children. Victimization surveys traditionally interview adults, although a growing number interview some adolescents.

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34 National surveys cited by the most recent European Sourcebook of Crime and Criminal Justice Statistics indicate that from 15% to 65% victims of bodily assault report the crime to the competent authorities, with an average rate of 41%, and from 7% to 24% of victims of sexual assault - 17% on average - report the crime to the authorities. European Sourcebook of Crime and Criminal Justice Statistics 2014, Fifth Edition, European Institute for Crime Prevention and Control, Helsinki, Tables 6.2.1.2 and 6.2.2.2. These data apply to adults and some older adolescent informants, not younger children.

35 The concepts of crimes against children and VAC overlap to a large extent, but are not identical: some crimes against children are not violent crimes and, in some countries, only some forms of VAC are criminalized.

36 Tables 6.1.2 and 6.1.3


38 The underlying presumptions are that, in general, it is desirable for crimes against children to be reported to law enforcement authorities and for the authorities to prosecute and convict perpetrators who have been identified.

39 European Sourcebook, supra, Table 6.3.5
However, since younger children are not surveyed data on crimes against them are not recent, so that only longer term changes in prevalence can be detected.\textsuperscript{40} Data on reported crimes against children have the advantage of being widely available.

Many CARs report significant decreases in the number of crimes against children reported to the police: -36\% in Kazakhstan, -29\% in Serbia, -28\% in Hungary and Latvia, -27\% in Croatia, -22\% in Bulgaria, -17\% in Kyrgyzstan and -6\% in the Czech Republic. In Ukraine, too, crimes reported to the police fell by 34\% from 2010 to 2013.\textsuperscript{41} Significant increases were reported in Moldova, where crimes against children reported to the police more than doubled, and in Belarus, where the overall increase was 20\% and the number of sexual crimes more than doubled. In Montenegro the number of reported crimes against children doubled from 2010 to 2013, but returned to the 2010 level in 2015.

The relationship between data on reported crimes and the prevalence of crimes against children is, of course, unknown. In some countries decreases and increases in reported crimes coincide with decreases and increases in administrative data on reported VAC.\textsuperscript{42} In most, however, this is not the case. For example, the Croatian, Kazakh, Latvian and Serbian CAR show increases in reported VAC, but decreases in reported crimes against children, while Bulgarian data show a decrease in reported VAC but an increase in reported crimes against children. There are many possible reasons for the results reported. As one expert observed, “statistical data cannot present answers, but provoke a lot of interesting questions to be examined by further in-depth studies.”\textsuperscript{43}

Most of the data on crimes reported to the police are disaggregated by sex. In Croatia and Czech Republic, the number of reported crimes against boys and against girls is similar.\textsuperscript{44} In Hungary and Kyrgyzstan the number of reported crimes against girls is lower (44\% and 45\%), and in Latvia and Moldova it is higher (56\% and 64\% respectively). Interestingly, in Slovakia reported crimes against girls is 55\% for 2010-2015, but the number of convictions for crimes against girls is only 41\% over the same period. This is an example of a finding that deserves further investigation.

In Serbia, girls were the victims of 91\% sexual crimes reported to the police, 55\% of reported crimes involving parental abuse or neglect, and 39\% of the victims of homicide. Data on violence reported to other authorities also are disaggregated. Girls were victims in 83\% of cases of sexual abuse reported to the social welfare authorities in 2015, and

\textsuperscript{40} On the incidence and prevalence of child maltreatment, supra

\textsuperscript{41} They continued to fall in 2014 and 2015, but data from those years do not include crimes in the occupied territories.

\textsuperscript{42} Hungary a 28\% decrease in reported crimes against children coincided with a decrease of 30\% in VAC reported to other institutions, and in Kyrgyzstan a decrease was 17\% in crimes reported to the police coincided with a decrease of 18\% in VAC reported to other institutions; in Moldova, where crimes against children reported to the police more than doubled from 2010 to 2015, violence recorded by other institutions increased by 70\% from 2014 to 2015.


\textsuperscript{44} This analysis is limited to 2015.
79% of the cases of sexual abuse registered by the health system. Girls also were victims in more than half of the cases of physical and emotional abuse reported to the social welfare system, but less than half the victims of physical and emotional abuse registered by the health system (35% and 46%, respectively). In Georgia, the number of boys and girls who are victims of reported cases of violence are similar. Unfortunately, data provided by other countries do not permit analysis of these issues.

A few CARs disaggregate data on crimes against children by the nature of the crime and age of victims. This provides additional insight into the nature and dynamics of criminality affecting children in the region. Data from Belarus indicate that some two-thirds of all crimes against children affect victims under 14 years of age. In contrast, data from Bulgaria and Hungary indicate that less than half of crimes against children (42% and 37%, respectively) affect victims under the age of 14. Data from Serbia are incomplete, but more detailed. They indicate that most victims of crimes involving parental abuse or neglect are within the 14-18 age cohort and the age group least effected is 0-6. A similar pattern applies to sexual offences: 41% of victims are in the 14-18 age cohort and 39% in the 11-13 cohort; 16% are in the 11-13 cohort and 4% in the 0-6 age cohort. In Belarus, Bulgaria and Ukraine, the most often reported common crimes were theft (57%, 44 % and 38% respectively). In contrast, in Croatia only 10% of reported crimes against children were property offences, and sexual offences, at 20%, were the most commonly reported crime against children. The percentage of sexual offences was even higher in Belarus (27%), and lower (6%) in Bulgaria. The percentage of other crimes of physical violence is relatively low, ranging from 7% in Croatia to less than 1% in Bulgaria. The rate of homicide was particularly high in Ukraine, at almost 3%.

