



# TRAINING OF TRAINERS LEGAL PROTECTION OF CHILDREN

"FIGHTING DISCRIMINATION AND ANTI-GYPSYISM IN EDUCATION  
AND EMPLOYMENT IN EU" (PAL) - JUST/2014/RDIS/AG/DISC/8115

“ This publication has been produced with the financial support of the Justice Programme of the European Union. The contents of this publication are the sole responsibility of UC Limburg and can in no way be taken to reflect the views of the European Commission. ”

This project is funded by  
the Rights, Equality & Citizenship  
Programme of the European UNION





# EUROPEAN UNION LAW AND THE COUNCIL OF EUROPE

## *Children's rights in the EU*

When the Treaty of Lisbon entered into force on 1 December 2009, it gave the 2007 Charter of Fundamental Rights of the European Union the same legal status as the treaties within EU law.

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# EUROPEAN UNION LAW AND THE COUNCIL OF EUROPE

**Article 24** is the main provision of the **Charter** that makes reference to children, including **principles** such as **the best interests of the child**:

- a right of children to protection and care
- a right for children to have direct contact with his or her parents, unless contrary to his or her interests.





## THE RIGHT TO RESPECT FOR FAMILY LIFE

ECTHR CASE LAW RELATING TO FAMILY LIFE RECOGNISES INTERDEPENDENT RIGHTS, SUCH AS THE RIGHT TO FAMILY LIFE AND THE RIGHT OF THE CHILD TO HAVE THEIR BEST INTERESTS, AS PRIMARY CONSIDERATION.

- ✓ It acknowledges that children's rights are sometimes conflicting. The right of the child to respect for family life, for instance, may be limited to secure their best interests.





# DUTY TO ENSURE THAT CHILDREN ARE EFFECTIVELY PROTECTED AGAINST VIOLENCE AND HARM IN ALL SETTINGS

**States have a duty to provide an adequate legal framework for child protection.**

They must conduct effective investigations into arguable allegations of child abuse, violence against children and harm to children.





## CHILDREN WITH DISABILITIES

- The EU ensures the enjoyment of human rights by children with disabilities on a equal basis with other children;
- The EU must take specific measures to protect children with disabilities from abuse and exploitations;
- Adaptability requires special measures for children with disabilities and the possibility for children belonging to a minority to learn and be taught in their own language;
- Children have a right to education regardless of their nationality or migration status.





## CHILD-FRIENDLY JUSTICE

Making the justice system more child-friendly in Europe is a key action item under the EU Agenda for the Rights of the Child.

- **Children may become involved with the justice systems in a number of ways**

(examples– continued on next slides)





## CHILD-FRIENDLY JUSTICE

- When children are involved with justice systems that are not child-friendly, they can be subject to manifold restrictions or violations of their rights;
- Children can face obstacles with regard to legal representation or being heard by judges.







## CHILD-FRIENDLY JUSTICE

- Likewise, the information which is necessary for children and their representatives to exercise their rights or defend their interests in judicial proceedings can be inadequate.
- Children can be treated as adults without always being afforded specific safeguards in accordance with their needs and vulnerability, and may have difficulties coping with this situation.
- Effective access to justice and participation in administrative and court proceedings are basic requirements to ensure a high level of protection of children's legal interests.





## A CHILD'S RIGHTS...

We must reiterate

### The BEST INTERESTS OF THE CHILD:

- a right of children for protection and care and...
- a right for children to have direct contact with his or her parents unless contrary to his or her interests.





# THE SITUATION OF ROMA CHILDREN IN THE EU

The **situation of ROMA children in the EU is particularly worrying**, due to a range of factors that may make them especially vulnerable and exposed to:

- **poor health**
- **poor housing**
- **poor nutrition**
- **social exclusion**
- **discrimination**
- **violence**
- **exclusion from education and training**





## ROMA CHILDREN

**Social exclusion of ROMA children is often linked to:**

- **lack of birth registration**
- **low participation in early childhood and higher education**
- **high school drop-out rates**
- **trafficking and**
- **labour exploitation**





## ROMA CHILDREN

- **Segregation** is a crucial barrier preventing access to quality education for ROMA children;
- Children may go missing regardless of their age, gender or social status.





## ROMA CHILDREN

There is little knowledge about the reasons why children run away from home or from institutions in which they live, but we do know that the **risks** are enormous:

- risks to their safety
- mental and physical health
- well-being and life

**Missing children can suffer violence and abuse; they can be trafficked or exposed to begging and prostitution.**





## ROMA CHILDREN

The Commission has identified a number of **tools** that can be of help in case a child is missing.

For several years now, some Member States have been introducing **public alert systems** in cases of child abduction or disappearances of children in circumstances which could pose a serious risk to the safety and well-being of the children concerned.





## ROMA CHILDREN

**The Commission will continue to promote cross-border cooperation between Member States, in cases of criminal abductions of children, through child alert mechanisms.**

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## ROMA CHILDREN

In order to **enhance cooperation** in this field, the **Member States agreed, in June 2009**, on better use of the **Schengen Information System**, and the related **SIRENE Bureaux** based in each Member State, in the search for the missing children.

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## ROMA DISCRIMINATION

**Race and ethnic origin are prohibited grounds of discrimination.**

- Both the EU and the CoE tackle discrimination of the ROMA in the areas of education, employment, healthcare and housing;
- The overrepresentation or segregation of children belonging to a specific ethnic group in special schools or classes can only be objectively justified if appropriate safeguards for referring children to these schools or classes are put into place.





## ROMA CHILDREN IN SPECIAL SCHOOLS

The **ECtHR** held that the **over-representation** or **segregation of ROMA children** in special schools or classes, could only be objectively justified, by putting in place **appropriate safeguards** for referring children to these schools or classes.

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## ROMA CHILDREN AND SPECIAL SCHOOLS

**In the absence of effective anti-segregational measures, prolonging the educational segregation of ROMA children in a mainstream school with a regular programme, could thus NOT be justified.**

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# ROMA CHILDREN AND SPECIAL SCHOOLS SAFEGUARDS

Tests specifically designed for, and sensitive to, **the needs of ROMA children:**

- **Appropriate evaluation and monitoring** of progress integration in ordinary classes takes place, as soon as learning difficulties have been remedied;
- **Positive measures**, to address learning difficulties.

