

Rapporteur and Shadow Rapporteurs
European Parliament

Luxembourgish Presidency
Council of the European Union

Permanent Representations
Member States of the EU

11 November 2015

Dear Ms Chinnici, Shadow Rapporteurs, Presidency & Justice Counsellors

**Proposed directive on safeguards for children suspected or accused –
The importance of early individual assessment and mandatory assistance by a lawyer**

As member of the United Nations Committee on the Rights of the Child, an international expert on juvenile justice systems and a founding member of the *Institut international des droits de l'enfant*, I write to you to offer some comments on the proposed directive on safeguards for children suspected or accused in criminal proceedings ("Children Directive").

(a) Individual assessment

In a previous statement to the United Nations Human Rights Council of March 2014, I have stated that child-friendly justice should be age-sensitive, accessible, speedy, and diligent, adapted to the rights of the child and should support a child to participate in and understand the proceedings.

By "justice", I mean the whole criminal procedure, including what takes place in the crucial early stages when injustices so frequently arise, including in questioning. This process, as much as the trial itself and any measures imposed upon conviction, needs adapting to the needs of the child.

Clearly, these adaptations cannot take place if the child's needs are not known. Accordingly, individual assessment must happen early on and its results must be used for the purpose of adaptations of the whole procedure. The Children Directive should not fail to make this fundamental point clear.

(b) Access to a lawyer

I have seen many cases in which children have suffered injustices as a result of their treatment or the handling of their case in the early phases by police. Children must be assisted by a lawyer in questioning and any other investigative steps where they are at risk of such violations of their rights.

I was therefore very concerned to learn of proposals to limit children's right of access to a lawyer based on discretionary 'derogations' and in cases of minor offences. I would urge all parties to make the sensible choice of not going down this route, and ensuring mandatory assistance by a lawyer.

Yours sincerely,



Justice Renate Winter