Few CARs contain data on bullying. In Croatia, data on bullying began to be collected in 2011, and the total number of cases of VAC nearly doubled from 2010 to 2011. The authors of the report consider that the increase can be attributed mainly to bullying. This illustrates the importance of identifying any changes in the law or in criteria or procedures for registering data, as part of the process of analysing data.

The prosecution of crimes against children

In most CARs that contain data on crimes reported to the police and on crimes prosecuted or taken to court, the number of crimes against children prosecuted is a fraction of the number reported. In Romania, 4% of the crimes reported were prosecuted in 2010-2011; in Albania, 9% were prosecuted in 2015; in Croatia and Hungary, 23% from 2010-2015;

45 It also is invaluable on the national level, or course, for the monitoring of trends in criminality and assessment of the effectiveness of public security strategies and policies. The analysis in this paragraph is based on data on common crimes for 2015; data on traffic offences or non-payment of maintenance have not been taken into account.
46 They cover only crimes against life and limb, sexual crimes, trafficking and abuse and neglect.
47 34% and 16%
48 data for 2015
in Latvia, 33% over the same period; in Moldova, 38% (for 2014-2015); and in Ukraine, 49% for 2013-2015.

In Slovakia, the number of cases prosecuted was slightly higher than the number of crimes reported to the police. This surprising result can occur in countries where data on prosecutions and convictions includes crimes such as non-payment of child support, which are reported to child welfare authorities rather than the police. Data on prosecutions and convictions for such crimes is useful, but unless they are disaggregated by the nature of the offence, it is difficult to calculate the conviction/attrition rate of crimes reported to the police, such as crimes of violence. There are, of course, many reasons why only some reported crimes are prosecuted and why only some of the crimes prosecuted result in a conviction, but documenting the attrition rate is a necessary first towards more effective evidence-based efforts to combat impunity. The analysis of attrition should, ideally, follow cases from the report to the police to the stage of prosecution, and to the results of adjudication.\footnote{Attrition and Conviction Rates of Sexual Offences in Europe, supra}

Data on convictions are somewhat scarce. In Ukraine, 78% of the crimes against children taken to court resulted in a conviction; in Albania, 91% resulted in a conviction, and in Croatia, 93%. In Kazakhstan, the number of persons convicted is higher than the number of cases prosecuted, which suggests that many cases prosecuted involve multiple defendants. The Montenegrin CAR includes no data on cases prosecuted, but over a five year period 78% of the crimes reported to the police led to convictions. The Serbian CAR also contains no data on cases prosecuted, but 52% of the crimes reported to the police resulted in a conviction. In some CARs, the data allow conviction rates to be calculated only for certain kinds of offences. In Armenia, data sexual offences show a conviction rate of 75%. Data in the Belarusian CAR also cover only certain crimes against children, and 88% of the crimes reported lead to a conviction.

\textit{Legal aid}

Most of the CARs contain no data on child victims who receive legal assistance, and most of the data that are reported show that only a small percentage of child victims receive legal assistance. The Belarusian CAR states that, in 2016, 20 child victims benefited from legal aid. The Moldovan CAR indicates that the number of children who received legal assistance in 2014-2015 represents 10% of the child victims in crimes prosecuted during those years, and 2% of the children who receive legal assistance during that period. The Serbian CAR indicates that 105 child victims received legal assistance in 2015 – less than 3% of the crimes against children reported to the police. The Tajik CAR indicates that 109 child victims received legal assistance in 2015 – 16% of the children who received legal assistance for any reason. The Montenegrin CAR indicates that only 10% of the children who received free legal assistance were child victims of crime, and the number of child victims provided with free legal aid declined by two-thirds from 2010 to 2015.
One exception is Romania, where 43,260 child victims reportedly received legal assistance during 2010-2015 – more than twenty times the number of child victims involved in criminal trials during the same period. The Georgian CAR indicates that the Legal Aid Service provided assistance to 159 child victims from 2013 to 2015. This represents 12% of the children who received legal assistance during this period, but 63% of the child victims involved in criminal cases.

**Access to other assistance**

Indicator 9 on assistance is designed primarily to obtain information on medical, psychological and social assistance designed to help child victims to recover from the consequences of violence, not measures whose main purpose is to prevent continued or future violence, such as placement in alternative care. It is sometimes difficult to know what the main purpose is, of measures counted in data reported.

This indicator can be used to compare the number of child victims who received any form of assistance with the total number of child victims of violence. The utility of this ratio is limited, however, because the denominator is calculated by adding all reported interventions (medical, psychological and social). Since it is not feasible to identify the number of individuals who benefitted from different kinds of assistance, some victims are counted as beneficiaries twice or even thrice. Furthermore, some CARs do not specify the nature of the assistance provided, although that often can be inferred from the source identified. Notwithstanding these limitations, some interesting findings can be made.

In Albania, 578 children reportedly were assisted by the social service system in 2015, and 2,825 were “provided with support” by the education system. In addition, 11 children sheltered in a center for victims of trafficking and 34 were sheltered in centers for victims of domestic violence. The Montenegrin CAR reports that all children identified as victims by the child welfare system received assistance. The number fell from 421 in 2010 to 192 in 2015.

In Bulgaria, the number of victims provided with assistance increased from 877 in 2010 to 1354 in 2015. During the years 2010-2013 the number of girls assisted was much higher than the number of boys (2020/1408), but in 2014 and 2015 the numbers were more similar. Despite the increase, the number of victims assisted remains significantly (43%) lower than the number of cases of violence reported.

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50 Indeed, two CARs use the same data for the number of VAC victims reported and the number of victims who received assistance.

51 The Albanian CAR is one that presumes that all children whose cases were reported received assistance.
In Croatia the number of victims assisted increased by 42% from 2010 to 2011, but returned to the same level over the next 4 years. The number assisted in 2015 was 81% of the number of VAC cases reported to the social welfare authorities.

The Hungarian CAR indicates that the number of children assisted by the Victim Support Services increased from 140 in 2010 to 252 in 2013, then falling to 208 in 2015- a tiny fraction of the 6,588 reported cases of VAC in 2015.

In Latvia, the number of child victims provided with assistance increased from 2,142 in 2010 to 2,738 in 2013, then fell to 2,473 in 2015. This represents a 93% of VAC cases reported to the child welfare authorities in 2015.

The Moldovan CAR contains data only on psychological assistance, for the years 2014 – 2016. The coverage of reported victims was 95% in 2014, but fell to 71% in 2015 when there was a large increase in the number of victims reported. The data are disaggregated by the type of VAC experienced, and the largest number of beneficiaries were victims of neglect.

The data contained in the Romanian CAR are disaggregated by the nature of the assistance provided and type of violence experienced, and in some cases by sex. The number of victims receiving medical assistance increased from 467 in 2010 to 614 in 2011, but fell to 250 by 2015. The number receiving psychological assistance is much higher: 7,024 in 2010, falling to 6,231 in 2011 and increasing to 8,407 in 2015. Still higher is the number who received social assistance, which increased from 11,232 in 2010 to 13,546 in 2015. The data set also includes children provided with undefined ‘other’ assistance, which increased from 5,776 in 2010 to 7,597 in 2015. The number of victims benefitting from social assistance is identical to the number of victims of VAC identified by the child welfare authority. The number of victims who received psychological assistance corresponds to 62% of the number of victims of VAC identified by that authority. The number of victims identified by the health system is close to the number who received medical assistance in 2012 and 2013, but in 2014 and 2015 the number who received medical assistance is lower than the number of VAC victims identified by health authorities (57% and 62%, respectively).

The number of countries reporting apparently reliable data on assistance to victims is relatively small, especially if the CARs that indicate that all reported victims receive assistance are not taken into account. In two countries – Croatia and Latvia - the level of coverage is high, and in Moldova there is some indication that it is high. Data from only one country – Hungary – indicates that it is very low. Furthermore, data from most of these countries indicates that the number of VAC victims who receive assistance has increased over these six years. These are positive results, although the data also confirm that greater efforts are needed in most countries, both to ensure access to assistance needed and to document the assistance provided.
Data on family court/family law proceedings affecting children

Half of the CAR submitted CAR contain data concerning family law proceedings affecting children. The data contained in the Belarusian and Croatian CARs are limited to 2014-2015, and hence are of limited interest. The data contained in the Czech, Kyrgyz and Slovak CARs concerns 2010-2015, but are not disaggregated by the nature of the cases, and hence also have limited relevance.

The main purpose of the two indicators on family law cases was to identify the percentage of cases affecting children in which the views of children were heard. This was not a success – only 2 CARs contain data on the number of cases in which the views of children were heard. 52 Disaggregated data on the nature and outcome of family law cases nevertheless sheds light on situations related to the rights of children.

In Hungary, data on family law cases concerning children in 2010 was limited to cases concerning custody and child support. In 2015, data concerning 15 kinds of family law cases concerning children was reported. This is positive, because it makes more information available on important child rights issues. Data are now available, for example, on the number of cases of illegal retention of children by a parent and the return of children brought into the country illegally. The data reported indicate that cases on the recovery of child support fell by 27% between 2010 and 2015, and child custody cases fell by 61%. These are significant developments, although research would be necessary to identify the reasons for them and their implications for policy. The Hungarian CAR also contains interesting data on custody procedures initiated by the guardianship authorities. It is unclear whether these are administrative or judicial proceedings, but the data are nevertheless useful. They show, for example, that while the number of cases for deprivation of parental rights was almost identical in 2010 and 2015, the number of cases in which parental custody was terminated fell by half during this period.

Data in the Moldovan CAR indicates that family law cases fell by 7% from 2010 to 2015. The kinds of cases that fell include child support cases, cases on termination of parental rights, divorce cases involving minor children, and adoption cases; only paternity case increased. Here, too, the implications of the data are not self-evident, but the existence of data on these issues is positive.

The Montenegrin CAR contains data on divorce and custody cases, and cases concerning alternative care. The former indicate that the number of dependent children affected by divorce increased by 37% from 2010 to 2015, and that the number of cases in which divorced parents were given joint custody has increased. The data also indicate that the number of cases concerning children in need of alternative care fell by 40%.

52 Kyrgyzstan and Montenegro. The Kyrgyz CAR contains data on this issue, but for the years 2012 to 2015 they indicate that the number of cases in which children were heard is greater than the number of cases decided, which raises questions as to their reliability.
The Serbian CAR contains data on the number of divorce cases involving children decided annually, which increased by 62% from 2012 to 2015. It also contains data on cases concerning protection orders for child victims of domestic violence – which have increased more than three-fold – and cases on deprivation of parental authority, which have increased by 11%. Data on the number of expert opinions provided by guardianship (child welfare) authorities in legal proceedings concerning maintenance and visitation rights also is reported, as a proxy indicator the number of court cases. The number of opinions regarding contact between parents and children has increased, while the number of opinions in maintenance cases has fluctuated.

**Judicial remedies for violations of the rights of children**

The CARs contain few data on court cases filed in order to request remedies for violations of the rights of children. One small exception is data on cases concerning the rights of children filed by Commissions on Minor’s Affairs in Belarus, but the basis for such claims and the nature of the remedies sought are not described. The Serbian CAR also contains some data on the number of cases concerning children filed with courts by social welfare centres, but the grounds and aim of such cases is not specified. Data contained in the Montenegrin CAR on cases seeking a remedy for child rights filed between 2012-2015 is another exception. The data seems to be limited to cases filed with free legal assistance and consequently must be incomplete, but they are nevertheless pertinent – and show an increase. These data are disaggregated by sex, and show that most cases concern girls.

**Ombudsmen as an alternative source of justice for children**

Data on the number of cases concerning children opened annually indicates that caseloads are growing in most of the countries that presented data. In Croatia, 38 cases were received in 2010, and 67 in 2015; in Albania, 39 cases in 2010, and 146 in 2015; in Romania, 58 cases in 2010, and 103 in 2015; in Latvia, 91 cases in 2010 and 204 in 2015; in Georgia, 90 in 2010 and 313 in 2015, and in Serbia, 195 in 2010 and 435 in 2015. Moldova is the only clear exception to this trend: the number of cases fell from 156 in 2013 to 79 in 2015. Bulgaria is something of an exception, too: the number of cases increased from 63 in 2010 to 173 in 2013, but then fell to 106 in 2015.

Data from the few countries that reported the number of cases where children received a remedy also shows a positive trend: from one case to 56 in Albania, and from 14 to 114 in Serbia. Here, again, the trend in Bulgaria was mixed: the number of cases where a child or children received a remedy increased from 40 in 2010 to 144 in 2013, but fell to 88 in 2015. In the Armenia, 81 of the 90 complaints received in 2015 led to a remedy.

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53 Data were provided on cases concerning non-payment of maintenance, but such data were usually included either in data on family law proceedings or criminal proceedings.
54 From 20 cases in 2012 to 71 in 2015.
None of the data on the work of ombudsmen on cases involving children are disaggregated by sex. Data from two countries are disaggregated by subject. In Croatia, the largest number of complaints concerned the right to protection from sexual abuse or exploitation, followed by cases concerning respect for the dignity of children in administrative and other proceedings. Data from the Serbian ombudsman indicates that the largest number of cases concern the best interests of the child, followed by cases concerning abuse or neglect.

One of the four indicators on ombudsman aims to identify the number of cases brought to ombudsmen by children personally, which would shed light on how accessible this mechanism is, and how well it is known and trusted by children. Unfortunately, only three CARs contain data on this indicator. Data from Albania and Bulgaria indicate that the number of complaints made by children themselves was 6% and 4%, respectively, of the total number of cases concerning the rights of children from 2010-2015.55 Another indicator was chosen to determine the number or percentage of cases that are resolved promptly, within six months. Most CAR contain no data on this indicator. One (Moldova) indicated that all complaints were resolved within six months.

The increasing caseload of most children’s ombudsmen in the region is a positive development that tends to confirm the value of this alternative mechanism for obtaining remedies for violations of the rights of children. The increasing number of cases where ombudsmen effectively obtain a remedy also is a welcome development, although it is disappointing that most ombudsmen were unable to provide data on this. In order to assess the effectiveness of this mechanism, it would be necessary to compare the number of cases in which a remedy was recommended, and the number of cases in which recommendations were satisfied. Data from only one country (Moldova) were disaggregated by the Ombudsman’s response to complaints received.

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55 Latvia provided data only for 2015, when 5% of cases were initiated by children.
Conclusions

1. Seventy-six percent of the NSOs invited to prepare CAR did so, and the response rate to indicators was 41%. This shows high interest in children’s access to justice, but significant gaps in the data presently available. Notwithstanding these gaps, existing data shed light on important questions concerning the children’s right to a remedy, and underlying issues such as VAC or removal of children from parental custody.

2. Almost all countries have data on the number of crimes against children reported to/registered by the police, although in some the data are incomplete. In many, data are not available on the number of crimes against children that are prosecuted. In countries where such data are available, the percentage of reported crimes against children that are prosecuted ranges from 3% to 49%, but the percentage of cases prosecuted that end with convictions is high. Only half of the countries reported data on convictions for crimes against children. Only six reported data on the three indicators needed to calculate appropriately the rate of conviction for crimes against children: reported crimes, crimes prosecuted, and convictions.

3. Most countries provided data on family law cases, and in some of them the data is disaggregated by useful criteria, such as the nature of the case and outcome. In most countries, few data are available on the involvement of child protection/social service agencies in legal proceedings concerning children.

4. Few countries provided data on court cases seeking a remedy for violation(s) of the rights of a child or children, and fewer still provided data on judicial decisions providing a child or children with remedies for violations of their rights. Few countries publish data on administrative proceedings concerning violations of the rights of children. Half of the countries provided data on the number of children who received legal aid or representation, but in many of them the data was limited to juvenile offenders. In most countries where data on children who receive legal assistance are available, they indicate that the percentage is very small, compared to the number of children who presumably need legal assistance.

5. In many countries, medical facilities, child protection services and schools register cases of VAC and report them to the competent authorities, but do not publish data on the cases registered. Data on victims of VAC who receive medical and/or social assistance indicate that the number of beneficiaries is increasing.
6. Most data on VAC and crimes against children are disaggregated by sex, but in most countries data on most other indicators are not. Few CARs disaggregate data on crimes against children by the nature of the crime and age of victims.

7. Data on cases concerning the rights of children handled by ombudsman offices indicate that the number of such cases, and the number where the child receives a remedy, are growing.

8. Most of the CAR recognize the need to improve data systems concerning children’s access to justice, and many make specific observations about existing gaps or deficiencies and recommendations about what needs to be done. A few describe significant new initiatives (since 2015), and two describe assistance being provided by UNICEF.

**Recommendations**

1. All countries in the region should be encouraged to take appropriate measures to ensure that:

   a. the police publish data on all reported crimes against children
   b. data on crimes against children that are prosecuted should be registered and published
   c. the court system should compile data on family law cases involving children, on cases where remedies for violations of the rights of children are sought, and on convictions for crimes against children
   d. cases where administrative remedies are sought for violations of the rights of children should be recorded and selected data should be published
   e. the number of children who benefit from free legal aid (not limited to juvenile offenders) should be recorded and published
   f. the number of cases in which child protection services participate in judicial proceedings concerning children should recorded and compiled, disaggregated by their role and the nature of the case
   g. the medical, social and educational systems should publish data on registered cases of VAC
   h. all data on children’s access to justice are disaggregated by sex, and where appropriate, by age and the nature of the issue and/or outcome of the proceeding

2. Given the importance of the right to a remedy for the effective protection of all the rights of children, a chapter on children’s access to justice should be added to the TransMonEE database. A logical starting point for taking decisions as to the indicators to be used for that purpose would be the 15 quantitative indicators used in 2016 CAR. There are strong reasons to consider inclusion of the following indicators:
a) Number of cases filed with any court during the year, in which a child or a representative of a child or children sought a remedy for violation(s) of the rights of a child.

b) Number of court cases decided during the year in which a child obtained a remedy for a violation of his or her rights.

Only a small number of CAR contained data on these indicators. It nevertheless seems necessary to include them, because they are inextricably linked to the idea that one of the main purposes of a justice system is to ensure respect for the basic human rights of all persons. One reason for the low rate of response may be that judicial systems are accustomed to classifying legal proceedings by the nature of the claim but not the identity of the claimant or beneficiary. Ambiguity about the scope of the indicator, in particular the concept of a judicial remedy for violations of the rights of the child, also may be part of the explanation for the low rate of response. For example, should cases concerning child protection be included? One step that may help to increase the rate of response would be to ask for data to be disaggregated by the nature of the claim, e.g. those concerning entitlements to social, medical, educational services or benefits; those concerning the right to identity, and those concerning discrimination.

c) Number of court cases affecting children decided during the year.

A relatively large number of reports include data on indicator three, often disaggregated by the nature and outcome of the case. This indicator is important because family law proceedings affect more children than any other category of judicial proceedings, and often have profound consequences for the lives of the children concerned. The number of cases affecting children does not have direct implications for children’s enjoyment of their rights, in the sense that the rights of some of them are no doubt respected or protected while the rights of others are no doubt violated. The number of children whose lives have been affected by judicial proceedings of this kind nevertheless is useful, especially when they are disaggregated by the nature and outcome of proceedings, because it can help to identify issues that deserve further investigation. Data on the number of children removed from their families due to abuse, exploitation or neglect, can suggest the need for further research on questions very relevant to the rights of the child. Consequently, it is suggested that this indicator be retained by TransMonEE.

d) Number of cases of physical, sexual or other violence against children reported to or registered by the child welfare authorities, health or other authorities during the year.

Indicator 5, on the number of cases of VAC reported to or registered by the child welfare, health or other authorities, was included in the 2016 CAR
mainly to obtain data that could be compared to data on cases of VAC reported to the police. The information provided in response to indicator 5 reveals that, although of this sort of reporting does not depend on the willingness of the victim and his/her family to trust the law-enforcement/justice authorities, it often has some link to reporting to the police and consequently is not completely separate from the justice system. Indeed, the replies to this indicator reveal two interesting dynamics: the referral of cases where evidence a crime is discovered by the social/medical/educational systems to the law enforcement system, and the referral of cases by the police to child protection authorities as a means of seeking protection of victims during the justice process. The large number of countries that reported data on indicator 5 also supports inclusion of this indicators in the planned TransMonEE chapter on access to justice.

e) Number of cases of crimes against children registered by the police during the year.

f) Number of registered crimes against children brought to trial during the year.

g) Number of criminal convictions during the year in which the victim was a child.

The effective investigation and prosecution of crimes against children is a central part of strategies to prevent certain kind of violations of the rights of children, especially VAC, sexual exploitation, and trafficking. Interpreted with care, the number of reported crimes can shed light on both the prevalence of serious violations of the rights of children and rates of reporting, which are related to trust in the justice system and the perceived friendliness of justice processes. It is also the starting point for the calculation of the effectiveness of the criminal justice system, that is, the percentage of reported cases that end in punishment of accused perpetrators. Indicator 7 is important for fuller understanding the phenomenon of effectiveness/attrition. The large number of countries that reported data on indicator 6 and 7 also supports inclusion of these indicators in a TransMonEE chapter on access to justice.

h) Number of children suspected or accused of a crime and child victims of crime who benefited from legal aid or legal representation during the year.

Legal aid or representation is essential to have effective access to justice. A relatively large number of reports contain some data on this indicator, although in almost half of them the data was limited to assistance provided to accused juveniles. Several countries also stated that the data was limited to children who obtained legal aid or representation through governmental or government-supported programmes that provide free legal services. If the TransMonEE database will have separate chapters on juvenile justice and on children’s access to justice, it would be desirable for the indicator used in the latter to ask for data on child victims, but not children suspected or accused.
of an offence. Furthermore, consideration should be given to expanding the indicator to include children provided with legal aid or representation for non-criminal matters, such as family law proceedings or the kind of legal proceedings covered by indicator 1. This would be in line with question 7 in the first part of the CAR Guidelines, which asked whether a national service that provides free legal assistance to persons in need exists, and if so whether its records show the number of children who receive legal aid or legal representation.

i) Number of complaints brought to the Ombudsman’s Office on behalf of a child or children during the year.

j) Numbers of complaints resolved by the adoption of a recommendation that the child be given a remedy, and in which the child or children concerned actually obtained a remedy or reparation.

Assistance provided by ombudsmen, especially handling complaints that allege violations of the rights of a child or group of children, is an alternative i.e. non-judicial way of providing children with access to justice. Although the number of cases reported thus far often is relatively limited, ombuds institutions have an important role to play, and the collection of data on the number of cases they handle (and outcomes) will be useful to help monitor and promote their contribution to children’s access to justice.

Some of the data provided in CARs includes cases concerning children opened by ombudsmen at their own initiative, not based on complaints received. This seems an important aspect of the work of some ombudsmen on behalf of the rights of children, and it is suggested that indicator 12 be reworded to capture the corresponding data as well.

Few CARs contain data on indicator 14, on the number of complaints resolved by the adoption of a recommendation that child/children concerned be given a remedy in which the remedy was actually obtained. Whether or not the ombudsman’s investigation or handling of a case actually has a positive result for the child(ren) concerned is more relevant than how quickly complaints or cases are investigated and resolved. Consequently, it is recommended that indicator 14, but not indicator 13, be used in the planned TransMonEE chapter on access to justice. The data provided in one CAR indicates that remedies are usually provided during the handling of the case, not after a formal decision communicated to the agencies or institutions concerned. It would be useful to reword the indicator to take this practice into account.

There do not seem to be sufficient reasons to include the following indicators:

- Indicator 9, on the number of child victims of violence provided with medical, psychological, social or other assistance in recovery during the
year. The reason for the inclusion this indicator in the 2016 CAR was that providing victims with services that help them recover from a crime can be seen as a form of justice, even if they were obtained without recourse to the justice system. This does not seem to be a sufficient reason to include it in a TransMonEE chapter on access to justice. Furthermore, although a relatively large number of reports contained data on this indicator, some of the data was based on a presumption that all children victims who had contact with the medical system and especially the child protection system ipso facto received assistance. In such cases, the data provided did not add much of value to the data provided for indicator 5.

- Indicator 4, on the number of court cases affecting children decided during the year in which the child or children concerned were heard, either directly or through a representative. Only one report contained data on this indicator. While reliable information on whether children are heard in family law proceedings that affect them would be very relevant, the fact that international standards allow them to be heard directly or through a representative is a significant obstacle to monitoring whether their views and interests are actually and effectively brought before the court.

- Indicator 11, the number of complaints brought to the Ombudsman’s Office by children during the year. Although many CARs contained data on the number of cases concerning child rights handled by ombuds offices, few contained data on complaints made by children themselves. The number of cases brought to ombudsmen by children personally is a useful indicator, because it speaks to the empowerment of children. Nevertheless, given the small number of ombudsmen able to provide data on that indicator at present, maintaining it as a separate indicator in the proposed TransMonEE chapter on access to justice is not recommended. It might be useful to keep this as a criterion for disaggregation the number of complaints/cases opened during the year.

- Indicator 13, on the numbers of complaints made by children or their representative to the Ombudsman’s Office during the last year that were investigated and resolved within 6 months. Few CARs contain data on this indicator, and it seems less relevant than the number of cases in which the child receives a remedy.

- Indicator 15, the number of cases referred to mediation during the year. A relatively significant number of reports contain data on cases involving children referred to mediation. However, the data often concerns cases of juvenile offenders. Although data on non-criminal cases involving children referred to mediation and cases involving child victims of crime referred to mediation would be relevant, it does not seem relevant enough to recommend inclusion in the planned chapter on access to justice.

In short, it is recommended that 10 of the 15 CAR Access to Justice indicators be used in the planned TransMonEE chapter on Access to Justice: three on crimes against
children; two each on civil cases seeking a remedy for human rights violations, on family
law cases and on child rights cases handled by ombuds institutions, and one on legal aid
and legal representation.

3. Definitions, rules of count, criteria for disaggregation and other guidelines for the A2J
indicators selected for inclusion in the TransMonEE database should be reviewed, to take
into account the positive results and difficulties observed in the 2016 CAR. They also
should be reviewed taking into account the SDG indicators, the reporting guidelines of
the Committee on the Rights of the Child, and the relevant indicators used by other UN
and European databases. In order to enhance comparability of data from reporting
countries, instructions on counting should indicate that traffic offences not be counted,
as per the practice of other international databases. They also should indicate non-
payment of child support either should not be counted as a crime, or should be clearly
disaggregated.

4. Recent experiences in the region of projects to strengthen the capacity to collect,
manage and analyse data on children’s access to justice should be documented and
reviewed, together with the recommendations made by NSOs in the 2016 CARs, with a
view to developing a regional strategy on support such efforts. The strategy should define
its objectives or aims, the type of institutions and other actors expected to participate on
the national level, appropriate coordination mechanisms on the national and regional (i.e.
European/Central Asian) levels, the kind of technical and other assistance to be provided,
and possibilities of cooperation with other international agencies/donors. The aims of the
strategy should not be limited to development of the capacity to collect reliable, timely
data on the TransMonEE indicators, but should be to help the national authorities develop
the capacity to effectively monitor the extent that the justice system effectively ensures
children’s access to justice, and to allow informed decisions to be made on matters such
as policies, procedures and resource allocation.
The term child refers to all persons who have not reached 18 years of age.

1. Number of cases filed with any court during the year, in which a child or representative of a child or children seeks a remedy for a violation(s) of the rights of a child.

   ✓ Remedy means a measure that ends a violation of the legal rights of a party, eliminates the consequences of the violation and/or provides the victim with financial or other compensation. Claims for a remedy are usually filed in civil courts, but in countries where criminal courts have competence to consider claims for damages after criminal responsibility has been adjudicated, the number of cases in which such claims have been made also should be counted.

2. Number of court cases decided filed during the last year in which a child obtained a remedy for a violation of his or her rights.

   ✓ See the definition of remedy, above. The term identity of the defendant, as a criterion for disaggregation, means whether the defendant was a public official, public agency or institution, private individual, private legal person (e.g. a business), or other.

3. Number of court cases affecting children decided during the year.

   ✓ A court case affects a child or children when the outcome will have an impact on the rights, living conditions, standard of living, social environment, or physical or mental well-being of a child or group of children, whether or not the child (or children) is a party to the proceeding.

4. Number of court cases affecting children decided during the year in which the child or children concerned were heard, either directly or through a representative.

   ✓ This indicator concerns cases that ‘affect’ a child or identifiable group of children, as defined above, whether or not they are parties to the proceeding (for example, children affected by a proceeding over custody). In principle, it applies only to cases in which a representative of the child presents the views and interests of a child to the court, and not to cases in which a parent or other person entitled to act on behalf of a child in a legal proceeding does so in the name of the child. The disaggregation criterion ‘who represented the child’ is designed to identify whether the representative was a parent, a childcare agency, the child’s attorney, a temporary legal guardian (guardian ad litem) or other representative.
5. Number of cases of physical, sexual or other violence against children reported to or registered by the child welfare, health and other authorities during the year.

✓ This indicator requests data collected by health and by child welfare/child protection authorities on injuries that are intentional and either ‘inter-personal’ or inflicted by a law enforcement officials, excluding self-harm and injuries resulting from armed conflict or other collective violence.86

6. Number of cases of crimes against children registered by the police during the year.

✓ The term ‘crime’ refers to conduct criminalized by the penal or criminal code, or other legislation that defines crimes in a specific area (e.g. a military criminal code, or law on domestic violence or trafficking). It does not include administrative offences. A crime is registered when the police record it in an official logbook, form or database, with a view to opening an investigation. The unit of count is, in principle, an act or series of acts forming a single event that affect one child who is a direct victim. If the event involves more than one crime (e.g. robbery and assault) it is counted as one crime. If one event victimizes two or more children, the number of crimes against children is the number of victims affected by the event.

7. Number of registered crimes against children that are brought to trial during the year.

✓ In principal, the term “brought to trial” means that the trial as such begins. The filing of a case by a prosecutor with a court or scheduling the case for trial should not be counted. In legal systems where a court may return a case to the prosecutor for further investigation, cases returned to the prosecutor should not be counted. Whether or not the case is concluded during the same year the trial begins is not material. If this definition of the indicator may not be applied in some respects, the most similar definition that can be used should be used and explained.

8. Number of criminal convictions during the year in which the victim was a child.

✓ This indicator refers to the age of the victim at the time of the crime, and to conviction in the trial court. It includes cases in which the offender enters a guilty plea, or any other disposition based on an admission or finding that an accused offender committed a crime against a child (e.g. agreement to compensate the victim, suspension of criminal proceedings due to the agreement to probation, etc.). Whether an appeal of a conviction is pending is not material. For purposes of indicators 6, 7 and 8, the disaggregation criterion ‘identity of the perpetrator or alleged perpetrator’ refers to whether he or she was a public official, an adult

86 See Injury surveillance guidelines, World Health Organization, 2004, p.17

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relative of the victim, another child, or an unrelated adult who is not a public official.

9. Number of child victims of violence provided with medical, psychological, social or other assistance in recovery during the year.

✓ For purposes of this indicator, victims of violence are children who have experienced the intentional use of physical force, threats of physical violence, non-consensual sexual contact or harassment, or other hostile treatment likely to cause psychological harm or interfere with healthy development.57

10. Number of children suspected or accused of a crime and child victims of crime who benefited from legal aid or legal representation during the year

✓ Legal representation means that a qualified lawyer responsible for defending the interests of a child participates, for that purpose, in judicial or administrative proceedings concerning his or her child client. Legal aid is a broader concept, which includes the provision by a lawyer or paralegal of advice on legal rights, responsibilities and procedures, and defending the rights of a client during encounters with public officials other than judicial or administrative proceedings, such as questioning by police or other investigators.

11. Number of complaints brought to the Ombudsperson’s Office by children during the year.

✓ Ombudsperson Offices are independent human rights mechanisms established by a law that gives them competence to receive and examine complaints of human rights violations.58 For purposes of this indicator, the Offices referred to include those having a specific mandate on the rights of children, those having a broad human rights mandate, and those having other specific mandates e.g. on discrimination. The unit of count is complaint: a complaint made by a group of children is counted as one.

12. Number of complaints brought to the Ombudsperson’s Office on behalf of a child or children during the year.

✓ The unit of count is complaint: a complaint made on behalf of a group of identified children is counted as one.

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58 See the Paris Principles, UN GA resolution 48/134
13. Number of complaints made by children or their representative to the Ombudsperson’s Office, during the last year\(^{59}\), that were investigated and resolved within 6 months.

✓ Cases are ‘resolved’ by the Ombudsperson when a recommendation is made or when the case is closed because considered unfounded. Cases that are not examined because they do not come within the mandate of the Ombudsperson are not to be taken into consideration. The last year for which the relevant information are available means a year that has ended 6 months earlier, making it possible to calculate the proportion of complaints made during that year that were resolved within 6 months.

14. Number of complaints resolved by the adoption of a recommendation that the child be given a remedy, and in which the child or children concerned actually obtained a remedy or reparation.

✓ A remedy is decision or action that ends the violation of a right, restores the enjoyment of rights that were violated, helps the victim(s) recover from the consequences of a rights violation, or compensates the victim(s), especially by a financial award. Reparation means repairing the harm done or the loss or injury suffered as a result of a violation of one’s rights or, if this is not possible, paying compensation. In the context of human rights violations, it most often refers to the payment of compensation. Most Ombudsperson have a mandate to examine complaints that human rights have been violated by public officials or institutions and to adopt recommendations addressed to the officials or institutions complained against. When they find that rights of individuals have been denied or violated, they usually recommend that the victim be given a remedy or reparation, but in most countries such recommendations are not binding, and are not always complied with. The proportion of complaints resolved by the adoption of such a recommendation and proportion of cases in which a recommendation leads to a remedy or reparation should be calculated for the period covered by the most recent annual report of the Ombudsperson.

15. Number of cases involving children submitted for mediation during the year.

✓ Mediation is an alternative form of dispute settlement in which the parties agree to use the services of a trained mediator, who attempts to find a solution to the dispute that is acceptable to both parties. This indicator refers to victim-offender mediation, that is, mediation concerning criminal offences. Criminal disputes may be referred for mediation by the police, a prosecutor, or a court. For purposes of this indicator, a case is submitted for mediation when a victim and an offender agree to accept the services of a mediator, regardless of the authority who proposes the use of mediation, regardless of whether mediation leads to an agreement between the parties or whether an agreement is carried out, and regardless of

\(^{59}\) for which the relevant information is available
whether the child concerned is a victim or offender. Disposal of a case involving a juvenile offender by referral to a diversion programme that may offer mediation should not be counted unless the order or decision expressly calls for mediation.